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*****I**
REPORT

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, 2002/22/EC, and Regulations (EC) No 1211/2009 and (EU) No 531/2012 (COM(2013)0627 – C7-0267/2013 – 2013/0309(COD))

Committee on Industry, Research and Energy

Rapporteur: Pilar del Castillo Vera

Rapporteur for the opinions (*):
Malcolm Harbour, Committee on Internal Market and Consumer Protection

(*) Associated committees – Rule 50 of the Rules of Procedure

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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(*) Associated committees – Rule 50 of the Rules of Procedure

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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, 2002/22/EC, and Regulations (EC) No 1211/2009 and (EU) No 531/2012 (COM(2013)0627 – C7-0267/2013 – 2013/0309(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0627),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0267/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on the Internal Market and Consumer Protection, the Committee on Regional Development, the Committee on Culture and Education, the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A7-0190/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation Title 1

Text proposed by the Commission

Amendment

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
laying down measures concerning the
European single market for electronic

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

communications and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC, Regulations (EC) No 1211/2009 and (EU) No 531/2012 *and Decision 243/2012/EU.*

Amendment 2

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Europe has to tap all sources of growth to exit the crisis, create jobs and regain its competitiveness. Restoring growth and job creation in the Union is the aim of the Europe 2020 Strategy. The 2013 Spring European Council stressed the importance of the digital single market for growth and called for concrete measures, in order to establish a single market in information and communications technology (ICT) as early as possible. In line with the objectives of the Europe 2020 Strategy and with this call, this regulation aims at **establishing** a single market for electronic communications by completing and adapting the existing Union Regulatory Framework for Electronic Communications.

Amendment

(1) Europe has to tap all sources of growth to exit the crisis, create jobs and regain its competitiveness. Restoring growth and job creation in the Union is the aim of the Europe 2020 Strategy. **Furthermore, the Digital Sphere has become a part of the public space where new forms of cross-border trade are established, and business opportunities for European companies in the global digital economy are being created along with innovative market development and social and cultural interaction.** The 2013 Spring European Council stressed the importance of the digital single market for growth and called for concrete measures, in order to establish a single market in information and communications technology (ICT) as early as possible. In line with the objectives of the Europe 2020 Strategy and with this call, this regulation aims at **contributing to the establishment of** a single market for electronic communications by completing and adapting the existing Union Regulatory Framework for Electronic Communications **in certain respects, and by defining the overall content, aim and timing of the next review of that framework.**

Justification

In line with the Transatlantic Dialogue (TLD) Non-Paper "Cyber security and Internet issues - Establishing framework for Transatlantic action".

Amendment 3

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The Digital Agenda for Europe (DAE), one of the flagship initiatives of Europe 2020 Strategy, has already recognised the role of ICT and network connectivity as an indispensable basis for the development of our economy and society. For Europe to reap the benefits of digital transformation, the Union needs a dynamic single market in electronic communications for all sectors and across all of Europe. Such a truly single communications market will be the backbone of an innovative and 'smart' digital economy and a foundation of the digital single market where online services can freely flow across borders.

Amendment

(2) The Digital Agenda for Europe (DAE), one of the flagship initiatives of Europe 2020 Strategy, has already recognised the role of ICT and network connectivity as an indispensable basis for the development of our economy and society. For Europe to reap the benefits of digital transformation, the Union needs a dynamic single market in electronic communications for all sectors and across all of Europe. Such a truly single communications market will be the backbone of an innovative and 'smart' digital economy and a foundation of the digital single market where online services can freely flow across borders ***within a single, open, standardised and interoperable framework.***

Amendment 4

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) ***In a seamless single market in electronic communications***, the freedom to provide electronic communications networks and services to every customer in the Union and the right of each end-user to choose the best offer available on the market should be ensured and should not be hindered by the fragmentation of markets along national borders. The current regulatory framework for electronic communications does not fully address such fragmentation, ***with national, rather than Union-wide*** general authorisation regimes, national spectrum assignment schemes, ***differences of access products***

