



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2013/0309(COD)

19.2.2014

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012 (COM(2013)0627 – C7-0267/2013 – 2013/0309(COD))

Rapporteur: Salvador Sedó i Alabart

PA_Legam

SHORT JUSTIFICATION

This proposal facilitates the provision of cross-border communication services by enabling providers to offer services across the Union based on a single EU authorisation and thus with minimum administrative hurdles.

The rapporteur welcomes the Commission proposal that seeks to facilitate the harmonisation of end-users' rights (relating to open internet) as well as its efforts to harmonise publication by providers of information on electronic communications services they offer and the inclusion of such information in contracts, as well as the modalities of switching an operator and charges applicable to roaming services.

In view of the rapporteur, adhering to the rights to confidentiality of communications, privacy and personal data is a key part of building consumer trust and confidence in the EU electronic communications, and thus its success. End-users need to be certain that these rights are respected whenever they make use of electronic communications services and networks, and that any interference with these rights is proportionate and necessary to achieve a clearly specified legitimate purpose.

The present Opinion therefore focuses on those aspects of the proposal which are likely to have an impact on the rights to privacy and the protection of personal data, as well as on the confidentiality of communications.

The rapporteur welcomes the inclusion of the principle of 'net neutrality into the regulation', and therefore underlines that any measures allowed under the proposal that interfere with end-users' data protection and privacy rights should be subject to transparency, strict proportionality and necessity limitations.

The amendments proposed aim at guaranteeing confidentiality of communications, privacy and personal data protection in order to build consumers' trust.

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) In a context of progressive migration to 'all IP networks', the lack of availability of connectivity products based on the IP protocol for different classes of services with *assured service* quality *that enable communication paths across network domains and across network borders, both within and between Member States, hinders* the development of *applications* that rely on *access to other networks, thus limiting technological innovation. Moreover, this situation prevents the diffusion on a wider scale of efficiencies which are associated with the management and provision of IP-based networks and connectivity products with an assured service quality level, in particular enhanced security, reliability and flexibility, cost-effectiveness and faster provisioning, which benefit network operators, service providers and end users. A harmonised approach to the design and availability of these products is therefore necessary, on reasonable terms including, where requested, the possibility of cross-supply by the electronic communications undertakings concerned.*

Amendment

(36) In a context of progressive migration to 'all IP networks', the lack of availability of connectivity products based on the IP protocol for different classes of services with *a defined quality of service within closed communications networks using the Internet Protocol with strict admission control could hinder* the development of *services that rely on this defined quality in order to function adequately. A harmonised approach to the design and availability of these services is therefore necessary, including safeguards to guarantee that the enhanced quality is not functionally identical or to the detriment of the performance, affordability or quality of internet access services or undermines competition, innovation or net neutrality.*

Amendment 2

Proposal for a regulation Recital 45

Text proposed by the Commission

(45) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May 2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.

Amendment

(45) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. ***The key driver of the unprecedented innovation and economic activity in the digital age has been the fact that all internet traffic is treated equally, without discrimination, restriction or interference, independent of its sender, receiver, type, content, device, service or application; conform the principle of net neutrality.*** The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. ***This ability is best ensured when all types of traffic are treated equally by providers of electronic communications to the public.*** Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May 2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules ***to enshrine the principle of net neutrality in law*** at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures. ***Indeed, as stated by the European Parliament resolution of 17 November 2011 on the open internet and***

net neutrality in Europe 2011/2866, the internet's open character "has been a key driver of competitiveness, economic growth, social development and innovation – which has led to spectacular levels of development in online applications, content and services – and thus of growth in the offer of, and demand for, content and services, and has made it a vitally important accelerator in the free circulation of knowledge, ideas and information, including in countries where access to independent media is limited"

Amendment 3

Proposal for a regulation Recital 46

Text proposed by the Commission

(46) The freedom of end-users to access and distribute information and lawful content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation defines the limits for any restrictions to this freedom by providers of electronic communications to the public but is without prejudice to other Union legislation, including copyright rules and Directive 2000/31/EC.

