AMENDMENTS
37 - 360

Draft opinion
Kaja Kallas
(PE602.722v01-00)

Respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications)

Proposal for a regulation
Amendment 37
Notis Marias

Proposal for a regulation
Citation 1 a (new)

Text proposed by the Commission

having regard to the Protocol (No 1) of the Treaty on the Functioning of the European Union (TFEU) on the role of national parliaments in the European Union,

Or. el

Amendment 38
Notis Marias

Proposal for a regulation
Citation 1 b (new)

Text proposed by the Commission

having regard to the Protocol (No 2) of the Treaty on the Functioning of the European Union (TFEU) on the application of the principles of subsidiarity and proportionality,

Or. el

Amendment 39
Nikolay Barekov

Proposal for a regulation
Recital 1

Text proposed by the Commission

(I) Article 7 of the Charter of Fundamental Rights of the European Union ("the Charter") protects the fundamental right of everyone to the respect for his or her personal life.

I. Article 7 of the Charter of Fundamental Rights of the European Union ("the Charter") protects the fundamental right of everyone to the respect for his or her personal life.
her private and family life, home and communications. Respect for the privacy of one’s communications is an essential dimension of this right. Confidentiality of electronic communications ensures that information exchanged between parties and the external elements of such communication, including when the information has been sent, from where, to whom, is not to be revealed to anyone other than to the parties involved in a communication. The principle of confidentiality should apply to current and future means of communication, including calls, internet access, instant messaging applications, e-mail, internet phone calls and personal messaging provided through social media.

Amendment 40
Notis Marias

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) Article 7 of the Charter of Fundamental Rights of the European Union ("the Charter") protects the fundamental right of everyone to the respect for his or her private and family life, home and communications. Respect for the privacy of one’s communications is an essential dimension of this right. Confidentiality of electronic communications ensures that information exchanged between parties and the external elements of such communication, including when the information has been sent, from where, to whom, is not to be revealed to anyone other than to the parties involved in a communication. The principle of

Amendment

(1) Article 7 of the Charter of Fundamental Rights of the European Union ("the Charter") protects the fundamental and inalienable right of everyone to the respect for his or her private and family life, home and communications. Respect for the privacy of one’s communications is an essential dimension of this right. Confidentiality of electronic communications ensures that information exchanged between parties and the external elements of such communication, including when the information has been sent, from where, to whom, is not to be revealed to anyone other than to the parties involved in a communication. The principle of
confidentiality should apply to current and future means of communication, including calls, internet access, instant messaging applications, e-mail, internet phone calls and personal messaging provided through social media.

Amendment 41
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) The content of electronic communications may reveal highly sensitive information about the natural persons involved in the communication, from personal experiences and emotions to medical conditions, sexual preferences and political views, the disclosure of which could result in personal and social harm, economic loss or embarrassment. Similarly, metadata derived from electronic communications may also reveal very sensitive and personal information. These metadata includes the numbers called, the websites visited, geographical location, the time, date and duration when an individual made a call etc., allowing precise conclusions to be drawn regarding the private lives of the persons involved in the electronic communication, such as their social relationships, their habits and activities of everyday life, their interests, tastes etc.

Amendment

(2) Electronic communications may reveal highly sensitive information about the natural persons involved in the communication, from personal experiences and emotions to medical conditions, sexual preferences and political views, the disclosure of which could result in personal and social harm, economic loss or embarrassment. These data include text, voice, videos, images, sounds, IP and MAC addresses, the numbers called, the websites visited, geographical location, the time, date and duration when an individual made a call etc., allowing precise conclusions to be drawn regarding the private lives of the persons involved in the electronic communication, such as their social relationships, their habits and activities of everyday life, their interests, tastes etc.

Or. en
Justification

Content and metadata should benefit from the same level of protection as metadata give as much relevant information as content linked to end-users private life

Amendment 42
Nikolay Barekov

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) The content of electronic communications may reveal highly sensitive information about the natural persons involved in the communication, from personal experiences and emotions to medical conditions, sexual preferences and political views, the disclosure of which could result in personal and social harm, economic loss or embarrassment.

Similarly, metadata derived from electronic communications may also reveal very sensitive and personal information. These metadata includes the numbers called, the websites visited, geographical location, the time, date and duration when an individual made a call etc., allowing precise conclusions to be drawn regarding the private lives of the persons involved in the electronic communication, such as their social relationships, their habits and activities of everyday life, their interests, tastes etc.

Amendment

2. The content of electronic communications may reveal highly confidential information about the natural persons involved in the communication, the disclosure of which could result in personal and social harm or economic loss, or compromise the personal security of the end user.

Similarly, metadata derived from electronic communications may also reveal very sensitive and personal information. These metadata includes the numbers called, the websites visited, geographical location, the time, date and duration when an individual made a call etc., allowing precise conclusions to be drawn regarding the private lives of the persons involved in the electronic communication, such as their social relationships, their habits and activities of everyday life, their interests, tastes etc.

Or. bg

Amendment 43
Lorenzo Fontana

Proposal for a regulation
Recital 3
Text proposed by the Commission

(3) Electronic communications data may also reveal information concerning legal entities, such as business secrets or other sensitive information that has economic value. Therefore, the provisions of this Regulation should apply to both natural and legal persons. Furthermore, this Regulation should ensure that provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council, also apply to end-users who are legal persons. This includes the definition of consent under Regulation (EU) 2016/679.

When reference is made to consent by an end-user, including legal persons, this definition should apply. In addition, legal persons should have the same rights as end-users that are natural persons regarding the supervisory authorities; furthermore, supervisory authorities under this Regulation should also be responsible for monitoring the application of this Regulation regarding legal persons.

Amendment

(3) Electronic communications data may also reveal information concerning legal entities, such as business secrets or other sensitive information that has economic value and repercussions for privacy. Therefore, the provisions of this Regulation should apply to both natural and legal persons. Furthermore, this Regulation should ensure that provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council, also apply to end-users who are legal persons. This includes the definition of consent under Regulation (EU) 2016/679.

When reference is made to consent by an end-user, including legal persons, this definition should apply. In addition, legal persons should have the same rights as end-users that are natural persons regarding the supervisory authorities; furthermore, supervisory authorities under this Regulation should also be responsible for monitoring the application of this Regulation regarding legal persons.


Or. it

Amendment 44
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 4
Pursuant to Article 8(1) of the Charter and Article 16(1) of the Treaty on the Functioning of the European Union, everyone has the right to the protection of personal data concerning him or her. Regulation (EU) 2016/679 lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data. Electronic communications data may include personal data as defined in Regulation (EU) 2016/679.

Justification

Clarifies which electronic communications data are personal data

Amendment 45
Rolandas Paksas

Proposal for a regulation
Recital 5

Text proposed by the Commission

The provisions of this Regulation particularise and complement the general rules on the protection of personal data laid down in Regulation (EU) 2016/679 as regards electronic communications data that qualify as personal data. This Regulation therefore does not lower the level of protection enjoyed by natural persons under Regulation (EU) 2016/679. Processing of electronic communications data by providers of electronic communications services should only be permitted in accordance with this Regulation.

Amendment

The provisions of this Regulation particularise and complement the general rules on the protection of personal data laid down in Regulation (EU) 2016/679 as regards electronic communications data that qualify as personal data. This Regulation therefore does not lower the level of protection enjoyed by natural persons under Regulation (EU) 2016/679. Processing of electronic communications data should only be permitted in accordance with, and on a legal ground specifically provided under, this Regulation.
Amendment 46  
Michel Reimon  
on behalf of the Verts/ALE Group

Proposal for a regulation  
Recital 7  

\textit{Text proposed by the Commission} \hspace{1cm} \textit{Amendment}

(7) \textit{The Member States should be allowed, within the limits of this Regulation, to maintain or introduce national provisions to further specify and clarify the application of the rules of this Regulation in order to ensure an effective application and interpretation of those rules. Therefore, the margin of discretion, which Member States have in this regard, should maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.}

\textit{Justification}

\textit{Deletion needed in order to prevent fragmentation in users' protection across the EU.}

Amendment 47  
Dario Tamburrano, David Borrelli

Proposal for a regulation  
Recital 7  

\textit{Text proposed by the Commission} \hspace{1cm} \textit{Amendment}

(7) \textit{The Member States should be allowed, within the limits of this Regulation, to maintain or introduce national provisions to further specify and clarify the application of the rules of this Regulation in order to ensure an effective application and interpretation of those rules. Therefore, the margin of discretion, which Member States have in this regard, should maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.}

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application and interpretation of those rules. Therefore, the margin of discretion, which Member States have in this regard, should maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.

Amendment 48
Michał Boni
Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) The Member States should be allowed, within the limits of this Regulation, to maintain or introduce national provisions to further specify and clarify the application of the rules of this Regulation in order to ensure an effective application and interpretation of those rules. Therefore, the margin of discretion, which Member States have in this regard, should maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.

Amendment

(7) The European Data Protection Board should, where necessary, issue guidance and opinions within the limits of this Regulation, to further clarify the application of the rules of this Regulation in order to ensure an effective application and interpretation of those rules. These guidance and opinions should take into account the dual objective of this Regulation, therefore they should maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.

Amendment 49
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 8

Text proposed by the Commission

Amendment

PE602.723v01-00 10/199 AM\1121219EN.docx
This Regulation should apply to providers of electronic communications services, to providers of publicly available directories, and to software providers permitting electronic communications, including the retrieval and presentation of information on the internet. This Regulation should also apply to natural and legal persons who use electronic communications services to send direct marketing commercial communications or collect information related to or stored in end-users’ terminal equipment.

Justification

Clarifies the instances where natural or legal persons are currently interacting with terminal equipment for marketing commercial communications or collect information thus introducing the legal provisions dealing with such instances

Amendment 50
Zdzisław Krasnodębski

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) This Regulation should apply to providers of electronic communications services, to providers of publicly available directories, and to software providers permitting electronic communications, including the retrieval and presentation of information on the internet. This Regulation should also apply to natural and legal persons who use electronic communications services to send direct marketing commercial communications or collect information related to or stored in end-users’ terminal equipment.

Amendment

(8) This Regulation should apply to providers of electronic communications services, to providers of publicly available directories, and to software providers permitting electronic communications, including the retrieval and presentation of information on the internet and to other undertakings processing electronic communications data. This Regulation should also apply to natural and legal persons who use electronic communications services to send direct marketing commercial communications or collect information related to or stored in
end-users’ terminal equipment.

Amendment 51
Michał Boni

Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

(9a) For the purpose of this Regulation, where the provider of an electronic communications service is not established in the Union, it shall designate a representative in the Union. The representative should be designated in writing. The representative may be the same as the one designated under Article 27 of Regulation (EU) 2016/679.

Or. en

Amendment 52
Michał Boni

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure an effective and equal protection of end-users when using

Or. en
functionally equivalent services, this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code\textsuperscript{24}]. That definition encompasses not only internet access services and services consisting wholly or partly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services. The protection of confidentiality of communications is crucial also as regards interpersonal communications services that are ancillary to another service; therefore, such type of services also having a communication functionality should be covered by this Regulation.

\textsuperscript{24} Commission proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast) (COM/2016/0590 final - 2016/0288 (COD)).

Amendment 53
Dario Tamburrano, David Borrelli

Proposal for a regulation
Recital 11

\textit{Text proposed by the Commission}

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and

\textit{Amendment}

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and
electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure an effective and equal protection of end-users when using functionally equivalent services, this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code]. That definition encompasses not only internet access services and services consisting wholly or partly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services. The protection of confidentiality of communications is crucial also as regards interpersonal communications services that are ancillary to another service; therefore, such type of services also having a communication functionality should be covered by this Regulation.


Amendment 54
Anne Sander, Françoise Grossetête, Nadine Morano
Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure an effective and equal protection of end-users when using functionally equivalent services, this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code24]. That definition encompasses not only internet access services and services consisting wholly or partly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services. The protection of confidentiality of communications is crucial also as regards interpersonal communications services that are ancillary to another service; therefore, such type of services also having a communication functionality should be covered by this Regulation.

Amendment

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure an effective and equal protection of end-users when using functionally equivalent services, this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code24]. That definition encompasses not only internet access services and services consisting wholly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services. The protection of confidentiality of communications is crucial also as regards interpersonal communications services that are ancillary to another service; therefore, such type of services also having a communication functionality should be covered by this Regulation.

Amendment 55
Michał Boni

Proposal for a regulation
Recital 12

_text proposed by the Commission_ Amendment

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation should apply to the transmission of machine-to-machine communications. Therefore, the principle of confidentiality enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU.

Amendment 56
Anne Sander, Françoise Grossetête, Nadine Morano

Proposal for a regulation
Recital 12

_text proposed by the Commission_ Amendment
Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation should apply to the transmission of machine-to-machine communications. Therefore, the principle of confidentiality enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU.

Amendment 57
Eva Kaili
Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to

Amendment

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to
promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation should apply to the transmission of machine-to-machine communications. Therefore, the principle of confidentiality enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU.

Additionally, in the event that data or metadata is being used by artificial intelligence, or is part of any algorithmic decisions or machine learning, there should be the appropriate guarantees that there will be a human interference at the final stage, taking into account societal sensitivities, standards and discrimination that might occur based on one's personal data.

Or. en

Amendment 58
Marian-Jean Marinescu

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation

Amendment

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation
should apply to the transmission of machine-to-machine communications. Therefore, the principle of confidentiality enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU.

Amendment 59
Marian-Jean Marinescu

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

(12a) Intelligent Transport Systems need additional protection in the ePrivacy Regulation regarding communications data as connected cars generate, transmit and store users’ personal data. Personal privacy of consumers in connected vehicles needs to be guaranteed, as third parties access and use driver and driving data.

Or. en

Amendment 60
Michał Boni

Proposal for a regulation
Recital 13
(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.

Amendment

61
Nikolay Barekov

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of

Amendment

13. There is a need to invest in the development of fast and efficient wireless technologies that foster the increasing

internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.

Amendment 62
Dario Tamburrano, David Borrelli

Proposal for a regulation
Recital 13

Text proposed by the Commission

Recital 13
The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.

Amendment

Recital 13
The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls, airports, hotels, hostels, hospitals and other similar Internet access points. To the extent that
group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.

Amendment 63
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary

Amendment

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary
to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.

Amendment 64
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted or exchanged (electronic communications content) and the information concerning an end-user of electronic communications services processed for the purposes of transmitting, distributing or enabling the exchange of electronic communications content; including data to trace and identify the source and destination of a communication, geographical location and the date, time, duration and the type of communication. Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit- and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such

Amendment

(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted or exchanged (electronic communications content) and the information concerning an end-user of electronic communications services processed for the purposes of transmitting, distributing or enabling the exchange of electronic communications content; including data to trace and identify the source and destination of a communication, geographical location and the date, time, duration and the type of communication. Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit- and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such
signals should be considered as electronic communications metadata and therefore be subject to the provisions of this Regulation. Electronic communications metadata may include information that is part of the subscription to the service when such information is processed for the purposes of transmitting, distributing or exchanging electronic communications content.

Justification

The definition of metadata depends on which layer of the network is considered. On layer 3 ("transmission" - See the OSI model https://en.wikipedia.org/wiki/OSI_model ), the metadata and the content processed by OTT on higher level ("application" and "content") are all transmitted together in TCP/IP packets. Telecommunications operators make no distinction between the metadata and the content processed by OTT. From the perspective of operators, these data are the "content" transmitted on the network. This recital should make this technical clarification.

Amendment 65
Dario Tamburrano, David Borrelli

Proposal for a regulation
Recital 14

Text proposed by the Commission
(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted or exchanged

Amendment
(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted or exchanged
(electronic communications content) and the information concerning an end-user of electronic communications services processed for the purposes of transmitting, distributing or enabling the exchange of electronic communications content; including data to trace and identify the source and destination of a communication, geographical location and the date, time, duration and the type of communication. Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit- and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such signals should be considered as electronic communications metadata and therefore be subject to the provisions of this Regulation. Electronic communications metadata may include information that is part of the subscription to the service when such information is processed for the purposes of transmitting, distributing or exchanging electronic communications content.