Amendment

(3) The freedom to provide electronic communications networks and services to every customer in the Union and the right of each user to choose the best offer available on the market should be ensured and should not be hindered by the fragmentation of markets along national borders. The current regulatory framework for electronic communications, ***while recognising and allowing for objectively different conditions in the Member States***, does not fully address such fragmentation ***due to other causes, with diverging national implementation of the*** general authorisation regime, national spectrum

available for electronic communications providers in different Member States, and different sets of sector-specific consumer rules applicable. The Union rules in many cases merely define a baseline, and are often implemented in diverging ways by the Member States.

assignment schemes, and different sets of sector-specific consumer rules applicable. For example, while the Authorisation Directive limits the type of information which may be required, 12 Member States demand additional detail such as a categorisation of the intended types of activities, the geographical scope of the activity, the targeted market, the company structure, including names of shareholders and of shareholders of shareholders, Chamber of Commerce certification and a criminal records of the representative of the undertaking. Additional requirements such as these underline the importance of a firm policy by the Commission regarding infringement procedures.

Amendment 5

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) A truly single market for electronic communications should promote competition, investment and innovation in new and enhanced networks and services by fostering market integration and cross-border service offerings. It should thus help to achieve the **ambitious** high-speed broadband targets set out in the DAE. The growing availability of digital infrastructures and services should in turn increase consumer choice, quality of service and diversity of content, and contribute to territorial and social cohesion, as well as facilitating mobility across the Union.

Amendment

(4) A truly single market for electronic communications should promote competition, **coordination**, investment, innovation **and more capacity** in new and enhanced networks and services by fostering market integration and cross-border service offerings, **and should reduce to a minimum unnecessary regulatory burdens on undertakings**. It should thus help to achieve, **and even surpass**, the high-speed broadband targets set out in the DAE **and facilitate the emergence of services and applications that are able to exploit open data and formats in an interoperable, standardised and safe way, ensuring that they are available at the same functional and non-functional levels throughout the Union**. The growing availability of digital infrastructures and services should in turn increase consumer choice, quality of

service and diversity of content, and contribute to territorial and social cohesion, as well as facilitating mobility across the Union.

Amendment 6

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) As the European Parliament's Directorate-General for Internal Policies (Policy Department B – Structural and Cohesion Policies) stresses in its 2013 study entitled 'Internet, Digital Agenda and Economic Development of European Regions' ("the study"), a favourable regional context in terms of acceptance and receptiveness of ICT and information society development is an important or even decisive factor as this is the privileged place where demand for ICT development can emerge.

Amendment 7

Proposal for a regulation Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) As the study notes, the regional level is pertinent for identifying the opportunities offered by the Information Society and for carrying out plans and programmes in support of it. The study also points out that the interplay between the different levels of governance yields great potential for growth. Top-down initiatives and bottom-up projects should be combined, or at least developed in parallel, in order to attain the objective of

creating a common digital market.

Amendment 8

Proposal for a regulation Recital 4 c (new)

Text proposed by the Commission

Amendment

(4c) If a European single market for electronic communications is to be established and territorial and social cohesion are to be strengthened, investment priority (2)(a) laid down in Article 5 of Regulation (EU) No 1301/2013 of the European Parliament and of the Council^{1a} should be implemented with a view to improving broadband access and high-speed networks and supporting the use of new technologies and networks in the digital economy and all European regions should be put in a position to make investments in this area, as specified in Article 4 of that Regulation.

^{1a} Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289).

Amendment 9

Proposal for a regulation Recital 4 d (new)

Text proposed by the Commission

Amendment

(4d) Investment in the latest infrastructure, which is essential if people

in the Union are to be in a position to take advantage of new, innovative services must not be restricted to central or densely populated areas where it is certain to yield a return. Such investment must also be made at the same time in outlying and outermost regions, which are less densely populated and less developed, so that these regions do not fall even further behind.