Amendment

(46) The freedom of end-users to access and distribute information and lawful content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation defines the limits for any restrictions to this freedom by providers of electronic communications to the public but is without prejudice to other Union legislation, including copyright rules and Directive 2000/31/EC *on electronic commerce and Article 13 of Directive 95/46/EC and Article 15 of 2002/58/EC, which define the limits to traffic management measures from the data protection and privacy perspective.*

Amendment 4

Proposal for a regulation Recital 47

Text proposed by the Commission

(47) In an open internet, providers of electronic communications to the public should, ***within contractually agreed limits on data volumes and speeds for internet access services***, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of ***reasonable*** traffic management measures. Such measures should be transparent, ***proportionate and non-discriminatory***. ***Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography***. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.

Amendment 5

Proposal for a regulation Recital 50

Text proposed by the Commission

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on flexible quality parameters, including lower levels of priority for traffic which is not time-sensitive. The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public ***is necessary for the provision of*** specialised services and is expected to play ***an important*** role in the development of new services such as machine-to-machine (M2M)

Amendment

(47) In an open internet, providers of electronic communications to the public should not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of ***technically-reasonable, clearly defined and not commercially motivated*** traffic management measures. Such measures should be transparent, ***strictly necessary, proportionate and non-discriminatory***. ***Mitigating*** the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.

Amendment

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on flexible quality parameters, including lower levels of priority for traffic which is not time-sensitive. The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public ***could foster*** specialised services and is expected to play ***a*** role in the development of new services such as machine-to-machine (M2M) communications. At the same time such

communications. At the same time such arrangements should allow providers of electronic communications to the public to better balance traffic and prevent network congestion. Providers of content, applications and services and providers of electronic communications to the public should therefore be free to conclude specialised services agreements on defined levels of quality of service as long as such agreements do not **substantially** impair the **general** quality of internet access services.

arrangements should allow providers of electronic communications to the public to better balance traffic and prevent network congestion. ***This should however not impair the development of internet nor the principle of net neutrality.*** Providers of content, applications and services and providers of electronic communications to the public should therefore be free to conclude specialised services agreements on defined levels of quality of service as long as such ***defined levels of quality characteristics are technically necessary for the functionality of the service and these*** agreements do not impair the quality of internet access services.

Amendment 6

Proposal for a regulation Recital 51

Text proposed by the Commission

(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise this freedom to avail of open internet access. To this end national regulatory authorities should have monitoring and reporting obligations, and ensure compliance of providers of electronic communications to the public and the availability of non-discriminatory internet access services of high quality which are not impaired by specialised services. In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with specialised services, and quality as perceived by end-users. National regulatory authorities should be

Amendment

(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise this freedom to avail of open internet access. To this end national regulatory authorities should have monitoring and reporting obligations, and ensure compliance of providers of electronic communications to the public and the availability of non-discriminatory internet access services of high quality which are not impaired by specialised services. ***National regulatory authorities should establish clear and comprehensible notification and redress mechanisms for end-users subjected to discrimination, restriction or interference of online content, services or applications.*** In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of

empowered to impose minimum quality of service requirements on all or individual providers of electronic communications to the public if this is necessary to prevent general impairment/degradation of the quality of service of internet access services.

congestion in the network, actual versus advertised speeds, performance of internet access services compared with specialised services, and quality as perceived by end-users. National regulatory authorities should be empowered to impose minimum quality of service requirements on all or individual providers of electronic communications to the public if this is necessary to prevent general impairment/degradation of the quality of service of internet access services.

Amendment 7

Proposal for a regulation Recital 58 a (new)

Text proposed by the Commission

Amendment

(58a) The processing of personal data referred to in Regulation of the European Parliament and of the Council laying down measures concerning the European Single Market for electronic communications and to achieve a Connected Continent should comply with Directive 95/46 of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data^{1a}, which governs the processing of personal data carried out in the Member States pursuant to this Regulation and under the supervision of the Member States' competent authorities, in particular the independent public authorities designated by the Member States, and with Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector^{1b}.