It should also include location data, such as for example, the actual or inferred location of the terminal equipment, the location of the terminal equipment from or to which a phone call or an internet connection has been made, or the Wi-Fi hotspot that a device is connected to, as well as data necessary to identify end-users' terminal equipment. Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such signals should be considered as electronic communications metadata and therefore be subject to the provisions of this Regulation. Electronic communications metadata may include information that is part of the subscription to the service when such information is processed for the purposes of transmitting, distributing or exchanging electronic communications content.

Amendment 66
Dario Tamburrano, David Borrelli
Proposal for a regulation
Recital 14 a (new)

Text proposed by the Commission

Amendment

Or. en
(14 a) Equipment location data should include data transmitted or stored in terminal equipment generated by accelerometers, barometers, compasses, satellite positioning systems or similar sensors or devices.

Amendment 67
Michał Boni

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the communicating parties should be prohibited. The prohibition of interception of communications data should apply during their conveyance, i.e. until receipt of the content of the electronic communication by the intended addressee. Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. **Interception also occurs when third parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the end-user concerned.** As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation

Amendment

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the communicating parties should be prohibited. The prohibition of interception of communications data should apply during their conveyance, i.e. until receipt of the content of the electronic communication by the intended addressee. Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to
of equipment that gathers data from
terminal equipment over targeted areas,
such as the so-called IMSI (International
Mobile Subscriber Identity) catchers, to
programs and techniques that, for example,
surreptitiously monitor browsing habits for
the purpose of creating end-user profiles.
Other examples of interception include
capturing payload data or content data
from unencrypted wireless networks and
routers, including browsing habits without
the end-users' consent.

Amendment 68
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) Electronic communications data
should be treated as confidential. This
means that any interference with the
transmission of electronic communications
data, whether directly by human
intervention or through the intermediation
of automated processing by machines,
without the consent of all the
communicating parties should be
prohibited. The prohibition of interception
of communications data should apply
during their conveyance, i.e. until receipt
of the content of the electronic
communication by the intended addressee.

Interception of electronic communications
data may occur, for example, when
someone other than the communicating
parties, listens to calls, reads, scans or
stores the content of electronic
communications, or the associated
metadata for purposes other than the
exchange of communications.

Interception

Amendment

(15) Electronic communications data
should be treated as confidential. This
means that any interference with the
electronic communications data, whether
directly by human intervention or through
the intermediation of automated processing
by machines, without the consent of all the
communicating parties should be
prohibited. For the purpose of this act,
interfering means the processing of
electronic communications for any
purpose not requested by all end-users
concerned, whether such process is
carried out before, during or after the
transmission of communications and
includes the interception. The prohibition
of interference, including interception of
communications data should apply at all
levels and steps of the communication,
including the storage of communication
data.

Interference with electronic
communications data may occur, for
also occurs when third parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the end-user concerned. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the end-users' consent.

Interference also occurs when third parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the end-user concerned. As technology evolves, the technical ways to engage in interference have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interference include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the end-users' consent.

Amendment 69
Eva Kaili

Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

(15 a) Anonymity of data should be considered as an extra layer of protection and confidentiality. Relative provisions should be put in place to anonymise data by default, when possible. Such procedures should be accompanied by a

Justification

The change would make communications data protected before and after the transmission.
series of tests serving as a proof of anonymity.

Amendment 70
Eva Kaili
Proposal for a regulation
Recital 15 b (new)

Text proposed by the Commission

(15 b) The prohibition of interception is not intended to prohibit access to electronic communications data by an electronic communications service provider or electronic communications network operator for purposes of conveying communications or for legitimate and justifiable purposes related to the operation and protection of such services and networks consistent with obligations under Regulation (EU) 2016/679, Directive (EU) 2016/1148 and Regulation (EU) 2015/2120.

Amendment 71
Eva Kaili
Proposal for a regulation
Recital 15 c (new)

Text proposed by the Commission

(15c) Providers of electronic communications networks and services now provide their end-users with enhanced features by using communications data before the provider transmits the data through a public network or after the provider has received
the data from such a network. These enhanced features include speech-to-text conversion for users with disabilities, digital personal assistants using voice commands, automatic language translation, and message prioritization and sorting. For the purposes of these service providers, electronic communications are not in transmission once the service provider of the intended recipient has received the communications for delivery to the recipient's terminal equipment or until the service provider of the sender has sent the communication to another service provider for eventual delivery to the intended recipient.

Or. en

Amendment 72
Michał Boni

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. It should not prohibit either the processing of electronic communications data to ensure the security and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.

Amendment

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. It should not prohibit either the processing of electronic communications data to ensure the security, confidentiality, integrity, availability, authenticity and continuity of the electronic communications services and networks, including checking security threats such as the presence of malware or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.
Proposed for a regulation
Recital 17

Text proposed by the Commission

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole.Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, based on end-users consent. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a

Amendment

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Where a type of processing of electronic communications metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.
certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. Where a type of processing of electronic communications metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.

Justification

Location data are highly sensitive data especially as they enable one of the highest form of surveillance. Users shall benefit from the higher level of protection.

Amendment 74
Michał Boni

Proposal for a regulation
Recital 17

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<th>Text proposed by the Commission</th>
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for providers of electronic communications services to process electronic communications metadata, based on end-users consent. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users’ consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. As an exemption from obtaining end-user’s consent, the processing of metadata for purposes other than those for which they were initially collected should be allowed in cases where the processing is compatible and is subject to specific safeguards, especially
protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.

pseudonymisation as set forth in point (4) of Article 6 of Regulation (EU) 2016/679, as well as if it is necessary in accordance with Article 6 (1) (f) of Regulation (EU) 2016/679 for the purpose of legitimate interest, provided that the data protection impact assessment was carried out, as prescribed in Article 35 of Regulation (EU) 2016/679.

Amendment 75
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) End-users may consent to the processing of their metadata to receive specific services such as protection services against fraudulent activities (by analysing usage data, location and customer account in real time). In the digital economy, services are often supplied against counter-performance other than money, for instance by end-users being exposed to advertisements. For the purposes of this Regulation, consent of an end-user, regardless of whether the latter is a natural or a legal person, should have the same meaning and be subject to the same conditions as the data subject's consent under Regulation (EU) 2016/679. Basic broadband internet access and voice communications services are to be considered as essential services for individuals to be able to communicate and participate to the benefits of the digital economy. Consent for processing data from internet or voice communication usage will not be valid if the data subject has no genuine and free choice, or is

Amendment

(18) End-users may consent to the processing of their data to receive specific services. In the digital economy, services are often supplied against counter-performance other than money, for instance by end-users being exposed to advertisements. For the purposes of this Regulation, consent of an end-user, regardless of whether the latter is a natural or a legal person, should have the same meaning and be subject to the same conditions as the data subject's consent under Regulation (EU) 2016/679. Consent for processing data will not be valid if the data subject has no genuine and free choice, or is unable to refuse or withdraw consent without detriment. As provided by article 7 of the Regulation (EU) 2016/679, consent is not freely given if it is required to access any service or obtained through insisting and repetitive requests. In order to prevent such abusive requests, end-users shall be able to order service providers to remember their choice not to consent.
unable to refuse or withdraw consent without detriment.

Justification

Consent should be freely given for any kind of processing. The GDPR is not making any distinction between processing. This Regulation should not do this either. Furthermore, end-users shall be protected from harassing requests leading to consent fatigue and to forced consent.

Amendment 76
Nikolay Barekov

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with

Amendment

19. The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with
consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service. After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679.

Or. bg

**Amendment 77**
Michel Reimon
on behalf of the Verts/ALE Group

**Proposal for a regulation**
**Recital 19**

*Text proposed by the Commission*

(19) **The content of** electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the **content of** electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-

*Amendment*

(19) Electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the electronic communications **data** should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. For example, providers
users concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service. After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679. After electronic communications data has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679.

Where communications data are stored by a third party, this third party shall protect with state of the art security measures applied from end to end, such as encryption, any information whose processing is not necessary to provide the service requested by the end-user.

Justification

Content and metadata should benefit from the same level of protection. Providers should apply state of the art measure, including encryption, to protect communications from end to end.

Amendment 78
Michał Boni

Proposal for a regulation
Recital 19
(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service. After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679.

Amendment 79
Michał Boni

Proposal for a regulation
Recital 20

*Text proposed by the Commission*

(20) Terminal equipment of end-users of electronic communications networks and any information relating to the usage of such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part of the private sphere of the end-users requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes information that may reveal details of an individual's emotional, political, social complexities, including the content of communications, pictures, the location of individuals by accessing the device’s GPS capabilities, contact lists, and other information already stored in the device, the information related to such equipment requires enhanced privacy protection. Furthermore, the so-called spyware, web bugs, hidden identifiers, tracking cookies and other similar unwanted tracking tools can enter end-user's terminal equipment without their knowledge in order to gain access to information, to store hidden information and to trace the activities. Information related to the end-user’s device may also be collected remotely for the purpose of identification and tracking.

*Amendment*

(20) Terminal equipment of end-users of electronic communications networks and any information relating to the usage of such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part of the private sphere of the end-users requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes information that may reveal details of an individual's emotional, political, social complexities, including the content of communications, pictures, the location of individuals by accessing the device’s GPS capabilities, contact lists, and other information already stored in the device, the information related to such equipment requires enhanced privacy protection. Furthermore, the so-called spyware, web bugs, hidden identifiers, tracking cookies and other similar unwanted tracking tools can enter end-user's terminal equipment without their knowledge in order to gain access to information, to store hidden information and to trace the activities. Information related to the end-user’s device may also be collected remotely for the purpose of identification and tracking.
using techniques such as the so-called ‘device fingerprinting’, often without the knowledge of the end-user, and may seriously intrude upon the privacy of these end-users. Techniques that surreptitiously monitor the actions of end-users, for example by tracking their activities online or the location of their terminal equipment, or subvert the operation of the end-users’ terminal equipment pose a serious threat to the privacy of end-users. Therefore, any such interference with the end-user's terminal equipment should be allowed only with the end-user's consent and for specific and transparent purposes.

Or. en

Amendment 80
Notis Marias

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the end-user’s input when filling in online forms over several pages. Cookies can also be a legitimate and
useful tool, for example, in measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the end-user’s device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities.

Or. el

Amendment 81
Michał Boni

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the end-user’s input when filling in online forms over several pages. Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of

Amendment

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the fact that the end-user’s device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities. Equipment. Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the end-user’s device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities. As an exemption from obtaining end-user’s consent, the processing of information and data that are or are rendered pseudonymous or anonymous should be allowed or for purposes other than those for which they were initially collected in cases where the processing is compatible and is subject to specific safeguards, especially pseudonymisation as set forth in point (4) of Article 6 of Regulation (EU) 2016/679, as well as if it is necessary in accordance with Article 6 (1) (f) of Regulation (EU) 2016/679 for the purpose of legitimate interest, provided that the data protection impact assessment was carried out, as prescribed in Article 35 of Regulation (EU) 2016/679. Adherence to the data protection certification mechanisms, seals or marks, as defined respectively in Article 40 and Article 42 of Regulation (EU) 2016/679, shall be encouraged and promoted, especially to demonstrate compliance with the Regulation in case of exceptions concerning compatible processing and legitimate interests as described above.

Amendment 82
Dario Tamburrano, David Borrelli

Proposal for a regulation
Recital 21 a (new)
Text proposed by the Commission

(21a) Equipment location data can give a very detailed and intrusive insight on an individual's personal life or an organisation's business and activities. Processing of location data from any source, whether electronic communications metadata or equipment location data should be conducted on the basis of clear rules.

Amendment

Or. en

Amendment 83
Michał Boni, Krišjānis Kariņš

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties.

Web browsers are a type of software

Amendment

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using appropriate technical settings of a browser or other application.
application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the end-user and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.

Amendment 84
Eva Kaili
Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other

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Amendment 85
Notis Marias

Proposal for a regulation
Recital 22
Text proposed by the Commission

(22) The methods used for providing information and obtaining end-user’s consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the end-user and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.

Amendment

22) The methods used for providing information and obtaining end-user's consent should be clear and user-friendly. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the end-user and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.

Or. el
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to 'accept all cookies'. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent third parties from storing information on the terminal equipment; this is often presented as 'reject third party cookies'. End-users should be offered a set of privacy setting options, ranging from higher (for example, 'never accept cookies') to lower (for example, 'always accept cookies') and intermediate (for example, 'reject third party cookies' or 'only accept first party cookies'). Such privacy settings should be presented in an easily visible and intelligible manner.

Amendment

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to 'accept all cookies', which prevents end-users from providing informed and freely given consent, overloading them with requests. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that by default prevents cross-domain and cross-devices tracking and third parties from storing information on the terminal equipment or requesting end-users' consent for that; this is often presented as 'reject third party trackers and cookies'. End-users should be offered a set of privacy setting options, ranging from higher (for example, 'never accept trackers and cookies but always reject them') to lower (for example, 'always ask whether to accept trackers and cookies') and intermediate (for example, 'reject all trackers and cookies that are not strictly necessary in order to provide a service explicitly requested by the user' or 'reject all cross-domain tracking'). Such privacy settings should be presented in an objective, easily visible and intelligible manner.

Or. en

Amendment 87
Michał Boni, Krišjānis Kariņš
Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent third parties from storing information on the terminal equipment; this is often presented as ‘reject third party cookies’. End-users should be offered a set of privacy setting options, ranging from higher (for example, ‘never accept cookies’) to lower (for example, ‘always accept cookies’) and intermediate (for example, ‘reject third party cookies’ or ‘only accept first party cookies’). Such privacy settings should be presented in an easily visible and intelligible manner.

Amendment

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to inform the end-user about the possibility to express his or her consent using appropriate technical settings. The end-user should be offered multiple options to choose from, including to prevent third parties from storing information on the terminal equipment. End-users should be offered a set of privacy setting options, ranging from, for example, rejecting tracking that is not necessary for the functionality of the website or other software to, for example, accepting tracking necessary for the functionality of the website or other software as well as for other purposes or, for example, accepting tracking necessary for the functionality of the website or other software and tracking for other purposes by parties that demonstrate the compliance with the EU data protection and privacy legislation, for instance in line with Article 40 and 42 of Regulation (EU) 2016/679. Such privacy settings should be presented in an easily visible and intelligible manner.

Or. en

Amendment 88
Eva Kaili

Proposal for a regulation
Recital 23

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The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent third parties from storing information on the terminal equipment; this is often presented as ‘reject third party cookies’. End-users should be offered a set of privacy setting options, ranging from higher (for example, ‘never accept cookies’) to lower (for example, ‘always accept cookies’) and intermediate (for example, ‘reject third party cookies’ or ‘only accept first party cookies’). Such privacy settings should be presented in an easily visible and intelligible manner. Additionally, when personal data, including transaction data, is collected, it should be anonymised by default. When the end user decides not to allow the collection of their data or metadata they should be allowed to use the relative service to the extent possible, while respecting their choice.
Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent third parties from storing information on the terminal equipment; this is often presented as ‘reject third party cookies’. End-users should be offered a set of privacy setting options, ranging from higher (for example, ‘never accept cookies’) to lower (for example, ‘always accept cookies’) and intermediate (for example, ‘reject third party cookies’ or ‘only accept first party cookies’). Such privacy settings should be presented in an easily visible and intelligible manner.

Justification

When offering privacy setting options to end-users, browsers should differentiate between categories of third party cookies, as some are authorized and directly linked to a contractual relationship with the website provider.

Amendment 90
Peter Kouroumbashev, José Blanco López, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies

Amendment

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies
are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent third parties from storing information on the terminal equipment; this is often presented as ‘reject third party cookies’. End-users should be offered a set of privacy setting options, ranging from higher (for example, ‘never accept cookies’) to lower (for example, ‘always accept cookies’) and intermediate (for example, ‘reject third party cookies’ or ‘only accept first party cookies’). Such privacy settings should be presented in a an easily visible and intelligible manner.

Justification

This amendment aims at drawing a distinct line between the four different privacy settings that the end-user can chose from. ‘Whitelisted and/or frequently visited information society services’ means that if an end-user has some preferences towards trusted, frequently visited websites, the end-user allows the collection of their data only on those websites.