Amendment 10

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) The benefits arising from a single market for electronic communications should extend to the wider digital ecosystem that includes **Union** equipment manufacturers, content and application providers and the wider economy, covering sectors such as banking, automotive, logistics, retail, energy and transport, which rely on connectivity to enhance their productivity through, for example, ubiquitous cloud applications, connected objects and possibilities for integrated service provision for different parts of the company. Public administrations and the health sector should also benefit from a wider availability of e-government and e-health services. The offer of cultural content and services, and cultural diversity in general, may be also enhanced in a single market for electronic communications. The provision of **connectivity** through electronic communications networks and services is of such importance to the wider economy and society that unjustified sector-specific burdens, whether regulatory or otherwise, should be avoided.

Amendment

(5) The benefits arising from a single market for electronic communications should extend to the wider digital ecosystem that includes equipment manufacturers, content and application **and software** providers and the wider economy, covering sectors such as **education**, banking, automotive, logistics, retail, energy, **medicine, mobility** and transport, **and the intelligent management of emergencies and natural disasters**, which rely on connectivity **and broadband** to enhance their productivity, **quality and end-user provision** through, for example, ubiquitous cloud applications, **advanced analysis of big data from communications networks**, connected **and interoperable** objects and possibilities for integrated **cross-border** service provision, **against a background of open-standard system interoperability and open data**. **Citizens**, public administrations and the health sector should also benefit from a wider availability of e-government and e-health services. The offer of cultural **and educational** content and services, and cultural diversity in general, may be also enhanced in a single market for electronic communications. The provision of

communications through electronic communications networks and services is of such importance to the wider economy and society **and to the smart cities of the future** that unjustified sector-specific burdens, whether regulatory or otherwise, should be avoided.

Amendment 11

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) This Regulation aims at the completion of the single electronic communications market through action on three broad, inter-related axes. First, it should **secure** the freedom to provide electronic communications services across borders and networks in different Member States, **building on the concept of a single EU authorisation which puts in place the conditions for ensuring greater consistency and predictability in the content and implementation of sector-specific regulation throughout the Union.** Second, it is necessary to **enable access on much more convergent terms and conditions to essential inputs for the cross-border provision of electronic communications networks and services, not only for wireless broadband communications, for which both licensed and unlicensed spectrum is key, but also for fixed line connectivity.** Third, in the interests of aligning business conditions and building the digital confidence of citizens, this Regulation should **harmonise** rules on the protection of **end-users**, especially consumers. This includes rules on non-discrimination, contractual information, termination of contracts and switching, in addition to rules on access to online content, applications and services and on traffic management which not only

Amendment

(6) This Regulation aims at **moving further towards** the completion of the single electronic communications market through action on three broad, inter-related axes. First, it should **affirm** the freedom to provide electronic communications services across borders and networks in different Member States, **by harmonising and simplifying the application of the general authorisation scheme.** Second, it is necessary to **address the conditions and procedures for granting spectrum licenses for wireless broadband communications, as well as the use of unlicensed spectrum.** Third, in the interests of aligning business conditions and building the digital confidence of citizens, this Regulation should **address** rules on the protection of users, especially consumers. This includes rules on non-discrimination, contractual information, termination of contracts and switching, in addition to rules on access to online content, applications and services and on traffic management **and shared, common standards on user privacy and data protection and security**, which not only protect users but simultaneously guarantee the continued functioning of the Internet ecosystem as an engine of innovation. In addition, further reforms in the field of roaming should give users the confidence to stay connected when they

protect end-users but simultaneously guarantee the continued functioning of the Internet ecosystem as an engine of innovation. In addition, further reforms in the field of roaming should give end-users the confidence to stay connected when they travel in the Union, **and should become over time a driver of convergent pricing and other conditions** in the *Union*.