^{1a} Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

^{1b} Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002 p. 37).

Amendment 8

Proposal for a regulation Recital 58 b (new)

Text proposed by the Commission

Amendment

(58b) The processing of personal data referred to in Regulation of the European Parliament and of the Council laying down measures concerning the European Single Market for electronic communications and to achieve a Connected Continent should comply with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.^{1a}

^{1a}OJ L 8, 12.1.2001 p. 1.

Amendment 9

Proposal for a regulation Recital 80 a (new)

Text proposed by the Commission

Amendment

(80a) This Regulation respects the principles and provisions of EU legislation on Data Protection.

Amendment 10

Proposal for a regulation

Article 1 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

ea) to ensure that all internet traffic is treated equally, without discrimination, restriction or interference, independent of its sender, receiver, type, content, device, service or application;

Amendment 11

Proposal for a regulation

Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. This Regulation is without prejudice to Directive 95/46/EC and other existing Union legislation on data protection.

Amendment 12

Proposal for a regulation

Article 2 – paragraph 2 – point 12

Text proposed by the Commission

Amendment

(12) ‘assured service quality (ASQ) connectivity product’ means a product that is made available at the internet protocol (IP) exchange, which enables customers to set up an IP communication link between a point of interconnection and one or several fixed network

deleted

termination points, and enables defined levels of end to end network performance for the provision of specific services to end users on the basis of the delivery of a specified guaranteed quality of service, based on specified parameters;

Amendment 13

Proposal for a regulation

Article 2 – paragraph 2 – point 12 a (new)

Text proposed by the Commission

Amendment

(12a) "net neutrality" means the principle that all internet traffic is treated equally, without discrimination, restriction or interference, independent of its sender, receiver, type, content, device, service or application;

Amendment 14

Proposal for a regulation

Article 2 – paragraph 2 – point 15

Text proposed by the Commission

Amendment

(15) ‘specialised service’ means an electronic communications service *or any other service that provides the capability to access specific content, applications or services, or a combination thereof, and whose technical characteristics are controlled from end-to-end or provides the capability to send or receive data to or from a determined number of parties or endpoints; and that is not marketed or widely used as a substitute for* internet access service;

(15) ‘specialised service’ means an electronic communications service, *operated within closed electronic communications networks using the Internet Protocol with strict admission control; and that is not marketed or used as a substitute for internet access service or functionally identical to services available over the public* internet access service;

Amendment 15

Proposal for a regulation

Article 4 – paragraph 5

PE523.069v03-00

12/26

AD\1020266EN.doc

Text proposed by the Commission

5. The national regulatory authority of the home Member State shall forward the information received in accordance with paragraph 2 and any change to that information in accordance with paragraph 3 to the national regulatory authorities of the concerned host Member States and to the BEREC Office within one week following reception of such information or any change. The BEREC Office shall maintain a publicly accessible registry of notifications made in accordance with this Regulation.

Amendment

5. The national regulatory authority of the home Member State shall forward the information received in accordance with paragraph 2 and any change to that information in accordance with paragraph 3 to the national regulatory authorities of the concerned host Member States and to the BEREC Office within one week following reception of such information or any change. The BEREC Office shall maintain a publicly accessible registry of notifications made in accordance with this Regulation. ***Regardless of the format (electronic or printed) of the registry selected by BEREC Office, the latter should apply adequate security measures in its maintenance of the registry, in accordance with Article 22 of Regulation (EC) No 45/2001.***

Amendment 16

Proposal for a regulation

Article 4 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(5a) Moreover, BEREC should grant communications providers information in accordance with Article 12 of Regulation (EC) No 45/2001, which can be disseminated via the regulatory authority of a provider's home Member State.

Amendment 17

Proposal for a regulation

Article 17 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) fully respects the rules on protection of personal data, privacy, security and

integrity of networks and transparency in conformity with Union law.