Amendment 91
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 24

Text proposed by the Commission

Amendment

(24) For web browsers to be able to obtain end-users’ consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment.

deleted
to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select ‘accept third party cookies’ to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals’ browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.

Or. en

Justification

Consent expressed through automated means (for example through technical settings of a software application enabling access to the internet) can never be informed nor valid.

Amendment 92
Michał Boni, Krišjānis Kariņš

Proposal for a regulation
Recital 24
(24) For web browsers to be able to obtain end-users’ consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select ‘accept third party cookies’ to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals’ browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.

(24) For web browsers to be able to obtain end-users’ consent as defined under Regulation (EU) 2016/679, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies or other tracking mechanisms in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select one of the offered options to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies or other tracking mechanism to be stored in the computer, including the compilation of long-term records of individuals’ browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use. Web browsers shall allow the end-user to customise his or her privacy settings for each individual website visited. The website shall be able to communicate to the end-user the fact that their privacy settings may influence his or her customer experience or access to all functionalities of the website and shall be allowed to offer end-user information how to change his or her settings, request consent from the end-user or offer him or
her alternative options, such as i.e. subscription or paid access. The choice of end user for specific websites shall be respected by web browsers.

Or. en

Amendment 93  
Aldo Patriciello

Proposal for a regulation  
Recital 24

Text proposed by the Commission

(24) For web browsers to be able to obtain end-users’ consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select ‘accept third party cookies’ to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals’ browsing histories and the use of such records to send targeted advertising. Web browsers

Amendment

(24) For web browsers to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select 'accept third party cookies' to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers
advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.

Or. en

Justification

As browsers are often owned by GAFAs, they should not be able to suggest to users which websites to whitelist, as otherwise they might give an advantage to their own websites.

Amendment 94
Nikolay Barekov

Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) For web browsers to be able to obtain end-users’ consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select ‘accept third party cookies’ to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to

Amendment

24. For web browsers to be able to obtain end-users’ consent - where this is essential - as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select ‘accept third party cookies’ to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to
make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.

Amendment 95
Zdzisław Krasnodębski

Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) For web browsers to be able to obtain end-users’ consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select ‘accept third party cookies’ to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to

Amendment

(24) For web browsers to be able to obtain end-users’ consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select ‘accept third party cookies’ to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to
internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.

Amendment 96
Michał Boni
Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station

Amendment

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station
(i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

(i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should ask for the end-user’s consent or should carry out data protection impact assessment and in this case the data collected is or is rendered pseudonymous or anonymous. Where a data protection impact assessment indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk, prior consultation with the supervisory authority, as prescribed in Article 36 of Regulation (EU) 2016/679, shall be carried out. Providers should display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

Or. en
Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in use.

25. Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should seek the consent of, and display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in use.
operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Personal data must only be collected where this is strictly necessary. That data must be anonymous and erased as soon as it is no longer needed. In order to bolster end-user security, the data should not be provided in real time.

Amendment 98
Lorenzo Fontana

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line,

Amendment

25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line,
ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

Or. it

Amendment 99
Peter Kouroumbashev, José Blanco López, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals

Amendment

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals
Containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

When wi-fi tracking is in place, it is important that a physical sign, indicating the tracking, is present. However, additionally, a notification should be sent to the terminal equipment of the affected users.

Justification

When wi-fi tracking is in place, it is important that a physical sign, indicating the tracking, is present. However, additionally, a notification should be sent to the terminal equipment of the affected users.
Amendment 100
Michał Boni

Proposal for a regulation
Recital 26

Text proposed by the Commission

Amendment

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into
Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

Amendment 101
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic account the role of the representative designated pursuant to Article 3(3).

Amendment

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation is without prejudice to the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights set under this Regulation when such a restriction is targeted to suspects, requires prior judicial authorisation, and constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security of the Union or of a Member State. Those restrictions should be in accordance with the requirements set out in the Charter and in the European Convention for the Protection of Human Rights and Fundamental Freedoms. Therefore, this Regulation should not affect the ability of Member
communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

Amendment 102
Notis Marias

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) There is justification for overriding the elimination of calling line identification presentation in specific cases. End-users' rights to privacy with regard to calling line identification should be restricted where this is necessary to trace nuisance calls and with regard to calling line identification and location data where this is necessary to allow emergency services, such as eCall, to carry out their tasks as effectively as possible.

Amendment

28) There is justification for overriding the elimination of calling line identification presentation in specific cases. End-users' rights to privacy with regard to calling line identification should be restricted where this is necessary to trace nuisance calls and with regard to calling line identification and location data where this is necessary to allow either the law enforcement authorities or the emergency services, such as eCall, to carry out their tasks as effectively as possible.
Amendment 103
Anne Sander, Françoise Grossetête, Nadine Morano

Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that end-users that are legal entities have the right to object to the data related to them being included in a directory.

Amendment

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person acting out of his/her business capacity requires that end-users that are natural persons are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities and natural persons acting in their business capacity requires that end-users that are legal entities and natural persons acting in their business capacity have the right to object to the data related to them being included in a directory.

Or. en

Amendment 104
Michał Boni

Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile

Amendment

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile
phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that end-users that are legal entities have the right to object to the data related to them being included in a directory. The consent shall be collected by the electronic communications service provider at the moment of signing the contract for such service.

Or. en

Amendment 105
Notis Marias

Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that end-users that are legal entities have the right to object to the data related to them being included in a directory.

Amendment

30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are asked for consent before their personal data are included in a directory. In case of non-consent, inclusion is an unlawful act. The legitimate interest of legal entities requires that end-users that are legal entities have the right to object to the data related to them being included in a directory.

Or. el
(31) If end-users that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories should inform the end-users of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.

(31) If end-users that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, upon giving their consent the end-users should be informed of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same. The providers of publicly available directories shall provide information about the search options, as well as if new options and functions of the directories are available in the publicly available directories.
(31) If end-users that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories should inform the end-users of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.

31) If end-users that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories are obliged to inform the end-users of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.

Or. el

Amendment 108
Notis Marias
Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) Safeguards should be provided to protect end-users against unsolicited communications for direct marketing purposes, which intrude into the private life of end-users. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications, whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS,

33) Safeguards should be provided to protect end-users against unsolicited communications for direct marketing purposes, which intrude into the private life of end-users. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications, whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS,
Bluetooth, etc. It is therefore justified to require that consent of the end-user is obtained before commercial electronic communications for direct marketing purposes are sent to end-users in order to effectively protect individuals against the intrusion into their private life as well as the legitimate interest of legal persons. Legal certainty and the need to ensure that the rules protecting against unsolicited electronic communications remain future-proof justify the need to define a single set of rules that do not vary according to the technology used to convey these unsolicited communications, while at the same time guaranteeing an equivalent level of protection for all citizens throughout the Union. However, it is reasonable to allow the use of e-mail contact details within the context of an existing customer relationship for the offering of similar products or services. Such possibility should only apply to the same company that has obtained the electronic contact details in accordance with Regulation (EU) 2016/679.

Amendment 109
Michał Boni
Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) Safeguards should be provided to protect end-users against unsolicited communications for direct marketing purposes, which intrude into the private life of end-users. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications.

Amendment

(33) Safeguards should be provided to protect end-users against unsolicited communications for direct marketing purposes, which intrude into the private life of end-users. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications.
whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS, Bluetooth, etc. It is therefore justified to require that consent of the end-user is obtained before commercial electronic communications for direct marketing purposes are sent to end-users in order to effectively protect individuals against the intrusion into their private life as well as the legitimate interest of legal persons. Legal certainty and the need to ensure that the rules protecting against unsolicited electronic communications remain future-proof justify the need to define a single set of rules that do not vary according to the technology used to convey these unsolicited communications, while at the same time guaranteeing an equivalent level of protection for all citizens throughout the Union. However, it is reasonable to allow the use of e-mail contact details within the context of an existing customer relationship for the offering of similar products or services. Such possibility should only apply to the same company that has obtained the electronic contact details in accordance with Regulation (EU) 2016/679.

Amendment 110
Michał Boni

Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) Service providers who offer electronic communications services should inform end-users of measures they can take to protect the security of their communications for instance by using specific types of software or

Amendment

(37) Service providers who offer electronic communication services shall comply with the security obligations as prescribed in Article 32 of Regulation (EU) 2016/679 and Article 40 of [European Electronic Communications...
encryption technologies. The requirement to inform end-users of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Amendment 111
Eva Kaili

Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) Service providers who offer electronic communications services should inform end-users of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform end-users of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Amendment

(37) Service providers who offer electronic communications services should inform end-users of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. Alternative solutions based on blockchain technology could be explored as they offer the protection needed for communications data allowing for maximum transparency and giving control back to the citizens. In such a way, in case of misuse of sensitive data or metadata will be traceable based on an e-id and timestamp system. The requirement to inform end-users of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the
subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Amendment 112
Notis Marias

Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) Service providers who offer electronic communications services should inform end-users of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform end-users of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Amendment

37) Service providers who offer electronic communications services should, in the joint contract they sign with end-users, should inform them of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform end-users of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Or. en

Amendment 113
Zdzisław Krasnodębski

Proposal for a regulation
Recital 39

Text proposed by the Commission

Amendment

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(39) Each supervisory authority should be competent on the territory of its own Member State to exercise the powers and to perform the tasks set forth in this Regulation. In order to ensure consistent monitoring and enforcement of this Regulation throughout the Union, the supervisory authorities should have the same tasks and effective powers in each Member State, without prejudice to the powers of prosecutorial authorities under Member State law, to bring infringements of this Regulation to the attention of the judicial authorities and engage in legal proceedings. Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises as defined in Article 2 of Directive 2013/34/EU in the application of this Regulation.
proceedings. Member States and their supervisory authorities are encouraged to take account of the specific needs of micro, small and medium-sized enterprises in the application of this Regulation.

Or. el

Amendment 115
Eva Kaili

Proposal for a regulation
Recital 39 a (new)

Text proposed by the Commission

(39a) In case that the competent supervisory authorities receive confidential information from a whistleblower regarding the misuse of data, in spite of the provisions of this Regulation, depriving citizens from their right to privacy, the whistleblower should be protected.

Or. en

Amendment 116
Eva Kaili

Proposal for a regulation
Recital 40

Text proposed by the Commission

(40) In order to strengthen the enforcement of the rules of this Regulation, each supervisory authority should have the power to impose penalties including administrative fines for any infringement of this Regulation, in addition to, or instead of any other appropriate measures pursuant to this Regulation. This Regulation should indicate infringements and the upper limit
and criteria for setting the related administrative fines, which should be determined by the competent supervisory authority in each individual case, taking into account all relevant circumstances of the specific situation, with due regard in particular to the nature, gravity and duration of the infringement and of its consequences and the measures taken to ensure compliance with the obligations under this Regulation and to prevent or mitigate the consequences of the infringement. For the purpose of setting a fine under this Regulation, an undertaking should be understood to be an undertaking in accordance with Articles 101 and 102 of the Treaty.

**user**, in addition to, or instead of any other appropriate measures pursuant to this Regulation. This Regulation should indicate infringements and the upper limit and criteria for setting the related administrative fines, which should be determined by the competent supervisory authority in each individual case, taking into account all relevant circumstances of the specific situation, with due regard in particular to the nature, gravity and duration of the infringement and of its consequences and the measures taken to ensure compliance with the obligations under this Regulation and to prevent or mitigate the consequences of the infringement. The relative penalties should aim to deter any use of data or metadata that would go against the letter of this Regulation. In such cases, both the first party and the third parties shall be held liable and accountable. For the purpose of setting a fine under this Regulation, an undertaking should be understood to be an undertakings in accordance with Articles 101 and 102 of the Treaty.

Or. en

Amendment 117
Notis Marias

Proposal for a regulation
Recital 40

**Text proposed by the Commission**

(40) In order to strengthen the enforcement of the rules of this Regulation, each supervisory authority **should have the power** to impose penalties including administrative fines for any infringement of this Regulation, in addition to, or instead of any other appropriate measures pursuant to this Regulation. This Regulation should

**Amendment**

40) In order to strengthen the enforcement of the rules of this Regulation, each supervisory authority **is authorised** to impose penalties including administrative fines for any infringement of this Regulation, in addition to, or instead of any other appropriate measures pursuant to this Regulation. This Regulation should
Indicate infringements and the upper limit and criteria for setting the related administrative fines, which should be determined by the competent supervisory authority in each individual case, taking into account all relevant circumstances of the specific situation, with due regard in particular to the nature, gravity and duration of the infringement and of its consequences and the measures taken to ensure compliance with the obligations under this Regulation and to prevent or mitigate the consequences of the infringement. For the purpose of setting a fine under this Regulation, an undertaking should be understood to be an undertaking in accordance with Articles 101 and 102 of the Treaty.

**Amendment 118**

Peter Kouroumbashev, Miroslav Poche, José Blanco López, Carlos Zorrinho

**Proposal for a regulation**

**Article 1 – paragraph 2**

*Text proposed by the Commission*

2. This Regulation ensures free movement of electronic communications data and electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural and legal persons and the protection of natural persons with regard to the processing of personal data.

**Amendment**

2. This Regulation ensures the **accurate and sustainable functioning of the digital single market and the** free movement of electronic communications data and electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural and legal persons and the protection of natural persons with regard to the processing of personal data.

Or. en
Justification

Regulation of the Digital Single Market is needed in order to put safeguards in place.

Amendment 119
Marian-Jean Marinescu

Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission

3. The provisions of this Regulation particularise and complement Regulation (EU) 2016/679 by laying down specific rules for the purposes mentioned in paragraphs 1 and 2.

Amendment

3. The provisions of this Regulation does not lower the level of protection enjoyed by natural persons under the Regulation (EU) 2016/679 but particularise and complement Regulation (EU) 2016/679 by laying down specific rules for the purposes mentioned in paragraphs 1 and 2.

Or. en

Amendment 120
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to the terminal equipment of end-users.

Amendment

1. This Regulation applies to :
(a) the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services, irrespective of whether a payment of the end-user is required;
(b) the processing of information related to or processed by the terminal equipment of end-users;
(d) the provision of publicly available
directories of users of electronic communication;

Or. en

Justification

Clarifies the material scope covering all the situations encountered in practice until today

Amendment 121
Peter Kouroumbashev, José Blanco López, Carlos Zorrinho

Proposal for a regulation
Article 2 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to the terminal equipment of end-users.</td>
<td>1. This Regulation applies to the processing of electronic communications data carried out when making available and utilizing electronic communications services, network services, and to information related to the terminal equipment of end-users.</td>
</tr>
</tbody>
</table>

Or. en

Justification

There should be a distinct mentioning of "electronic communication services" and "network services", in order to ensure a level-playing field.

Amendment 122
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 2 – point c

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(c) electronic communications services which are not publicly available;</td>
<td>deleted</td>
</tr>
</tbody>
</table>

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Justification

Services not publicly available are excluded from the scope of telecommunications regulations for reasons specific to such regulations. This distinction is irrelevant as regards the confidentiality of communications: all communications should be protected equally, irrespective of end-users' location. Excluding them from this scope would allow organisations to monitor how their employees are using their access to the network, beyond the scope of ensuring the functioning of the network. Moreover, communications originating in a different network but ending in a non-public one might be intercepted with prejudice to the confidentiality of communications.

Amendment 123
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 3

Text proposed by the Commission

3. The processing of electronic communications data by the Union institutions, bodies, offices and agencies is governed by Regulation (EU) 00/0000 [new Regulation replacing Regulation 45/2001].

Amendment

3. The processing of electronic communications data by the Union institutions, bodies, offices and agencies insofar as they are not publicly available, originating or having as destination public networks is governed by Regulation (EU) 00/0000 [new Regulation replacing Regulation 45/2001].

Justification

Aligning the text with the change in c)

Amendment 124
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 1 – introductory part
1. This Regulation applies to: 1. This Regulation applies to the activities referred to in Article 2 where the user or end-user is in the Union or where the communications services, hardware, software, directories, or direct marketing commercial electronic communications are provided to users or end-users in the Union.

Justification

Aligning the scope with GDPR

Amendment 125
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) the provision of electronic communications services to end-users in the Union, irrespective of whether a payment of the end-user is required;

Justification

Moved to art. 2

Amendment 126
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 1 – point b
Text proposed by the Commission Amendment

(b) the use of such services; deleted

Or. en

Justification

Moved to art. 2

Amendment 127
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 1 – point c

Text proposed by the Commission Amendment

(c) the protection of information deleted related to the terminal equipment of end-users located in the Union.

Or. en

Justification

Moved to art. 2

Amendment 128
Zdzisław Krasnodębski

Proposal for a regulation
Article 3 – paragraph 2

Text proposed by the Commission Amendment

2. Where the provider of an electronic communications service is not established in the Union it shall designate in writing a representative in the Union.

2. Where the provider of an electronic communications service is not established in the Union it shall designate, and prior to the start of its activity within the Union, in writing a representative in the Union.

Or. en
Amendment 129
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 4

Text proposed by the Commission
4. The representative shall have the power to answer questions and provide information in addition to or instead of the provider it represents, in particular, to supervisory authorities, and end-users, on all issues related to processing electronic communications data for the purposes of ensuring compliance with this Regulation.

Amendment
4. The representative shall have the power to answer questions and provide information in addition to or instead of the provider it represents, in particular, to supervisory authorities, and end-users, on all issues related to the activities referred to in Article 2 for the purposes of ensuring compliance with this Regulation.

Or. en

Justification
Aligning with art.2

Amendment 130
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 5

Text proposed by the Commission
5. The designation of a representative pursuant to paragraph 2 shall be without prejudice to legal actions, which could be initiated against a natural or legal person who processes electronic communications data in connection with the provision of electronic communications services from outside the Union to end-users in the Union.

Amendment
5. The designation of a representative pursuant to paragraph 2 shall be without prejudice to legal actions, which could be initiated against a natural or legal person who undertake the activities referred to in Article 2 from outside the Union.

Or. en
Amendment 131
Marian-Jean Marinescu

Proposal for a regulation
Article 4 – paragraph 1 – point b

Text proposed by the Commission

(b) the definitions of ‘electronic communications network’, ‘electronic communications service’, ‘interpersonal communications service’, ‘number-based interpersonal communications service’, ‘number-independent interpersonal communications service’, ‘end-user’ and ‘call’ in points (1), (4), (5), (6), (7), (14) and (21) respectively of Article 2 of [Directive establishing the European Electronic Communications Code];

Amendment

(b) the definitions of ‘electronic communications network’, ‘electronic communications service’, ‘interpersonal communications service’, ‘number-based interpersonal communications service’, ‘number-independent interpersonal communications service’, ‘end-user’ and ‘call’ in points (1), (4), (5), (6), (7), (14) and (21) respectively of Article 2 of [Directive establishing the European Electronic Communications Code];

Or. en

Amendment 132
Marian-Jean Marinescu

Proposal for a regulation
Article 4 – paragraph 1 – point b a (new)

Text proposed by the Commission

(b a) ‘end-user’ means natural person using a publicly available electronic communications service for private or business purposes without necessarily having subscribed to this service;

Amendment

(b a) ‘end-user’ means natural person using a publicly available electronic communications service for private or business purposes without necessarily having subscribed to this service;

Or. en

Amendment 133
Michał Boni, Krišjānis Kariņš

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

2. For the purposes of point (b) of paragraph 1, the definition of ‘interpersonal communications service’ shall include services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.

Amendment

Michel Reimon on behalf of the Verts/ALE Group

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

2. For the purposes of point (b) of paragraph 1:

2. For the purposes of point (b) of paragraph 1:

Or. en

Justification

All communications should be protected equally, irrespective of end-users' location. Therefore, electronic communications services which are not publicly available should remain within the scope of this regulation.

Amendment 135
Michel Reimon on behalf of the Verts/ALE Group
Proposal for a regulation
Article 4 – paragraph 3 – point b

Text proposed by the Commission

(b) ‘electronic communications content’ means the content exchanged by means of electronic communications services, such as text, voice, videos, images, and sound;

Amendment

(b) ‘electronic communications content’ means the content transmitted, distributed or exchanged by means of electronic communications services, such as text, voice, videos, images, and sound, including electronic communications metadata of other electronic communications services or protocols that are transmitted by using the respective service;

Or. en

Amendment 136
Marian-Jean Marinescu

Proposal for a regulation
Article 4 – paragraph 3 – point b

Text proposed by the Commission

(b) ‘electronic communications content’ means the content exchanged by means of electronic communications services, such as text, voice, videos, images, and sound;

Amendment

(b) ‘electronic communications content’ means the content exchanged between parties and the external elements of a communication, including during machine-to-machine communication, by means of electronic communications services, such as text, voice, videos, images, and sound;

Or. en

Amendment 137
Peter Kouroumasheva, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Article 4 – paragraph 3 – point b

Text proposed by the Commission

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(b) ‘electronic communications content’ means the content exchanged by means of electronic communications services, such as text, voice, videos, images, and sound;

(b) ‘electronic communications content’ means the content exchanged by means of publicly accessible electronic communications services, such as text, voice, videos, images, and sound;

Or. en

Justification

This amendment is to clarify that all private networks should be out of the scope of the regulation.

Amendment 138
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 4 – paragraph 3 – point c

Text proposed by the Commission

(c) ‘electronic communications metadata’ means data processed in an electronic communications network for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and the type of communication;

Amendment

(c) ‘electronic communications metadata’ means data generated, transmitted or processed for the purposes of transmitting, distributing or exchanging electronic communications content, including data used to trace and identify the source and destination of a communication; electronic identifiers and other data broadcasted or emitted by the terminal equipment to identify users’ communication or to enable it to connect to an electronic communications service or to another terminal equipment, data on the location of the terminal equipment processed in the context of providing electronic communications services, and the date, time, duration and the type of communication; where metadata of other electronic communications services or protocols are transmitted, distributed or exchanged by using the respective service, they shall be considered electronic communications content for the respective service;
Amendment 139
Rolandas Paksas

Proposal for a regulation
Article 4 – paragraph 3 – point c

Text proposed by the Commission

(c) ‘electronic communications metadata’ means data processed in an electronic communications network for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and the type of communication;

Amendment

(c) ‘electronic communications metadata’ means data processed in an electronic communications network or by any other equipment for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and the type of communication;

Amendment 140
Peter Kouroumbashev, Carlos Zorrinho

Proposal for a regulation
Article 4 – paragraph 3 – point c

Text proposed by the Commission

(c) ‘electronic communications metadata’ means data processed in an electronic communications network for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and

Amendment

(c) ‘electronic communications metadata’ means all data processed in an open communications network for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and
the type of communication;

Or. en

Amendment 141
Zdzisław Krasnodębski

Proposal for a regulation
Article 4 – paragraph 3 – point f

Text proposed by the Commission

(f) ‘direct marketing communications’ means any form of advertising, whether written or oral, sent to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc.;

Amendment

(f) ‘direct marketing communications’ means any form of commercial communication, whether written or oral, intended primarily to promote products or services, or to influence consumer behaviour, which includes sponsorship of events with an aim to create a behavioural response in the consumer, sent to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc.;

Or. en

Amendment 142
Dario Tamburrano, David Borrelli

Proposal for a regulation
Article 4 – paragraph 3 – point f

Text proposed by the Commission

(f) ‘direct marketing communications’ means any form of advertising, whether written or oral, sent to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without

Amendment

(f) 'direct marketing communications' means any form of advertising or similar promotion, sent, directed or presented to one or more identified or identifiable end-users over an electronic communications network, including the use of automated calling and communication systems with or
human interaction, electronic mail, SMS, etc.; without human interaction, targeted advertising on social media platforms, electronic mail, facsimile, SMS, etc.;

<table>
<thead>
<tr>
<th>Amendment 143</th>
<th>Michel Reimon</th>
<th>on behalf of the Verts/ALE Group</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposal for a regulation</strong></td>
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<tr>
<td><strong>Article 4 – paragraph 3 – point f</strong></td>
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<td>Text proposed by the Commission</td>
<td>Amendment</td>
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<tr>
<td>(f)</td>
<td>‘direct marketing communications’ means any form of advertising, whether written or oral, sent to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc.;</td>
<td>(f)</td>
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<table>
<thead>
<tr>
<th>Amendment 144</th>
<th>Aldo Patriciello</th>
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<tr>
<td><strong>Proposal for a regulation</strong></td>
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<td><strong>Article 4 – paragraph 3 – point f</strong></td>
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<td></td>
<td>Text proposed by the Commission</td>
<td>Amendment</td>
</tr>
<tr>
<td>(f)</td>
<td>‘direct marketing communications’ means any form of advertising, whether written or oral, sent to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc.;</td>
<td>(f)</td>
</tr>
</tbody>
</table>
etc.;

Justification

Justification: the definition is too broad and, in its current wording, could potentially cover all advertisements placed on the internet, television or radio. This would have a detrimental effect on the advertisement industry, as Article 16 would impose very strict rules on these players (i.e. they would be required to inform end-users of the marketing nature of the communication, the identity of the legal or natural person on behalf of whom the communication is transmitted and the necessary information for recipients to exercise their right to withdraw their consent).

Amendment 145
Peter Kouroumbashev, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Article 4 – paragraph 3 – point g

Text proposed by the Commission
(g) ‘direct marketing voice-to-voice calls’ means live calls, which do not entail the use of automated calling systems and communication systems;

Amendment
(g) ‘direct marketing voice-to-voice calls’ means live calls, which do not entail the use of automated calling systems and communication systems; this shall not include calls and text messages linked to Amber Alert;

Justification

Amber Alert - The European Child Rescue Alert and Police Network on Missing Children, as supported by the European Parliament' Written Declaration 7/2016

Amendment 146
Dario Tamburrano, David Borrelli

Proposal for a regulation
Article 4 – paragraph 3 – point h a (new)

Text proposed by the Commission

Amendment
(h a) 'equipment location data' means data that can enable the geospatial location, movement or direction of terminal equipment and it is not processed in order to provide a communications service.

Amendment 147
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Chapter 2 – title

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROTECTION OF ELECTRONIC</td>
<td>PROTECTION OF ELECTRONIC</td>
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<tr>
<td>COMMUNICATIONS OF NATURAL</td>
<td>COMMUNICATIONS OF NATURAL</td>
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<td>AND LEGAL PERSONS AND OF</td>
<td>AND LEGAL PERSONS AND OF</td>
</tr>
<tr>
<td>INFORMATION STORED IN THEIR</td>
<td>INFORMATION PROCESSED BY AND</td>
</tr>
<tr>
<td>TERMINAL EQUIPMENT</td>
<td>RELATED TO THEIR TERMINAL</td>
</tr>
<tr>
<td>EQUIPMENT</td>
<td>EQUIPMENT</td>
</tr>
</tbody>
</table>

Justification

Aligning the title with the changes in recitals and articles

Amendment 148
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 5 – title

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
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<tbody>
<tr>
<td>Confidentiality of electronic</td>
<td>Confidentiality of electronic</td>
</tr>
<tr>
<td>communications data</td>
<td>communications</td>
</tr>
</tbody>
</table>

Or. en
Amendment 149
Peter Kouroumbashev, Miroslav Poche, José Blanco López, Carlos Zorrinho

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications data, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Amendment

Electronic communications data shall be confidential, regardless of whether the communication involves natural or legal persons. Any interference with electronic communications inactive data that is stored physically in any digital form, or data in motion, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications data, by persons other than the sender or intended recipients, shall be prohibited, except when permitted by this Regulation.

Or. en

Justification

Provides clarification that confidentiality is binding for natural and legal persons, as well as, clarification on the nature of the data (inactive; in motion; stored).

Amendment 150
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications data, by persons other

Amendment

Electronic communications shall be confidential. Any processing of electronic communications data, including any interference with electronic communications data such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance of
Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications data, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation. This includes electronic communications data that is stored after the transmission has been completed.

Amendment 151
Dario Tamburrano, David Borrelli

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications data, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Amendment

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance, or any processing of electronic communications data regardless of whether this data is in transit or stored, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Amendment 152
Michał Boni

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception,

Amendment

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception or
surveillance or processing of electronic communications data, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

surveillance of electronic communications data, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Amendment 153
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Confidentiality of electronic communications shall also apply to data related to or processed by terminal equipment and to machine-to-machine communication.

Amendment

Or. en

Amendment 154
Gunnar Hökmark

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

1. Providers of electronic communications networks and services may process electronic communications data if:

(a) it is necessary to achieve the transmission of the communication, for the duration necessary for that purpose; or

(b) it is necessary to maintain or restore the security of electronic communications networks and services, or detect technical

deleted
faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Justification

Overlapping with GDPR (Regulation (EU) 2016/679)

Amendment 155
Michał Boni

Proposal for a regulation
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. Providers of electronic communications networks and services may process electronic communications data if:

Amendment

1. Providers of electronic communications networks and services may process electronic communications data if \textit{it is necessary to achieve the transmission of the communication, for the duration necessary for that purpose.}

Or. en

Amendment 156
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. Providers of electronic communications networks and services may process electronic communications data if:

Amendment

1. Providers of electronic communications networks and services may process electronic communications data \textit{only} if:

Or. en
Amendment 157
Michał Boni

Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary to achieve the transmission of the communication, for the duration necessary for that purpose; or

Amendment

deleted

Or. en

Amendment 158
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary to achieve the transmission of the communication, for the duration necessary for that purpose; or

Amendment

(a) it is technically and strictly necessary to achieve the transmission of the communication, for the duration necessary for that purpose;

Or. en

Amendment 159
Marisa Matias

Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary to achieve the transmission of the communication, for the duration necessary for that purpose; or

Amendment

(a) it is strictly necessary to achieve the transmission of the communication, for the duration necessary for that purpose; or

Or. en
Amendment 160
Michał Boni

Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) it is necessary to maintain or restore the security of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Amendment

deleted

Or. en

Amendment 161
Peter Kouroumbashev, José Blanco López, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) it is necessary to maintain or restore the security of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose; providers of electronic communications networks and services are encouraged to ensure through proportionate means the impediment of distribution of malicious software in line with Article 7(a) of Directive 2013/40/EU.

Amendment

(b) it is necessary to maintain, restore and protect the security, constancy, confidentiality, availability and authenticity of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose;

Or. en
Justification

Network providers and services are encouraged to put in place advanced security infrastructure within the network, adding an additional security layer, to protect from threats, such as hacker attacks etc.; it does not entail breaches in confidentiality.

Amendment 162
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) it is necessary to maintain or restore the security of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Amendment

(b) it is technically and strictly necessary to maintain or restore the availability, integrity and confidentiality of the respective electronic communications network or service, or to detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose; or

Or. en

Amendment 163
Marisa Matias

Proposal for a regulation
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) it is necessary to maintain or restore the security of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Amendment

(b) it is strictly necessary to maintain or restore the security of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Or. en
Amendment 164
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment
(ba) the users concerned have given their consent to the processing of his or her electronic communications data, provided that it is technically and strictly necessary for the provision of an information society service explicitly requested by a user for his or her purely individual usage, solely for the provision of the explicitly requested service and only for the duration necessary for that purpose and without the consent of all users, only where such processing produces effects solely in relation to the user who requested the service and does not adversely affect the fundamental rights of other users.

Or. en

Amendment 165
Michał Boni

Proposal for a regulation
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment
1a. Providers of electronic communication networks and services and third parties may process electronic communication data to the extent strictly necessary and proportionate for the purpose of ensuring security of network and information if it is necessary to protect, maintain or restore the confidentiality, integrity, availability, authenticity of electronic
communications, protect the privacy and safety of end-users or of third parties or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Or. en

Amendment 166
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Before processing electronic communications data, the provider shall carry out a data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679, and if necessary a prior consultation with the supervisory authority pursuant to Article 36 of Regulation (EU) 2016/679.