Amendment 18

Proposal for a regulation

Article 17 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) respect of the rules on protection of privacy, personal data, security and integrity of networks and transparency in conformity with Union law.

deleted

Amendment 19

Proposal for a regulation

Article 17 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 32 in order to adapt Annex I in light of market and technological developments, so as to continue to meet the substantive requirements listed in paragraph 1.

deleted

Amendment 20

Proposal for a regulation

Article 19

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 21

Proposal for a regulation

Article 20 – paragraph 2

Text proposed by the Commission

2. The Commission may adopt implementing acts laying down uniform technical and methodological rules for the implementation of one or more of the European access products within the meaning of **Articles 17 and 19 and of Annex I**, points 2 and 3, **and Annex II**, in accordance with the respective criteria and parameters specified therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Amendment

2. The Commission may adopt implementing acts laying down uniform technical and methodological rules for the implementation of one or more of the European access products within the meaning of **Article 17** and of Annex I, points 2 and 3, in accordance with the respective criteria and parameters specified therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Amendment 22

Proposal for a regulation

Article 23 – paragraph 1 – subparagraph 1

Text proposed by the Commission

End-users ***shall be free*** to access and distribute information and content, run applications and use services of their choice via their internet access service.

Amendment

End-users ***have the right*** to access and distribute information and content, run applications ***connect hardware*** and use services, ***software and devices*** of their choice via their internet access service, ***in accordance with the principle of net neutrality***.

Amendment 23

Proposal for a regulation

Article 23 – paragraph 1 – subparagraph 2

Text proposed by the Commission

End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services ***and, in accordance with any such agreements relative to data volumes***, to avail of any offers by providers of internet content, applications and services.

Amendment

Provided that the agreements take due account of the principle of net neutrality, and do not discriminate based on the content, application or service or specific classes, end-users shall ***have the right to enter into agreements that differentiate according to data volumes and speeds, provided that they give freely and***

explicitly their informed consent.

Amendment 24

Proposal for a regulation

Article 23 – paragraph 2 – subparagraph 1

Text proposed by the Commission

End-users shall also ***be free*** to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service.

Amendment

End-users shall also ***have the right*** to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service. ***Where such agreements are concluded with the provider of internet access services, provider shall ensure that the enhanced quality of service is not to the detriment of the performance, affordability or quality of internet access services, in accordance with the principle of net neutrality.***

Amendment 25

Proposal for a regulation

Article 23 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In order to enable the provision of specialised services to end-users, providers of content, applications and services and providers of electronic communications to the public ***shall be free*** to enter into agreements with each other to transmit the related data volumes or traffic as specialised services with a defined quality of service or dedicated capacity. The provision of specialised services shall not impair ***in a recurring or continuous manner the general quality of*** internet access services.

Amendment

In order to enable the provision of specialised services to end-users, providers of content, applications and services and providers of electronic communications to the public ***may*** enter into agreements with each other to transmit the related data volumes or traffic ***within closed electronic communications networks*** as specialised services with a defined quality of service or dedicated capacity, ***which are not functionally identical to services available over the public internet access service.*** The provision of specialised services shall not impair ***the quality of internet access services. Where network capacity is***

shared between internet access services and specialised services, the provider of these services shall publish clear and unambiguous criteria based on which network capacity is shared.

Amendment 26

Proposal for a regulation

Article 23 – paragraph 5 – subparagraph 1 – introductory part

Text proposed by the Commission

Within the limits of any contractually agreed data volumes or speeds for internet access services, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:

Amendment

In accordance with the principle of net neutrality providers of internet access services shall not restrict the rights provided for in paragraph 1 by blocking, slowing down, degrading, altering or discriminating against specific content, applications or services, or specific classes thereof, except in specific cases where it is strictly necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, strictly proportionate, subject to clear, comprehensible and accessible redress mechanisms and necessary to:

Amendment 27

Proposal for a regulation

Article 23 – paragraph 5 – point aa (new)

Text proposed by the Commission

Amendment

(aa) provide clear and specific information on communication inspection techniques that are allowed;

Justification

Article 23(5) of the proposal provides for 'reasonable traffic management measures', under which ISPs could discriminate against, degrade, slow down or block traffic, but does not provide information on communication inspection techniques that underlie such measures. In order to provide certainty for end-users on the data protection and privacy impact of traffic

management measures, Article 23(5) should thus provide clear information on communications inspection techniques.