Or. en

Amendment 167
Gunnar Hökmark

Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. Providers of electronic communications services may process electronic communications metadata if:

(a) it is necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or

deleted
Regulation (EU) 2015/2120\(^8\) for the duration necessary for that purpose; or

(b) it is necessary for billing, calculating interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or

(c) the end-user concerned has given his or her consent to the processing of his or her communications metadata for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could not be fulfilled by processing information that is made anonymous.


Or. en

Justification

Overlapping with GDPR (Regulation (EU) 2016/679)

Amendment 168
Peter Kouroumbashev, José Blanco López, Carlos Zorrinho

Proposal for a regulation
Article 6 – paragraph 2 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>2. Providers of electronic</td>
<td>2. Providers of electronic</td>
</tr>
</tbody>
</table>

PE602.723v01-00 102/199 AM\1121219EN.docx
communications services may process electronic communications metadata if: communications services and network providers may process electronic communications metadata if:

Or. en

**Justification**

There should be a distinct mentioning of "electronic communication services" and "network services", in order to ensure a level-playing field.

**Amendment 169**
Michał Boni

Proposal for a regulation
Article 6 – paragraph 2 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>2. Providers of electronic communications services may process electronic communications metadata if:</td>
<td>2. Providers of electronic communications networks and services may process electronic communications metadata if:</td>
</tr>
</tbody>
</table>

Or. en

**Amendment 170**
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 2 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>2. Providers of electronic communications services may process electronic communications metadata if:</td>
<td>2. Providers of electronic communications services may process electronic communications metadata only if:</td>
</tr>
</tbody>
</table>

Or. en
Amendment 171
Peter Kouroumbashev, Carlos Zorrinho

Proposal for a regulation
Article 6 – paragraph 2 – point a

Text proposed by the Commission

(a) it is necessary to meet mandatory quality of service requirements pursuant to Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120 for the duration necessary for that purpose; or

Amendment

(a) it is necessary to meet mandatory quality of service requirements pursuant to Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120 for the duration necessary for that purpose; or for the purpose of network planning of the Electronic Communication Systems; or for the purpose of technological innovations, strictly related to the improvement of the network. This should be possible under the following safeguards: approval of the supervisory authority; pseudonymisation of the data, only if anonymisation is not possible for the purpose of the service; the minimum data required should be processed.


Justification

This amendment aims to ensure that network planning, favouring the en-users, as well as, technological advancement, needed to provide the improvement of the networks in the digital sphere, should not be obstructed. However, the necessary safeguards should be in place.
Amendment 172
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 2 – point a

Text proposed by the Commission
(a) it is necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120 for the duration necessary for that purpose; or


Amendment
(a) it is technically and strictly necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120 for the duration necessary for that purpose; or


Or. en

Amendment 173
Marisa Matias

Proposal for a regulation
Article 6 – paragraph 2 – point a

Text proposed by the Commission
(a) it is necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120 for the duration necessary for that purpose; or

Amendment
(a) it is strictly necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120 for the duration necessary for that purpose; or

Amendment 174
Peter Kouroumbashev, Miroslav Poche, José Blanco López, Carlos Zorrinho

Proposal for a regulation
Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b) it is necessary for billing, calculating interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or

Amendment

(b) it is necessary for billing, interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or scams schemes affecting third parties connected to the network; or

Justification

Self explanatory

Amendment 175
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 2 – point b
(b) it is necessary for billing, calculating interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or

(b) it is strictly necessary for billing, calculating interconnection payments, detecting or stopping fraudulent use of, or subscription to, electronic communications services and the user has given his or hers consent to such processing; or

Or. en

Amendment 176
Marisa Matias

Proposal for a regulation
Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b) it is necessary for billing, calculating interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or

Amendment

(b) it is strictly necessary for billing, calculating interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or

Or. en

Amendment 177
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 2 – point c

Text proposed by the Commission

(c) the end-user concerned has given his or her consent to the processing of his or her communications metadata for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could not be fulfilled by processing information that is made

Amendment

(c) all users concerned have given their specific consent to the processing of their communications metadata by the respective electronic communications service for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could
anonymous.

not be fulfilled by processing data that is made anonymous, and the consent has not been a condition to access or use a service. Providers have to consult the supervisory authority before such processing occurs.

Amendment 178
Michał Boni

Proposal for a regulation
Article 6 – paragraph 2 – point c

Text proposed by the Commission

(c) the end-user concerned has given his or her consent to the processing of his or her communications metadata for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could not be fulfilled by processing information that is made anonymous.

Amendment

(c) the end-user concerned has given his or her consent to the processing of his or her communications metadata for one or more specified purposes, including for the provision of specific services to such end-users; or

Or. en

Amendment 179
Rolandas Paksas

Proposal for a regulation
Article 6 – paragraph 2 – point c

Text proposed by the Commission

(c) the end-user concerned has given his or her consent to the processing of his or her communications metadata for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could not be fulfilled

Amendment

(c) the all end-user concerned has given his or her consent to the processing of his or her communications metadata for one or more specified purposes, including for the provision of specific services to such all end-users, provided that the purpose or purposes concerned could not
by processing information that is made anonymous.

be fulfilled by processing information that is made anonymous.

Or. en

Amendment 180
Michał Boni, Krišjānis Kariņš

Proposal for a regulation
Article 6 – paragraph 2 – point c a (new)

Text proposed by the Commission

(c a) the processing of these data for another specified purpose is compatible with the purpose for which the data were initially collected and is subject to specific safeguards, especially pseudonymisation, as set forth in Article 6(4) of Regulation (EU) 2016/679; or

Or. en

Amendment

(c b) it is necessary, in accordance with Article 6(1)(f) of Regulation (EU) 2016/679, for the purposes of the legitimate interests pursued by the service provider or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Or. en
Amendment 182
Peter Kouroumbashev, José Blanco López, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Even in the denial or absence of consent of an end-user, for the processing of metadata in order to locate an individual, in cases of calls to emergency services, exclusively for Amber Alert and the European emergency phone number (112).

Or. en

Justification

Self explanatory.

Amendment 183
Michał Boni

Proposal for a regulation
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. For the purpose of point (cb) of paragraph 2, data protection impact assessment shall be carried out as prescribed in Article 35 of Regulation (EU) 2016/679.

Or. en

Amendment 184
Michał Boni

Proposal for a regulation
Article 6 – paragraph 3 – introductory part
3. Providers of the electronic communications services may process electronic communications content only:

Amendment

3. Without prejudice to points (1) and (1a) of Article 6, providers of the electronic communications services may process electronic communications content only:

Or. en

Amendment 185
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

3. Providers of the electronic communications services may process electronic communications content only:

Amendment

3. Providers of electronic communications services may process electronic communications content only if:

Or. en

Amendment 186
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 3 – point a

Text proposed by the Commission

(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user or end-users concerned have given their consent to the processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

Amendment

(a) all users concerned have given their consent to the processing of his or her electronic communications content for the sole purpose of the provision of a specific service explicitly requested by the end-user, for the duration necessary for that purpose, provided that the provision of that specific service cannot be fulfilled without the processing of such content by the provider, and the consent has not been
(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user or end-users concerned have given their consent to the processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user or end-users concerned have given their consent to the processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

Or. en

Amendment 188
Michał Boni

Proposal for a regulation
Article 6 – paragraph 3 – point a

Text proposed by the Commission

(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user or end-users concerned have given their consent to the processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

Amendment

(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user concerned has given his or her consent to the processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

Or. en
Amendment 189
Zdzisław Krasnodębski

Proposal for a regulation
Article 6 – paragraph 3 – point b

Text proposed by the Commission

(b) if all end-users concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.

Amendment

(b) if all end-users concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. The concern of all end-users is not required in the situation when electronic communication emitted by an individual end-user is grossly offensive or of an indecent, obscene or menacing character and pose danger to other end-users involved. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.

Or. en

Amendment 190
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 6 – paragraph 3 – point b

Text proposed by the Commission

(b) if all end-users concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to

Amendment

(b) all users concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the
the consultation of the supervisory authority.

consultation of the supervisory authority.

Or. en

Amendment 191
Rolandas Paksas

Proposal for a regulation
Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Any processing based on end-user consent must not adversely affect the rights and freedoms of individuals whose personal data are related to the communication, in particular, their rights to privacy and the protection of their personal data.

Or. en

Amendment 192
Gunnar Hökmark

Proposal for a regulation
Article 7

Text proposed by the Commission

Amendment

Article 7 deleted

Storage and erasure of electronic communications data

1. Without prejudice to point (b) of Article 6(1) and points (a) and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content or make that data anonymous after receipt of electronic communication content by the intended recipient or recipients. Such data may be recorded or stored by the end-
users or by a third party entrusted by them to record, store or otherwise process such data, in accordance with Regulation (EU) 2016/679.

2. Without prejudice to point (b) of Article 6(1) and points (a) and (c) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata or make that data anonymous when it is no longer needed for the purpose of the transmission of a communication.

3. Where the processing of electronic communications metadata takes place for the purpose of billing in accordance with point (b) of Article 6(2), the relevant metadata may be kept until the end of the period during which a bill may lawfully be challenged or a payment may be pursued in accordance with national law.

**Justification**

Overlapping with GDPR (Regulation (EU) 2016/679)

**Amendment 193**

Michel Reimon

on behalf of the Verts/ALE Group

**Proposal for a regulation**

**Article 7 – paragraph 1**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Without prejudice to point (b) of Article 6(1) and points (a) and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content or make that data anonymous after receipt of electronic communication content by the intended recipient or recipients. Such data may be recorded or stored by the end-users.</td>
<td>1. Without prejudice to points (b) and (c) of Article 6(1), the provider of the electronic communications service shall erase electronic communications content after receipt of electronic communication content by the intended recipient or recipients. Such data may be recorded or stored by the end-users or by a party, which could be the provider of the</td>
</tr>
</tbody>
</table>
or by a third party entrusted by them to record, store or otherwise process such data, in accordance with Regulation (EU) 2016/679.

The end-user may further process the content in accordance with Regulation (EU) 2016/679, if applicable.

Or. en

Justification

Communication data are highly structured data that cannot be fully anonymised. Therefore, only the end-users should decide whether to be subject to such processing.

Furthermore, freedom of expression requires that individuals should be free to express or not their opinion and to choose how and where to express it. Using their communications for other purposes than the one they choose is against such freedom and should be strictly forbidden.

Amendment 194
Michał Boni

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

1. Without prejudice to point (b) of Article 6(1) and points (a) and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content or make that data anonymous after receipt of electronic communication content by the intended recipient or recipients. Such data may be recorded or stored by the end-users or by a third party entrusted by them to record, store or otherwise process such data, in accordance with Regulation (EU) 2016/679.

Amendment

1. Without prejudice to Article 6(1a) and points (a) and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content or make that data anonymous after receipt of electronic communication content by the intended recipient or recipients. Such data may be recorded or stored by the end-users or by a third party entrusted by them to record, store or otherwise process such data, in accordance with Regulation (EU) 2016/679.

Or. en

Amendment 195
Nikolay Barekov

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. Without prejudice to point (b) of Article 6(1) and points (a) and (c) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata or make that data anonymous when it is no longer needed for the purpose of the transmission of a communication.

Amendment

2. Without prejudice to point (b) of Article 6(1) and points (a) and (c) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata when it is no longer needed for the purpose of the transmission of a communication.

Or. bg

Amendment 196
Michał Boni

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. Without prejudice to point (b) of Article 6(1) and points (a) and (c) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata or make that data anonymous when it is no longer needed for the purpose of the transmission of a communication.

Amendment

2. Without prejudice to Article 6(1a) and points (a), (c), (ca) and (cb) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata or make that data anonymous when it is no longer needed for the purpose of the transmission of a communication.

Or. en

Amendment 197
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 7 – paragraph 2
2. Without prejudice to point (b) of Article 6(1) and points (a) and (c) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata or make that data anonymous when it is no longer needed for the purpose of the transmission of a communication.

Justification

Communication data are highly structured data that cannot be fully anonymised. Therefore, only the end-users should decide whether to be subject to such processing.

Furthermore, freedom of expression requires that individuals should be free to express or not their opinion and to choose how and where to express it. Using their communications for other purposes than the one they choose is against such freedom and should be strictly forbidden.

Amendment 198
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. Where the processing of electronic communications metadata takes place for the purpose of billing in accordance with point (b) of Article 6(2), the relevant metadata may be kept until the end of the period during which a bill may lawfully be challenged or a payment may be pursued in accordance with national law.

Amendment

3. Where the processing of electronic communications metadata takes place for the purpose of billing in accordance with point (b) of Article 6(2), only the metadata that is strictly necessary for this purpose may lawfully be challenged or a payment may be pursued in accordance with national law.

Amendment 199
Peter Kouroumbashev, José Blanco López, Carlos Zorrinho
### Proposal for a regulation
#### Article 8 – title

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of information stored in <em>and related to end-users’</em> terminal equipment</td>
<td>Protection of information transmitted to, stored in, restored from or processed in <em>any other way relative to</em> terminal equipment</td>
</tr>
</tbody>
</table>

Or. en

#### Amendment 200
**Michel Reimon**
on behalf of the Verts/ALE Group

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of information stored in <em>and related to</em> end-users’ terminal equipment</td>
<td>Protection of information stored in, <em>related to and processed by</em> end-users’ terminal equipment</td>
</tr>
</tbody>
</table>

Or. en

#### Amendment 201
**Rolandas Paksas**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of information stored in and related to end-users’ terminal equipment</td>
<td>Protection of information stored in and related to <em>all</em> end-users’ terminal equipment</td>
</tr>
</tbody>
</table>

Or. en

#### Amendment 202
Aldo Patriciello

Proposal for a regulation
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. The use of processing and storage capabilities of terminal equipment and the collection of information from end-users’ terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, except on the following grounds:

Amendment

1. The use of processing and storage capabilities of terminal equipment and the collection of information from end-users’ terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, unless the processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party and, except on the following grounds:

Or. en

Amendment 203
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. The use of processing and storage capabilities of terminal equipment and the collection of information from end-users’ terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, except on the following grounds:

Amendment

1. The use of input, output, processing and storage capabilities of terminal equipment and the collection or processing of information from users’ terminal equipment, or making information available through the terminal equipment, including information about and processed by its software and hardware, other than by the user concerned shall be prohibited, excepting the following grounds:

Or. en
Proposal for a regulation
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. The use of processing and storage capabilities of terminal equipment and the collection of information from end-users’ terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, except on the following grounds:

Amendment

1. The use of processing and storage capabilities of terminal equipment and the collection of information from all end-users’ terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, except on the following grounds:

Or. en

Amendment 205
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications network; or

Amendment

(a) it is strictly and technically necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications service; or

Or. en

Amendment 206
Marisa Matias

Proposal for a regulation
Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary for the sole purpose of carrying out the transmission of an

Amendment

(a) it is strictly necessary for the sole purpose of carrying out the transmission of
electronic communication over an electronic communications network; or

Or. en

Amendment 207
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) the end-user has given his or her consent; or

Amendment

(b) the user has given his or her consent for a specific purpose, and the consent has not been a condition to access or use a service, for the duration necessary for that purpose; or

Or. en

Amendment 208
Rolandas Paksas

Proposal for a regulation
Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) the end-user has given his or her consent; or

Amendment

(b) the all end-user has given his or her consent; or

Or. en

Amendment 209
Michał Boni, Krišjānis Kariņš

Proposal for a regulation
Article 8 – paragraph 1 – point b a (new)
Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(b a) the information is or is rendered pseudonymous or anonymous; or

Or. en

Amendment 210
Herbert Reul, Werner Langen

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(c) it is necessary for providing an information society service requested by the end-user, particularly in order to preserve the integrity or security of the information society service or access to it, to improve what is offered or for measures to protect against unauthorised use of the service in accordance with the terms and conditions of use relating to the provision of services to the end-user; or

Or. de

Amendment 211
Eva Kaili

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(c) it is necessary for providing an information society service requested by the end-user which shall include inter alia maintaining, operating and managing the integrity, access or security of the information society service, enhancing user experience or measures for preventing unauthorized access to or use
of the information society service according to the terms of use for making available the service to the end user; or

Or. en

Amendment 212
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(c) it is strictly and technically necessary for providing an information society service specifically requested by the user, for the duration necessary for that provision of the service, provided that the provision of that specific service cannot be fulfilled without the processing of such content by the provider; or

Or. en

Amendment 213
Rolandas Paksas

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(c) it is necessary for providing an information society service requested by all end-user; or

Or. en

Amendment 214
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Or. en

Justification

Audience measuring should be based on consent, therefore is covered in b)

Amendment 215
Eva Kaili

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Or. en

Amendment 216
Michal Boni

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for audience measurement for an information society service requested by the end-user, including where such measurement takes place for the purposes of calculating royalties for collective rights management or other remuneration or payment systems, ensuring however that the principle of confidentiality is respected,

Or. en
(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Or. en

Amendment 217
Herbert Reul, Werner Langen

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Amendment

(d) if it is necessary to obtain information about technical quality or effectiveness of an information society service that has been delivered or about terminal equipment functionality, and it has no or little impact on the privacy of the end-user concerned; or

Or. de

Amendment 218
Aldo Patriciello

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Amendment

(d) if it is necessary in order to measure the reach of an information society service desired by the end-user, including measurement of indicators for the use of information society services in order to calculate a payment due.

(d) if it is necessary for audience measuring or other statistical purposes, provided that such measurement is carried out by the provider of the information society service requested by the end-user or on behalf of the provider; or
Amendment 219
Rolandas Paksas

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Amendment

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by all end-user.

Amendment 220
Eva Kaili

Proposal for a regulation
Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

(d a) a clear and prominent notice is displayed to the public informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation 2016/679/EU where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimize the collection.

The collection of such information shall be conditional on the application of appropriate technical and organization measures to ensure that the collection and processing of information is limited to what is necessary in relation to the purposes of processing and to ensure a level of security appropriate to the risks,
as set out in Article 32 of Regulation 2016/679/EU, have been applied, which may inter alia include pseudonymisation or anonymisation of the information collected as set out in Art. 4 (5) of Regulation (EU) 2016/679

Amendment 221
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) it is strictly technically necessary for a security update, provided that:

(i) such updates are discreetly packaged and do not in any way change the functionality of the hardware or software or the privacy settings chosen by the user;

(ii) the user is informed in advance each time such an update is being installed; and

(iii) the user has the possibility to postpone or turn off the automatic installation of such updates;

Or. en

Amendment 222
Michał Boni

Proposal for a regulation
Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) it is necessary to protect privacy, security or safety of the end-user, or to
protect confidentiality, integrity, availability, authenticity of the terminal equipment; or

Or. en

Amendment 223
Aldo Patriciello

Proposal for a regulation
Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment
(da) (e) where the processing is strictly limited to anonymised or pseudonymised data and the entity concerned undertakes to comply with specific privacy safeguards; or

Or. en

Amendment 224
Herbert Reul, Werner Langen

Proposal for a regulation
Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment
(da) it occurs for the purpose of recording, for the undertaking as a whole, anonymous indicators concerning the use of information society services; or

Or. de

Amendment 225
Peter Kouroumbashev, José Blanco López, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Article 8 – paragraph 1 – point d a (new)
Text proposed by the Commission

Amendment

(d a) for emergency services acting on calls to the European emergency phone number (112) or Amber Alert.

Or. en

Justification

Self explanatory

Amendment 226
Anne Sander, Françoise Grossetête, Nadine Morano

Proposal for a regulation
Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) under the conditions as set out in point (b) of paragraph 2 and paragraph 3

Or. en

Amendment 227
Michał Boni

Proposal for a regulation
Article 8 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(d b) the processing of these data and information for another specified purpose is compatible with the purpose for which the data were initially collected and is subject to specific safeguards, especially pseudonymisation, as set forth in Article 6(4) of Regulation (EU) 2016/679; or

Or. en
Amendment 228
Herbert Reul, Werner Langen

Proposal for a regulation
Article 8 – paragraph 1 – point d b (new)

Text proposed by the Commission

\[ db) \] in order to mark terminal equipment for advertising purposes, on condition that the person responsible has clearly informed the end-user of this at the beginning of the data processing and has provided an opportunity for objection that is easy to exercise; or

Or. de

Amendment 229
Aldo Patriciello

Proposal for a regulation
Article 8 – paragraph 1 – point d b (new)

Text proposed by the Commission

\[ (db) \] if it used for the personalisation of the electronic communications services provided to end-users

Or. en

Justification

Justification: Advertisers and, indirectly, broadcasters rely more and more on Online Behavioural Advertisement (OBA) as a basis for their business models. For broadcasters, revenues from advertising and commercial communications play a fundamental role in financing the development, production and licensing of original high-quality EU content. In this regard, OBA is crucial for the future of broadcasting, as financing is gradually shifting to new forms of advertisement. In addition, data can be used to improve the overall user experience and provide more targeted and individualised video viewing experiences – from the type of content that is proposed to users to the way the content is discovered and delivered on the platform. Users also might want to start watching content on one device and continue on another. For all these reasons, there should be exceptions to the consent rule when the processing of personal data is necessary for the purposes of legitimate interest, targeted advertisement (OBA) and/or personalisation of service, notably through audience...
Similarly, the exception for audience measurement (Article 8.1.d) needs clarification. As the Commission acknowledges, audience measurement does not affect end-users’ privacy (Recital 21). However, audience measurement third party cookies are not covered by this exception, while website providers rarely conduct audience measurement in-house. It should at least apply to processors when they have been directly engaged by a website provider.

Amendment 230
Michał Boni

Proposal for a regulation
Article 8 – paragraph 1 – point d c (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(d c) it is necessary, in accordance with Article 6(1)(f) of Regulation (EU) 2016/679 for the purposes of the legitimate interests pursued by the service provider or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.</td>
<td></td>
</tr>
</tbody>
</table>

Or. en

Amendment 231
Herbert Reul, Werner Langen

Proposal for a regulation
Article 8 – paragraph 1 – point d c (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>dc) it occurs for purposes of the settlement of payments under contracts concerning the sale of products or services, provided that the contract pertaining thereto has been concluded online.</td>
<td></td>
</tr>
</tbody>
</table>

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Amendment 232
Peter Kouroumbashev, José Blanco López, Carlos Zorrinho

Proposal for a regulation
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. It is necessary to safeguard the security and privacy of the end-user, as well as to guarantee the incorruptibility, accessibility, confidentiality, and authenticity of terminal equipment or the electronic communication network or services.

Or. en

Amendment 233
Michał Boni

Proposal for a regulation
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For the purpose of points (ba), (db) and (dc) of paragraph 1, data protection impact assessment shall be carried out as prescribed in Article 35 of Regulation (EU) 2016/679.

Or. en

Amendment 234
Michał Boni

Proposal for a regulation
Article 8 – paragraph 1 b (new)
Text proposed by the Commission

1 b. For the purpose of points (db) and (dc) of paragraph 1, in order to demonstrate the compliance with the Regulation, the adherence to the data protection certification mechanisms and of data protection seals and marks, as defined in Article 42 of Regulation (EU) 2016/679, especially on the Union level, shall be encouraged by the Member States, the supervisory authorities, the Board and the Commission.

Or. en

Amendment 235
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission
The collection of information emitted by terminal equipment to enable it to connect to another device and, or to network equipment shall be prohibited, except if:

Amendment
The collection of information emitted by terminal equipment to enable it to connect to another device, or to network equipment shall be prohibited, except if:

Or. en

Amendment 236
Marisa Matias

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point a a (new)

Text proposed by the Commission
(aa) the end-user has been informed of the purpose for which his or her data are to be used and has given his or her informed consent.

Amendment

Or. en
Amendment 237
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission
(a) it is done exclusively in order to, for the time necessary for, and for the purpose of establishing a connection; or

Amendment
(a) it is done exclusively in order to, for the time necessary for, and for the purpose of establishing a connection, if this connection is requested by the user or the establishing of the connection is an integral part of the terminal equipment's functionality; or

Or. en

Amendment 238
Michał Boni

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point a (new)

Text proposed by the Commission
(aa) the end-user has given his or her consent; or

Amendment

Or. en

Amendment 239
Marisa Matias

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

EN
(b) a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

Amendment 240
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission Amendment

(b) a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

Or. en

Amendment 241
Michal Boni

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission Amendment

(b) the information collected is or is

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displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

rendered pseudonymous or anonymous and the data protection impact assessment and, if necessary, a prior consultation with the supervisory authority were carried out, as prescribed respectively in Article 35 and 36 of Regulation (EU) 2016/679, and a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

Or. en

Amendment 242
Peter Kouroumbashev, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

Amendment

(b) a clear and prominent notice is displayed in the public space as a warning, additionally information is sent to terminal equipment providing the end-user with an option of informed consent, as well as with additional information regarding the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

Or. en
Justification

When wi-fi tracking is in place, it is important that a physical sign, indicating the tracking, is available. However, additionally a notification should be sent to the terminal equipment of the affected users.

Amendment 243
Rolandas Paksas

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

Amendment

(b) a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure all end-user of the terminal equipment can take to stop or minimise the collection.

Or. en

Amendment 244
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point b a (new)

Text proposed by the Commission

(b a) the data are immediately anonymised in a way that they cannot be linked to the terminal equipment anymore or used to single out users based on their terminal equipment, and is only further processed for statistical purposes that generate aggregate information;

Amendment

(b a) the data are immediately anonymised in a way that they cannot be linked to the terminal equipment anymore or used to single out users based on their terminal equipment, and is only further processed for statistical purposes that generate aggregate information;
Amendment 245
Herbert Reul, Werner Langen

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, have been applied.

Amendment

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to limit the collection and processing of information to the purposes required therefor and ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, have been applied, for example by means of pseudonymisation of information collected pursuant to Article 4(5) of Regulation (EU) No 2016/679.

Or. en

Amendment 246
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, have been applied.

Amendment

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679.

Or. en
Amendment 247
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

3. The information to be provided pursuant to point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the collection in an easily visible, intelligible and clearly legible manner.

Amendment

3. The information to be provided pursuant to point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the collection in an easily visible, intelligible and clearly legible manner.

Or. en

Amendment 248
Peter Kouroumbashev, Carlos Zorrinho

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

3. The information to be provided pursuant to point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the collection in an easily visible, intelligible and clearly legible manner.

Amendment

3. The information to be provided pursuant to point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the collection in an easily visible, intelligible and clearly legible manner; in order to provide this information, a labelling scheme can be used for software and terminal equipment, specifying the security and quality characteristics.

Or. en
Justification

Introducing incentive for certification based on the security of software and terminal equipment.

Amendment 249
Anne Sander, Françoise Grossetête, Nadine Morano

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

3. The information to be provided pursuant to point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the collection in an easily visible, intelligible and clearly legible manner.

Amendment

3. The information to be provided pursuant to point (e) of paragraph 1 and point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the collection in an easily visible, intelligible and clearly legible manner.

Or. en

Amendment 250
Peter Kouroumashev, José Blanco López, Carlos Zorrinho

Proposal for a regulation
Article 8 – paragraph 3 – subparagraph 1 (new)

Text proposed by the Commission

Relevant technical guidelines shall be developed by the competent European authorities.

Amendment

Justification

Certification standards should be provided by the relevant European authority.

Amendment 251
Lorenzo Fontana
Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 determining the information to be presented by the standardized icon and the procedures for providing standardized icons.

Amendment 252
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 determining the information to be presented by the standardized icon and the procedures for providing standardized icons.

Or. en

Amendment 253
Herbert Reul, Werner Langen

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. The definition of and conditions for consent provided for under Articles 4(11) and 7 of Regulation (EU) 2016/679/SHall

1. The definition of and conditions for consent provided for under Articles 4(11) and 7(1), (2) and (3) of Regulation (EU)
apply. 2016/679 shall apply.

Or. de

**Justification**

The reference here to the conditions for consent laid down by Article 7 of Regulation (EU) No 2016/679/EU must at all events be limited to Article 7(1) to (3). The non-applicability of Article 7(4) of Regulation (EU) No 2016/679 to consent pursuant to Article 9 of the proposal for a regulation is necessary because, unlike in Regulation (EU) No 2016/679, data processing based on the general clause concerning justified interests is not provided for in this proposal.

**Amendment 254**  
Herbert Reul, Werner Langen

**Proposal for a regulation**  
Article 9 – paragraph 2

**Text proposed by the Commission**  
Amendment

2. Without prejudice to paragraph 1, deleted where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet.

Or. de

**Justification**

Articles 4(11) and 7 of Regulation (EU) 2016/679 define the conditions for consent and are perfectly sufficient here. The proposal goes beyond these definitions and thus creates a dual regime for consent and renders the situation less clear. Article 9(2) should therefore be deleted.

**Amendment 255**  
Michel Reimon  
on behalf of the Verts/ALE Group

**Proposal for a regulation**  
Article 9 – paragraph 2
2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet.

Amendment 256
Marisa Matias

Proposal for a regulation
Article 9 – paragraph 2

Text proposed by the Commission

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet.

Amendment

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical specifications for electronic communications services or information society services which allow for specific consent for specific purposes. When such technical specifications are used by the user, they shall be binding on, and enforceable against any other party. Access to a service shall not be denied to an end-user for the sole reason that he or she has refused to give his or her consent to processing which are not strictly necessary for the provision of this service.

Or. en

Amendment 257
Herbert Reul, Werner Langen

Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet.

Amendment

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using privacy-friendly appropriate technical settings of a software application enabling access to the internet.

Or. en
Text proposed by the Commission

3. **End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.**

Or. de

**Justification**

Articles 4(11) and 7 of Regulation (EU) 2016/679 define the conditions for consent and are perfectly sufficient here. The proposal goes beyond these definitions and thus creates a dual regime for consent and renders the situation less clear. Article 9(3) should therefore be deleted.

Amendment 258

Gunnar Hökmark

Proposal for a regulation

Article 9 – paragraph 3

Text proposed by the Commission

3. **End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.**

Or. en
Justification

Overlapping with GDPR (Regulation (EU) 2016/679)

Amendment 259
Dario Tamburrano, David Borrelli

Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Amendment

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679. It shall be as easy to withdraw as to give consent. Furthermore, the end-user should be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Or. en

Amendment 260
Michał Boni

Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Amendment

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679.
Amendment 261  
Peter Kouroumbashev, Carlos Zorrinho  
Proposal for a regulation  
Article 9 – paragraph 3  

Text proposed by the Commission  

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Amendment 262  
Michel Reimon  
on behalf of the Verts/ALE Group  
Proposal for a regulation  
Article 9 – paragraph 3  

Text proposed by the Commission  

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679.

Justification  

Bearing in mind that the end-user should be provided with the option of informed consent, as well as, the option to opt-out at any moment, there is no need for constantly reminding of these possibilities.
Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Or. en

Amendment 263
Marisa Matias
Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Amendment

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 3 months, as long as the processing continues.

Or. en

Amendment 264
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 9 – paragraph 3 a (new)

Text proposed by the Commission

3 a. A user shall not be denied access to any electronic communications service, information society service or

Amendment

3 a. A user shall not be denied access to any electronic communications service, information society service or
functionality of a terminal equipment, regardless of whether this is remunerated or not, on the mere grounds that he or she has not given his or her consent to

(a) the processing of electronic communications data, metadata or content pursuant to Article 6; or

(b) the use of input, output, processing and storage capabilities of terminal equipment and the collection of information from the users' terminal equipment, or making information available through the terminal equipment, including information about and processed by its software and hardware, pursuant to Article 8(1); or

(c) the collection of information emitted by terminal equipment pursuant to Article 8(2) that is technically not necessary for the provision of that service or functionality.

Or. en

Amendment 265
Zdzisław Krasnodębski

Proposal for a regulation
Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The definition of and condition applicable to child's consent in relation to information society services provided for under Articles 8 of Regulation 2016/679/EU shall apply.

Or. en

Amendment 266
Peter Kouroumashev, José Blanco López, Miroslav Poche, Carlos Zorrinho
Proposal for a regulation
Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The possibility of proper informed consent should be applied in all cases.

Or. en

Justification

Informed consent as in permission granted in full knowledge of the possible consequences.