Amendment 28

Proposal for a regulation Article 23 – paragraph 5 – point b

Text proposed by the Commission

b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;

Amendment

b) preserve the integrity and security of the ***European electronic communication provider's*** network, services provided via this network, and the end-users' terminals;

Amendment 29

Proposal for a regulation Article 23 – paragraph 5 – point c

Text proposed by the Commission

c) prevent the transmission of unsolicited communications ***to end-users*** who have given their prior consent to such restrictive measures;

Amendment

c) prevent the transmission of unsolicited communications ***for direct marketing purposes to users*** who have given their ***free, informed, explicit and*** prior consent to such restrictive measures; ***Such consent should be informed, specific and unambiguous, as well as freely given.***

Amendment 30

Proposal for a regulation Article 23 – paragraph 5 – point d

Text proposed by the Commission

d) minimise the effects of temporary or exceptional network congestion provided that ***equivalent types of*** traffic ***are*** treated equally.

Amendment

d) ***mitigate*** the effects of temporary ***and*** exceptional network congestion ***primarily by means of application-neutral measures***, provided that ***all*** traffic ***are*** treated equally.

Amendment 31

Proposal for a regulation

Article 23 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.

Amendment

Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph. ***Therefore all techniques to inspect filter or analyse data shall be in accordance with privacy and Union data protection legislation. By default, such techniques should only examine header information. Processing of the content of the communication for these purposes is not permitted. In no case, sensitive data as defined in Article 8 paragraph 1 of Directive 95/46/EC shall be processed.***

Amendment 32

Proposal for a regulation

Article 24 – paragraph 1

Text proposed by the Commission

1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings..

Amendment

1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5) ***and Article 2 (15)***, and the continued availability of non-discriminatory internet access services ***in accordance with the principle of net neutrality and*** at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities ***and data protection authorities***, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall report on an

annual basis to the Commission BEREC **and the public** on their monitoring and findings. ***This monitoring shall comply with the principle of confidentiality of communications and shall not imply processing of personal data.***

Amendment 33

Proposal for a regulation Article 24 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. National regulatory authorities shall establish clear and comprehensible notification and redress mechanisms for end-users subjected to discrimination, restriction, interference, blocking or throttling of online content, services or applications.

Amendment 34

Proposal for a regulation Article 24 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission may adopt implementing acts defining uniform conditions for the implementation of the obligations of national competent authorities under this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33 (2).

3. The Commission may adopt, ***after consultations with BEREC and other stakeholders***, implementing acts defining uniform conditions for the implementation of the obligations of national competent authorities under this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33 (2).

Amendment 35

Proposal for a regulation Article 25 – paragraph 1

Text proposed by the Commission

1. Providers of electronic communications to the public shall, save for offers which are individually negotiated, publish transparent, comparable, adequate and up-to-date information on:

Amendment

1. Providers of electronic communications to the public shall, save for offers which are individually negotiated, publish transparent, comparable, adequate and up-to-date information ***in a clear, comprehensive and easily accessible manner*** on:

Amendment 36

Proposal for a regulation Article 25 – paragraph 1 – subparagraph 1 – point e – point iv a (new)

Text proposed by the Commission

Amendment

(v) clear and adequate information about inspection techniques used for traffic management measures, instituted for the purposes listed in article 23.5, and their repercussions on users privacy and data protection right.

Amendment 37

Proposal for a regulation Article 26 – paragraph 1 – point g

Text proposed by the Commission

(g) where an obligation exists in accordance with Article 25 of Directive 2002/22/EC, the end-users' options as to whether or not to include their personal data in a directory, and the data concerned;

Amendment

(g) where an obligation exists in accordance with Article 25 of Directive 2002/22/EC, the end-users' options as to whether or not to include their personal data in a directory, and the data concerned; ***the processing of personal data included in such a directory shall comply with provisions of Article 12 of the Directive 2002/58/EC.***

Justification

Article 12 of Directive 2002/58/EC foresees that end-users should be informed about the purposes of the directory in question, as well as any further possibilities of the use of their personal data based on search functions available in that directory.

Amendment 38

Proposal for a regulation

Article 26 – paragraph 2 – point fa (new)

Text proposed by the Commission

Amendment

(fa) Information on actions referred to in Article 26 (1)(j), and their potential effect on end-users' privacy and data protection rights.

Amendment 39

Proposal for a regulation

Article 27 – paragraph 4

Text proposed by the Commission

Amendment

4. Providers of electronic communications to the public shall offer end-users the opportunity to opt, free of charge for receiving itemised bills.

4. Providers of electronic communications to the public shall offer end-users the opportunity to opt, free of charge for receiving itemised bills, ***provided that right to privacy of calling users and called subscribers are duly respected.***

Amendment 40

Proposal for a regulation

Article 37 – paragraph 1 – point 4 a (new)

Regulation (EU) No 531/2012

Article 6 a(new)

Text proposed by the Commission

Amendment

(4a) the following article is inserted:

Article 6a

Abolition of retail roaming charges

With effect from 1 July 2015, roaming providers shall not levy any surcharge in comparison to the charges for mobile communications services at domestic level on roaming customers for any regulated roaming call made or received, for any regulated roaming SMS message sent, for any roaming MMS message sent or for any regulated data roaming services used- or any general charge to enable the terminal equipment or service to be used abroad.

Justification

This amendment brings the abolishment of the roaming surcharges in line with the European Parliament's resolution of 12 September 2013 on 'the Digital Agenda for Growth, Mobility and Employment: time to move up a gear', in which the European Parliament calls for the abolishment of roaming in 2015. By including MMS messages in this provision we address unexpectedly high bills as an emerging issue (often the consumer thinks they have sent an SMS but it is actually an MMS for which separate charges apply). As this article very specifically refers to the individual types of services offered, the inclusion of wording 'or any general charge to enable the terminal equipment or service to be used abroad' seeks to prevent the introduction of more general charges for, e.g. 'enabling the phone to be used abroad' (some operators require consumers to contact them before they will enable roaming on handsets).

Amendment 41

Proposal for a regulation

Article 37 – paragraph 1 – point 4 b (new)

Regulation (EU) No 531/2012

Article 7 – paragraphs 1 and 2

Present text

"1. The average wholesale charge that the visited network operator may levy on the customer's roaming provider for the provision of a regulated roaming call originating on that visited network, inclusive, inter alia, of origination, transit and termination costs, shall not exceed **EUR 0,14 per minute as of 1 July 2012.**

Amendment

(4b) In Article 7, paragraphs 1 and 2 are replaced by the following:

"1. The average wholesale charge that the visited network operator may levy on the customer's roaming provider for the provision of a regulated roaming call originating on that visited network, inclusive, inter alia, of origination, transit and termination costs, shall not exceed ***the limits set in paragraph 2.***

2. The average wholesale charge referred to in paragraph 1 shall apply between any pair of operators and shall be calculated over a 12-month period or any such shorter period as may remain before the end of the period of application of a maximum average wholesale charge as provided for in this paragraph or before 30 June 2022. The maximum average wholesale charge shall *decrease to* EUR 0,10 on 1 July 2013 and to EUR 0,05 on 1 July 2014 *and shall, without prejudice to Article 19, remain at EUR 0,05 until 30 June 2022.*"

2. The average wholesale charge referred to in paragraph 1 shall apply between any pair of operators and shall be calculated over a 12-month period or any such shorter period as may remain before the end of the period of application of a maximum average wholesale charge as provided for in this paragraph or before 30 June 2022. The maximum average wholesale charge shall *not exceed* EUR 0,10 on 1 July 2013 and *shall decrease to* EUR 0,03 on 1 July 2014, *to EUR 0,02 on 1 July 2015, and to EUR 0,01 on 1 July 2016.*"