Amendment 267
Peter Kouroumbashev, José Blanco López, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Article 9 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. The possibility to easily revoke consent should be offered in an explicit manner.

Or. en

Justification

Self explanatory.

Amendment 268
Herbert Reul, Werner Langen

Proposal for a regulation
Article 10

Text proposed by the Commission

Amendment

Article 10 deleted

Information and options for privacy settings to be provided

1. Software placed on the market
permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.

Justification

Article 25 of Regulation (EU) 2016/679 governs data protection by design and by default. Article 10 of the proposal for a regulation only undermines Article 25 of Regulation (EU) 2016/679 and would hamper most business models.

Amendment 269
Anne Sander, Nadine Morano, Françoise Grossetête

Proposal for a regulation
Article 10

<table>
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Information and options for privacy settings to be provided

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal
equipment of an end-user or processing information already stored on that equipment.

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.

Amendment 270
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 10 – title

Text proposed by the Commission
Information and options for privacy settings to be provided

Amendment
Privacy settings and signals to be provided

Amendment 271
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission
Software placed on the market permitting electronic communications, including the retrieval and presentation of

Amendment
Hardware and software placed on the market that enable the access to and use of electronic communications services
information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

\textit{or the access to and use of information society services shall be able to prevent other parties from the use of input, output, processing and storage capabilities of terminal equipment and the collection of information from users' terminal equipment, or making information available through the terminal equipment, including information about and processed by its software and hardware.}

Or. en

Amendment 272
Michał Boni, Krišjānis Kariņš

Proposal for a regulation
Article 10 – paragraph 1

\textit{Text proposed by the Commission}  

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

\textit{Amendment}  

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer appropriate technical settings referred to in Article 9 (2) for end-user to express consent.

Or. en

Amendment 273
Peter Kouroumbashev, Carlos Zorrinho

Proposal for a regulation
Article 10 – paragraph 1

\textit{Text proposed by the Commission}  

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

\textit{Amendment}  

1. Software and terminal equipment placed on the market permitting electronic communications, including the retrieval
information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

and presentation of information on the internet, shall offer a set of four different privacy settings by design, including an option to accept cookies from whitelisted and/or frequently visited information society services.

Or. en

**Justification**

This amendment aims at drawing a distinct line between the four different privacy settings that the end-user can choose from. "Whitelisted and/or frequently visited information society services" means that if an end-user has some preferences towards trusted, frequently visited websites, the end-user allows the collection of their data only on those websites.

**Amendment 274**

*Peter Kouroumbashev, José Blanco López, Carlos Zorrinho*

**Proposal for a regulation**

**Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

1 a. Additional information practices should be put in place explaining clearly and briefly the necessity and purpose of the active tracking cookies.

Or. en

**Justification**

Additional information as in why, who and for what, tracking cookies are used. This gives the end user the possibility to actively decide whether they agree or not with the purposes of those cookies.

**Amendment 275**

*Marisa Matias*

**Proposal for a regulation**

**Article 10 – paragraph 1 a (new)**

*Text proposed by the Commission*

Amendment
1 a. Browsers and similar software should, by default, present privacy friendly settings that limit online tracking.

Amendment 276
Marisa Matias

Proposal for a regulation
Article 10 – paragraph 1 b (new)

Text proposed by the Commission

1 b. The end user should be able to adopt the Do Not Track setting in order to refuse its signal to be tracked. Do Not Track option should be applicable to all tracking technologies, including cookies and device fingerprints with exception for life emergency purposes.

Amendment 277
Eva Kaili

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

Amendment

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting. Such software shall ensure that a consent given by an end user under Article 8 (1) point (b) prevails over the privacy settings chosen at the installation of the software. When informing the end user, a clear simple wording should be used. The language used should be the same as the language that the interface
uses allowing for the end user to understand at his language of choice.

Or. en

Amendment 278
Michał Boni, Krišjānis Kariņš

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

Amendment

2. Upon installation, the software shall inform the end-user about the privacy settings options. The technical settings shall consist of multiple options for end-user to choose from, including an option to prevent other parties from storing information on the terminal equipment of an end-user and from processing information already stored on that equipment. These settings should be easily accessible during the use of the software.

Or. en

Amendment 279
Gunnar Hökmark

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

Amendment

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting. The offer regarding options to prevent third parties from storing information shall be presented in a manner so as to ensure to the end-user a fully informed decision based on the
advantages and disadvantages of different settings.

Amendment 280
Zdzisław Krasnodębski

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

Amendment

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting. Such software shall ensure that a consent given by an end-user in relation to an individual service provider under point (b) of Article 8(1) prevails over the general privacy settings chosen at the installation of software.

Amendment 281
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

Amendment

2. By default, such hardware or software shall have, enabled by default, privacy settings that prevent other parties from exercising the activities referred to in paragraph 1. If the hardware or software allows for deviating settings, the user shall be informed about the privacy settings options during first use or installation and shall be offered the
possibility to change or confirm them.

Or. en

Amendment 282
Aldo Patriciello

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

Amendment

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting. Such software shall ensure that a consent given by an end user under point (b) of Article 8 (1) prevails over the privacy settings chosen at the installation of the software.

Or. en

Justification

even though the Proposal does not legally preclude website providers to request users who have decided to reject all third party cookies to change their mind, there is a risk that browsers might impede the technical application of such consent. It is important to ensure the possibility of website providers to obtain consent as permitted in Article 8 and that this consent then prevails over the initial privacy settings.

Amendment 283
Peter Kouroumbashev, José Blanco López, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent

Amendment

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to choose a setting.
Settings must be easily accessible and modifiable during the use of the terminal equipment or software.

Or. en

Justification

Self explanatory.

Amendment 284
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 10 – paragraph 2 a (new)

Text proposed by the Commission

2 a. For the purposes of
(a) giving consent pursuant to Article 9(2) of this Regulation, and
(b) objecting to the processing of personal data pursuant to Article 21(5) of Regulation (EU) 2017/679,
the settings shall lead to a signal based on technical specifications which is sent to the other parties to inform them about the user's intentions with regard to consent or objection. This signal shall be legally valid and be binding on, and enforceable against, any other party.

The European Data Protection Board shall issue guidelines to determine which technical specifications and signalling methods fulfil the conditions for consent and objection pursuant to points (a) and (b).

Or. en

Amendment 285
Michał Boni, Krišjānis Kariņš
Proposal for a regulation
Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The software permitting end-user to access individual websites shall enable end-user to customise his or her privacy settings according to the website visited.

Or. en

Amendment 286
Michał Boni

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

Amendment

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.

Or. en

Amendment 287
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

Amendment

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1, 2 and 3 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.
than 25 August 2018.

Or. en

Amendment 288
Peter Kouroumbashev, Carlos Zorrinho

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.

Amendment

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 May 2019.

Or. en

Justification

Given the sensitive nature of the dossier, it is crucial to allow for enough time for discussion of the different effects that the regulation will have on the industry, in order to ensure that it will achieve the desired effect. Alignment with the GDPR deadline for implementation would be premature and would not ensure that under pressure a good result is achieved.

Amendment 289
Marisa Matias

Proposal for a regulation
Article 10 – paragraph 3 a (new)

Text proposed by the Commission

3a. Tracking walls and similar take-it-or-live-it choices regarding privacy should be prohibited in public funded websites and sites with monopoly-like position. The visitors cannot be banned of using the website if they haven't given their prior consent to disclose data.

Amendment

3a. Tracking walls and similar take-it-or-live-it choices regarding privacy should be prohibited in public funded websites and sites with monopoly-like position. The visitors cannot be banned of using the website if they haven't given their prior consent to disclose data.
Amendment 290
Peter Kouroumbashev, José Blanco López, Carlos Zorrinho

Proposal for a regulation
Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10 a

Information society services should respond to an emitted "Do Not Track" (DNT) signal, by indicating to the end-user that tracking cookies have been switched off.

Justification

The "DNT" signal already exists but there is no notification whether the signal is being honoured by the website or not.

Amendment 291
Herbert Reul, Werner Langen

Proposal for a regulation
Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10a

Article 25 of Regulation (EU) No 2016/679 shall apply.

Or. de

Amendment 292
Michel Reimon
on behalf of the Verts/ALE Group

PE602.723v01-00 162/199 AM\1121219EN.docx
Proposal for a regulation

Article 11

Text proposed by the Commission

Amendment

Article 11 deleted

Restrictions

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard one or more of the general public interests referred to in Article 23(1)(a) to (e) of Regulation (EU) 2016/679 or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.

2. Providers of electronic communications services shall establish internal procedures for responding to requests for access to end-users’ electronic communications data based on a legislative measure adopted pursuant to paragraph 1. They shall provide the competent supervisory authority, on demand, with information about those procedures, the number of requests received, the legal justification invoked and their response.

Justification

Replaced by 11a and 11b

Amendment 293
Michel Reimon
on behalf of the Verts/ALE Group
Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard one or more of the general public interests referred to in Article 23(1)(a) to (e) of Regulation (EU) 2016/679 or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.

Deleted

Or. en

Amendment 294
Zdzisław Krasnodębski

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Union or Member State law may adopt legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and constitutes a necessary, appropriate and proportionate measure in a democratic society to safeguard national security (i.e. State security), defence, public security, and the prevention, investigation, detention and prosecution of criminal offences or unauthorized use of the electronic communication system or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.
to the exercise of official authority for such interests. To this end, Member States may, inter alia, adopt legislative measures providing for the retention of data for a limited period justified on the grounds laid down in this paragraph. All the measures referred to in this paragraph shall be in accordance with the general principles of Community law, including those referred to in Article 6(1) and (2) of the TEU. It should be clearly stated that Member States can adopt legislative acts to restrict rights and obligations when necessary. Same wording than for the repealed Directive.

Amendment 295
Michał Boni

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard one or more of the general public interests referred to in Article 23(1)(a) to (e) of Regulation (EU) 2016/679 or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.

Amendment

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard one or more of the general public interests referred to in Article 23(1)(a) to (d) of Regulation (EU) 2016/679 or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.

Amendment 296
Michel Reimon  
on behalf of the Verts/ALE Group

Proposal for a regulation  
Article 11 – paragraph 2

Text proposed by the Commission  
Amendment

2. Providers of electronic communications services shall establish internal procedures for responding to requests for access to end-users’ electronic communications data based on a legislative measure adopted pursuant to paragraph 1. They shall provide the competent supervisory authority, on demand, with information about those procedures, the number of requests received, the legal justification invoked and their response.

Or. en

Amendment 297  
Michel Reimon  
on behalf of the Verts/ALE Group

Proposal for a regulation  
Article 11 a (new)

Text proposed by the Commission  
Amendment

Article 11 a

Restrictions on the rights of the user or end-user

Union or Member State law to which the provider is subject may restrict by way of a legislative measure the scope of the obligations and principles relating to processing of electronic communications data provided for in Articles 6, 7 and 8 of this Regulation in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22 of Regulation (EU) 2016/679, when such a
restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard one or more of the following general public interests:

(a) national security;

(b) defence;

(c) the prevention, investigation, detection or prosecution of serious criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

Amendment 298
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 11 b (new)

Text proposed by the Commission

Amendment

Article 11 b

Restrictions of the confidentiality of communications

Union or Member State law to which the provider is subject may restrict by way of a legislative measure the scope of the rights provided for in Article 5 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard one or more of the following general public interests:

(a) national security;

(b) defence;

(c) the prevention, investigation, detection or prosecution of serious criminal
offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

(2) In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least, where relevant, pursuant to Article 23(2) of Regulation (EU) 2016/679 and will only be applied following a court order.

(3) No legislative measure referred to in paragraph 1 may allow for the weakening of the integrity and confidentiality of electronic communications by mandating a manufacturer of hardware or software, including terminal equipment or software providing for the use of electronic communications, or a provider of electronic communications services, to create and build in backdoors that weaken the cryptographic methods used or the security and integrity of the terminal equipment.

Amendment 299
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 11 c (new)

Text proposed by the Commission

Amendment

Article 11 c

Transparency reporting

Providers of electronic communications services and networks shall provide every year to the competent supervisory authority and to the public, a transparency report, providing the number of requests received pursuant to Articles 11a and 11b, from which
authorities, the number of granted requests, and the numbers of end-users affected by the requests. Such transparency reporting shall also include information about privacy and data protection practices and policies, inform users about avenues for remedies in case of abuses and feature clear and easily understandable information about end-users rights protected under this Regulation.

Amendment 300
Peter Kouroumbashev, Carlos Zorrinho

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of an end-user for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.

Amendment

1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.

Justification

Deleted and moved to Art. 6., par. 2a (new)
Amendment 301
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of an end-user for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.

Amendment

1. Regardless of whether the calling user or end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of a user for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.

Or. en

Amendment 302
Marian-Jean Marinescu

Proposal for a regulation
Article 13 – paragraph 1 a (new)

Text proposed by the Commission

1 a. This Regulation shall be without prejudice to the requirements for the deployment of the eCall in-vehicle system based on the 112 service (Regulation 2015/758) and shall allow eCall to handle emergency situations and carry out the tasks as effectively as possible;

Amendment

Or. en
Amendment 303
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 13 – paragraph 2

Text proposed by the Commission

2. Member States shall establish more specific provisions with regard to the establishment of procedures and the circumstances where providers of publicly available number-based interpersonal communication services shall override the elimination of the presentation of the calling line identification on a temporary basis, where end-users request the tracing of malicious or nuisance calls.

Amendment

2. The Commission shall be empowered to adopt implementing measures in accordance with Article 26(1) establishing more specific provisions with regard to the establishment of procedures and the circumstances where providers of publicly available number-based interpersonal communication services shall override the elimination of the presentation of the calling line identification on a temporary basis, where users or end-users request the tracing of malicious or nuisance calls.

Or. en

Amendment 304
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 14 – paragraph 1 – point a

Text proposed by the Commission

(a) to block incoming calls from specific numbers or from anonymous sources;

Amendment

(a) to block incoming calls from specific numbers or numbers having a specific code or prefix identifying the fact that the call is a marketing call referred to in Article 16(3)(b), or from anonymous sources;

Or. en

Amendment 305
Michał Boni

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

1. The providers of publicly available directories shall obtain the consent of end-users who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Amendment

1. The providers electronic communication services shall obtain the consent of end-users who are natural persons to share their personal data with the providers of publicly available directories to include them in the directory and, consequently, shall provide end-users who are natural persons with information about inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Or. en

Amendment 306
Anne Sander, Françoise Grossetête, Nadine Morano

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

1. The providers of publicly available directories shall obtain the consent of end-users who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Amendment

1. Providers of number-based interpersonal communication services and electronic communication providers shall obtain the consent of end-users who are natural persons to include their personal data in a directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Directory providers shall give end-users who are natural persons the
means to verify, correct and delete such data.

Amendment 307
Zdzisław Krasnodębski

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

1. The providers of publicly available directories shall obtain the consent of end-users who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Amendment

1. The operators of electronic information, communication and telecommunication services shall obtain the consent of end-users who are natural persons to include their personal data in the publicly available directories. The request for consent shall contain purposes of the directories and a data per category of personal data which will be included in directories, as well as information on the means to verify, correct and delete such data, including the possibility of using preference services.

Amendment 308
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

1. The providers of publicly available directories shall obtain the consent of end-users who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of data per
category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are necessary for the purpose of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Or. en

Amendment 309
Zdzisław Krasnodębski

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

2. The providers of a publicly available directory shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory and obtain end-users’ consent before enabling such search functions related to their own data.

Amendment

2. The providers of a publicly available directory shall inform end-users concerned who are natural persons that their personal data are included in the directory and of the available search functions of the directory. The providers shall inform end-users about any new such search functions related to their own data. The providers shall inform end-users about means to verify, correct and delete such data, including the possibility of using preference services.

Or. en

Amendment 310
Anne Sander, Françoise Grossetête, Nadine Morano

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

2. The providers of a publicly available directory shall inform end-users who are natural persons whose personal

Amendment

2. The providers of a publicly available directory shall inform end-users who are natural persons acting out of their

data are in the directory of the available search functions of the directory and obtain end-users’ consent before enabling such search functions related to their own data. **business capacity** whose personal data are in the directory of the available search functions of the directory. **Providers of number-based interpersonal communication services and electronic communication providers shall** obtain end-users’ consent before enabling such search functions related to their own data.

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**Amendment 311**  
Peter Kouroumbashev, Edouard Martin, Carlos Zorrinho

**Proposal for a regulation**  
**Article 15 – paragraph 2**

*Text proposed by the Commission*  
2. The providers of a publicly available directory shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory and obtain end-users’ consent before enabling such search functions related to their own data.

*Amendment*  
2. The providers of a publicly available directory shall inform end-users who are natural persons acting out of their business capacity whose personal data are in the directory of the available search functions of the directory and obtain end-users’ consent before enabling such search functions related to their own data.

*Or. en*

**Justification**

The issue is that for a wide range of "professionals" (craftsmen, doctors, self-employed, etc...) there is a concern that they would be considered "natural persons", thus put under the opt-in system, while it would make more sense for them to be under an opt-out system (it's in their interest to be present by default within directories if they want to be findable/reachable by customers).

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**Amendment 312**  
Anne Sander, Françoise Grossetête, Nadine Morano

**Proposal for a regulation**  
**Article 15 – paragraph 3**
3. The providers of publicly available directories shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.

3. The providers of publicly available directories shall provide end-users that are legal persons of natural persons acting in their business capacity with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.

Or. en

Amendment 313
Peter Kouroumbashev, Edouard Martin, José Blanco López, Miroslav Poche, Carlos Zorrinho

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. The providers of publicly available directories shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.

3. The providers of publicly available directories shall provide end-users that are legal persons or natural persons acting in their business capacity with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.

Or. en

Justification

The issue is that for a wide range of "professionals" (craftsmen, doctors, self-employed, etc...) there is a concern that they would be considered "natural persons", thus put under the opt-in system, while it would make more sense for them to be under an opt-out system (it's in their interest to be present by default within directories if they want to be findable/reachable by customers).

Amendment 314
Michał Boni

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. The providers of publicly available
directories shall provide end-users that are
legal persons with the possibility to object
to data related to them being included in
the directory. Providers shall give such
end-users that are legal persons the means
to verify, correct and delete such data.

Amendment

3. The providers of electronic
communication services or providers of
publicly available directories shall provide
end-users that are legal persons with the
possibility to object to data related to them
being included in the directory. Providers
shall give such end-users that are legal
persons the means to verify, correct and
delete such data.

Or. en

Amendment 315
Zdzisław Krasnodębski

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. The providers of publicly available
directories shall provide end-users that are
legal persons with the possibility to object
to data related to them being included in
the directory. Providers shall give such
end-users that are legal persons the means
to verify, correct and delete such data.

Amendment

3. The operators of electronic
information, communication and
telecommunication services shall provide
end-users that are legal persons with the
possibility to object to data related to them
being included in the directory. Operators
shall give such end-users that are legal
persons the means to verify, correct and
delete such data.

Or. en

Amendment 316
Michał Boni

Proposal for a regulation
Article 15 – paragraph 4
Text proposed by the Commission

4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.

Amendment

4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge and in an easily accessible manner by the party that collected the consent or directly from the provider of publicly available directory.

Or. en

Amendment 317
Zdzisław Krasnodębski

Proposal for a regulation
Article 15 – paragraph 4 a (new)

Text proposed by the Commission

4a. The article shall not apply to data provided to directories by the end-users themselves.

Amendment

Or. en

Amendment 318
Aldo Patriciello

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent.

Amendment

1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent or when the processing is necessary for the purposes of the legitimate interests pursued by the
controller or by a third party.

Amendment 319
Dario Tamburrano, David Borrelli

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent.

Amendment

1. The use by natural or legal persons of electronic communications networks for the purposes of sending, directing or presenting direct marketing communications to end-users who are natural persons may be allowed only in respect of end-users who have given their prior consent.

Or. en

Amendment 320
Lorenzo Fontana

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent.

Amendment

1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications only to end-users who are natural persons that have given their consent.

Or. it

Amendment 321
Michel Reimon

AM\121219EN.docx   179/199   PE602.723v01-00
on behalf of the Verts/ALE Group

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent.

Amendment

1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons and have given their consent.

Or. en

Amendment 322
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation

Article 16 – paragraph 2

Text proposed by the Commission

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Amendment

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The customer shall be informed about the right to object and shall be given an easy way to exercise it at the time of collection and each time a message is sent.

Or. en
Amendment 323
Dario Tamburrano, David Borrelli

Proposal for a regulation
Article 16 – paragraph 2

**Text proposed by the Commission**

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

**Amendment**

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services for a period of no more than 12 months only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Or. en

Amendment 324
Nikolay Barekov

Proposal for a regulation
Article 16 – paragraph 2

**Text proposed by the Commission**

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to *object*, free of charge and in an easy manner, to such use. The right to *object*

**Amendment**

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to *give their consent*, free of charge and in an easy manner, to such use. The right to
shall be **given** at the time of collection and each time a message is sent.

**give consent** shall be **provided** at the time of collection and each time a message is sent.

**Amendment 325**
Michał Boni

**Proposal for a regulation**
**Article 16 – paragraph 2**

**Text proposed by the Commission**

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own **similar** products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

**Amendment**

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

**Or. bg**

**Amendment 326**
Gunnar Hökmark

**Proposal for a regulation**
**Article 16 – paragraph 2**

**Text proposed by the Commission**

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation

**Amendment**

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation
that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Or. en

Amendment 327
Aldo Patriciello

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Amendment

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, these electronic contact details may be used for direct marketing of similar or analogue products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Or. en

Justification

the current wording of Article 16.1 contradicts Recital 47 of the GDPR as it imposes consent as a condition of direct marketing whereas Recital 47 states: “The processing of personal data for direct marketing purposes may be regarded as carried out for a legitimate interest”. It should also be specified that such direct marketing can be done not only for similar products or services but also “analogue” products or services. Without such a clarification, a broadcaster would not be able for instance to re-approach a client who is a pay-TV service subscriber for direct marketing for a non-linear VOD or SVOD service, since this would not
necessarily constitute a 'similar service'. Finally, it should be allowed for other parties than the person selling the goods or services to send users direct marketing communications, as long as similar conditions still apply. Revenues from advertising and commercial communications are fundamental for broadcasters and advertising is gradually taking new forms. The Proposal should reflect these market changes and provide for more flexibility.

Amendment 328
Michał Boni

Proposal for a regulation
Article 16 – paragraph 3 – introductory part

Text proposed by the Commission

3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:

Amendment

3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall present the identity of a line on which they can be contacted; or present a specific code or prefix identifying the fact that the call is a marketing call.

Or. en

Amendment 329
Michał Boni

Proposal for a regulation
Article 16 – paragraph 3 – point a

Text proposed by the Commission

(a) present the identity of a line on which they can be contacted; or

Amendment

deleted

Or. en

Amendment 330
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 16 – paragraph 3 – point a

*Text proposed by the Commission*

(a) present the identity of a line on which they can be contacted; *or*

*Amendment*

(a) present the identity of a line on which they can be contacted; *and*

Or. en

Amendment 331
Michał Boni

Proposal for a regulation
Article 16 – paragraph 3 – point b

*Text proposed by the Commission*

(b) present a specific code/or prefix identifying the fact that the call is a marketing call.

*Amendment*

deleted

Or. en

Amendment 332
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 16 – paragraph 3 a (new)

*Text proposed by the Commission*

3 a. Unsolicited marketing communications shall be clearly recognisable as such and shall indicate the identity of the legal or natural person transmitting the communication or on behalf of whom the communication is transmitted. Such communications shall provide the necessary information for recipients to exercise their right to refuse further written or oral marketing messages.
Amendment 333
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission
4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.

Amendment
4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection or have consented to receiving those communications. Member States shall provide that users can object to receiving the unsolicited communications via a national Do Not Call Register, thereby also ensuring that the user is only required to opt out once.

Amendment 334
Dario Tamburrano, David Borrelli

Proposal for a regulation
Article 16 – paragraph 6

Text proposed by the Commission
6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their

Amendment
6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their
right to withdraw their consent, in an easy manner, to receiving further marketing communications.

right to withdraw their consent, in an easy manner and free of charge, to receiving further marketing communications. Any use of masked sender identities, false contact information or false return addresses or numbers for direct marketing purposes shall be prohibited.

Or. en

Amendment 335
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 16 – paragraph 6

Text proposed by the Commission

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving further marketing communications.

Amendment

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent or to object, in a manner that is as easy as giving the consent and free of charge, to receiving further marketing communications.

Or. en

Amendment 336
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Amendment

AM\1121219EN.docx 187/199 PE602.723v01-00
Information about detected security risks

Integrity of the communications and information about security risks

Amendment 337
Michał Boni

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Information about detected security risks

Security obligations

Or. en

Amendment 338
Gunnar Hökmark

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

deleted

Or. en

Justification

Overlapping with GDPR (Regulation (EU) 2016/679)
Amendment 339
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

Amendment

deleted

Or. en

Amendment 340
Michał Boni

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

Amendment

Provider of electronic communication services shall comply with the security obligations as prescribed Regulation (EU) 2016/679 and [European Electronic Communications Code].

Or. en

Amendment 341
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 17 – paragraph 1 a (new)

Text proposed by the Commission

The providers of electronic communications services shall ensure that there is sufficient protection in place against unauthorised access or alterations to the electronic communications data, and that the confidentiality and integrity of the communication in transmission or stored are also guaranteed by technical measures according to the state of the art, including end-to-end encryption of the electronic communications data. When encryption of electronic communications data is used, decryption by anybody else than the user shall be prohibited. Member States shall not impose any obligations on electronic communications service providers that would result in the weakening of the confidentiality and integrity of their networks and services, including the encryption methods used.

Or. en

Amendment 342
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 17 – paragraph 1 b (new)

Text proposed by the Commission

In the case of a particular risk that may compromise the security of networks, electronic communications services, or terminal equipment, the relevant provider or manufacturer shall inform end-users of such a risk and, take all possible
measures to remove it and where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies. It shall also inform the relevant manufacturer and service provider.

Or. en

Amendment 343
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.

Amendment

1. The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to users and end-users.

Or. en

Amendment 344
Zdzisław Krasnodębski

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

1. The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible

Amendment

1. Member States shall provide for one or more independent supervisory authority or authorities responsible for monitoring the application of Regulation
monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.

Amendment 345
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 19 – paragraph 1 – point a a (new)

Text proposed by the Commission

(a a) (a) issue guidelines, recommendations and best practices in accordance with point (b) of this paragraph for the purpose of further specifying the criteria and requirements for:

(i) security updates referred to in Article 8(1)(e);

(ii) the interference in the context of employment relationships referred to in Article 8(1)(f);

(iv) the collection of information emitted by the terminal equipment referred to in Article 8(2)(c);

(v) technical specifications and signalling methods that fulfil the conditions for consent and objection pursuant to Article 8(2a).

(vi) software settings referred to in Article 10(1) and (2); and

(vii) technical measures according to ensure confidentiality and integrity of the communication pursuant to Article 17(1).
Amendment 346
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 19 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) draw up guidelines for supervisory authorities concerning the application of Article 9(1) and the particularities of expression of consent by legal entities;

Or. en

Amendment 347
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 19 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) issue guidelines, recommendations and best practices in accordance with point (b) of this paragraph for the purpose of further specifying the criteria and requirements for types of services that may be requested for purely individual or work-related usage as referred to in Article 6(3a);

Or. en

Amendment 348
Gunnar Hökmark

Proposal for a regulation
Article 21
Article 21

Remedies

1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services shall have the same remedies provided for in Articles 77, 78, and 79 of Regulation (EU) 2016/679.

2. Any natural or legal person other than end-users adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements, including a provider of electronic communications services protecting its legitimate business interests, shall have a right to bring legal proceedings in respect of such infringements.

Or. en

Justification

Overlapping with GDPR (Regulation (EU) 2016/679)

Amendment 349
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services shall have the same remedies provided for in Articles 77, 78, and 79 of Regulation (EU) 2016/679.

Amendment

1. Without prejudice to this text or any other administrative or judicial remedy, every user and end-user of electronic communications services shall have at least the same remedies provided for in Articles 77, 78, 79, and 80 of Regulation (EU) 2016/679.
Amendment 350
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 21 – paragraph 2 a (new)

Text proposed by the Commission

2a. An end-user or a group of end-users shall have the right to mandate a non-for-profit body, organisation or association which has been properly constituted in accordance with the law of a Member State, has statutory objectives which are in the public interest, and is active in the field of protection of their personal data and the protection of privacy to lodge the complaint on his or her behalf, to exercise the rights referred to in paragraphs 1 and 2 of this Article on his or her behalf, and to exercise the right to receive compensation referred to in Article 22 on his or her behalf where provided for by Member State law.

Amendment 351
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 21 – paragraph 2 b (new)

Text proposed by the Commission

2b. A body, organisation or association independently of the end-user's mandate, shall have the right to lodge, in the Member State where it is registered, a complaint with the supervisory authority which is competent...
pursuant to paragraph 1 of this Article and to exercise the rights referred to in paragraph 2 of this Article if it considers that the rights of the end-user under this Regulation have been infringed.

Or. en

Amendment 352
Nikolay Barekov

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission
Any end-user of electronic communications services who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage in accordance with Article 82 of Regulation (EU) 2016/679.

Amendment
Any end-user of electronic communications services who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the infringer for the damage suffered, unless the infringer legally proves that it is not in any way responsible for the event giving rise to the damage in accordance with Article 82 of Regulation (EU) 2016/679.

Or. bg

Amendment 353
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 23 – paragraph 2 – point a

Text proposed by the Commission
(a) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;

Amendment
deleted

(a) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;
Amendment 354
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

3. Infringements of the principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, and 7 shall, in accordance with paragraph 1 of this Article, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher.

Amendment

3. Infringements of the principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, 7 and 8 shall, in accordance with paragraph 1 of this Article, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher.

Amendment 355
Michał Boni, Krišjānis Kariņš

Proposal for a regulation
Article 27 – paragraph 1

Text proposed by the Commission


Amendment

1. Directive 2002/58/EC is repealed with effect from [1 year after entering into force of this Regulation].

Amendment 356
Peter Kouroumbashev, Carlos Zorrinho
Proposal for a regulation
Article 27 – paragraph 1

_text proposed by the Commission_  

Amendment


Or. en

_Justification_

*Given the sensitive nature of the dossier, it is crucial to allow for enough time for discussion of the different effects that the regulation will have on the industry, in order to ensure that it will achieve the desired effect. Alignment with the GDPR deadline for implementation would be premature and would not ensure that under pressure a good result is achieved.*

**Amendment 357**

Michał Boni

Proposal for a regulation
Article 28 – paragraph 1

_text proposed by the Commission_  

Amendment

By **1 January 2018** at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation.

By [the date of entry into force of this Regulation] at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation.

Or. en

**Amendment 358**

Peter Kouroumbashev, Carlos Zorrinho

Proposal for a regulation
Article 28 – paragraph 1

_text proposed by the Commission_  

Amendment

By **1 January 2018** at the latest, the Commission shall establish a detailed programme for monitoring the

By **1 June** 2018 at the latest, the Commission shall establish a detailed programme for monitoring the
effectiveness of this Regulation.

Or. en

Amendment 359
Michał Boni, Krišjānis Kariņš

Proposal for a regulation
Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission  
It shall apply from 25 May 2018.

Amendment  
It shall apply from [1 year after entering into force of this Regulation].

Or. en

Amendment 360
Peter Kouroumbashev, Carlos Zorrinho

Proposal for a regulation
Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission  
It shall apply from 25 May 2018.

Amendment  
It shall apply from 25 November 2018.

Or. en

Justification

Given the sensitive nature of the dossier, it is crucial to allow for enough time for discussion of the different effects that the regulation will have on the industry, in order to ensure that it will achieve the desired effect. Alignment with the GDPR deadline for implementation would be premature and would not ensure that under pressure a good result is achieved.