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:172:0010:0035:EN:PDF>)

Justification

Without creating a wholesale market in which the smaller players can compete, new legislation could distort competition and lead to the eviction of smaller and dynamic players from the market for international roaming. This amendments reduces wholesale roaming caps to a level which enables each provider who so wishes to offer retail services including 'roam like at home' in the short term. In addition, maximum wholesale charges are reduced in line with cost reductions, while leaving a reasonable margin in relation to capped retail charges to encourage market entry. This will enable market-led development of retail offers, and is certain to achieve the policy objective of putting an end to retail roaming tariffs by 2015, by enabling all providers to supply 'roam like at home' to mobile user. The levels of the revised wholesale roaming caps put forward are not below cost, as is evidenced by: (i) existing retail offers on domestic markets, (ii) existing domestic MVNO access offers and agreements, and (iii) a small number of bilateral wholesale roaming agreements between mobile network operators. Furthermore, the September BEREK benchmark report, which analysed the average EU roaming retail and wholesale rates for the first quarter of 2013, indicated the following margins: • Voice a) retail: 0.324 cents per minute, b) wholesale: 0.113 cents per minute. • SMS a) retail: 0.084 cents per SMS, b) wholesale: 0.025 cents per SMS. • Data a) retail: 0.482 cents per MB, b) wholesale: 0.069 cents per MB. These numbers therefore demonstrate margins of 286% for voice, 336% for SMS and 698% for data.

Amendment 42

Proposal for a regulation Annex 2

Text proposed by the Commission

Amendment

**MINIMUM PARAMETERS OF
EUROPEAN ASQ CONNECTIVITY**

deleted

PRODUCTS

Network elements and related information

- A description of the connectivity product to be provided over a fixed network, including technical characteristics and adoption of any relevant standards.

Network functionalities:

– connectivity agreement ensuring end-to-end Quality of Service, based on common specified parameters that enable the provision of at least the following classes of services:

- voice and video calls;***
- broadcast of audio-visual content; and***
- data critical applications.***

PROCEDURE

Title	European single market for electronic communications
References	COM(2013)0627 – C7-0267/2013 – 2013/0309(COD)
Committee responsible Date announced in plenary	ITRE 12.9.2013
Opinion by Date announced in plenary	LIBE 12.9.2013
Rapporteur Date appointed	Salvador Sedó i Alabart 14.11.2013
Discussed in committee	9.1.2014 12.2.2014
Date adopted	12.2.2014
Result of final vote	+: 49 –: 0 0: 0
Members present for the final vote	Jan Philipp Albrecht, Roberta Angelilli, Rita Borsellino, Arkadiusz Tomasz Bratkowski, Carlos Coelho, Agustín Díaz de Mera García Consuegra, Ioan Enciu, Frank Engel, Kinga Gál, Kinga Göncz, Anna Hedh, Salvatore Iacolino, Lívia Járóka, Timothy Kirkhope, Juan Fernando López Aguilar, Monica Luisa Macovei, Svetoslav Hristov Malinov, Véronique Mathieu Houillon, Anthea McIntyre, Nuno Melo, Roberta Metsola, Claude Moraes, Antigoni Papadopoulou, Georgios Papanikolaou, Judith Sargentini, Birgit Sippel, Csaba Sógor, Renate Sommer, Rui Tavares, Nils Torvalds, Kyriacos Triantaphyllides, Wim van de Camp, Axel Voss, Tatjana Ždanoka, Auke Zijlstra
Substitute(s) present for the final vote	Alexander Alvaro, Silvia Costa, Franco Frigo, Mariya Gabriel, Siiri Oviir, Zuzana Roithová, Salvador Sedó i Alabart, Sir Graham Watson
Substitute(s) under Rule 187(2) present for the final vote	Françoise Castex, Knut Fleckenstein, Fiona Hall, Anne E. Jensen, Catherine Stihler, Luis Yáñez-Barnuevo García