Amendment 12

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) This Regulation should therefore **complement** the existing Union regulatory framework (Directive 2002/19/EC of the European Parliament and of the Council¹⁴, Directive 2002/20/EC of the European Parliament and of the Council¹⁵, Directive 2002/21/EC of the European Parliament and of the Council¹⁶, Directive 2002/22/EC of the European Parliament and of the Council¹⁷, Directive 2002/58/EC of the European Parliament and of the Council¹⁸, Commission Directive 2002/77/EC¹⁹, as well as Regulation (EC) No 1211/2009 of the European Parliament and of the Council²⁰, Regulation (EU) No 531/2012 of the European Parliament and of the Council²¹ and Decision No 243/2012/EU of the European Parliament²²) and the applicable national legislations adopted in conformity with Union law, by establishing specific rights and obligations for both electronic communications providers and **end-users**, by making consequential amendments to the existing Directives and to Regulation (EU) No 531/2012 in order to secure greater convergence as well as some substantive changes consistent with a more competitive Single Market.

travel in the Union **without being subject to additional charges over and above the tariffs which they pay** in the *Member State where their contract was concluded*.

Amendment

(7) This Regulation should therefore **supplement** the existing Union regulatory framework (Directive 2002/19/EC of the European Parliament and of the Council¹⁴, Directive 2002/20/EC of the European Parliament and of the Council¹⁵, Directive 2002/21/EC of the European Parliament and of the Council¹⁶, Directive 2002/22/EC of the European Parliament and of the Council¹⁷, Directive 2002/58/EC of the European Parliament and of the Council¹⁸, Commission Directive 2002/77/EC¹⁹, as well as Regulation (EC) No 1211/2009 of the European Parliament and of the Council²⁰, Regulation (EU) No 531/2012 of the European Parliament and of the Council²¹ and Decision No 243/2012/EU of the European Parliament²²) and the applicable national legislations adopted in conformity with Union law, by **introducing certain targeted measures** establishing specific rights and obligations for both electronic communications providers and users, by making consequential amendments to the existing Directives and to Regulation (EU) No 531/2012 in order to secure greater convergence as well as some substantive changes consistent with a more competitive Single Market.

¹⁴ Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.4.2002, p. 7).

¹⁵ Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, 24.4.2002, p. 21).

¹⁶ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

¹⁷ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.4.2002, p. 51).

¹⁸ 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 (E-Privacy Directive) (OJ L 201, 31.7.2002, p. 37)

¹⁹ Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and service (OJ L 249, 17.9.2002, p. 21.)

²⁰ Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (OJ L 337, 18.12.2009, p. 1).

²¹ Regulation (EU) No 531/2012 of the

¹⁴ Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.4.2002, p. 7).

¹⁵ Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, 24.4.2002, p. 21).

¹⁶ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

¹⁷ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.4.2002, p. 51).

¹⁸ 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 (E-Privacy Directive) (OJ L 201, 31.7.2002, p. 37)

¹⁹ Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and service (OJ L 249, 17.9.2002, p. 21.)

²⁰ Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (OJ L 337, 18.12.2009, p. 1).

²¹ Regulation (EU) No 531/2012 of the

European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10.)

²² Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7)

European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10.)

²² Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7)

Amendment 13

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) The provision of cross-border electronic communications is still subject to greater burdens than those confined to the national borders. In particular, cross-border providers still need to notify and pay fees in individual host Member States. Holders of a single EU authorisation should be subject to a single notification system in the Member State of their main establishment (home Member State), which will reduce the administrative burden for cross-border operators. The single EU authorisation should apply to any undertaking that provides or intends to provide electronic communications services and networks in more than one Member State, thereby entitling it to enjoy the rights attached to the freedom to provide electronic communications services and networks in accordance with this Regulation in any Member State. A single EU authorisation defining the legal framework applicable to electronic communications operators providing services across Member States on the basis of a general authorisation in the home Member State should ensure the effectiveness of the freedom to provide electronic communications services and

Amendment

(9) A certain degree of harmonisation of the general authorisation, involving BEREC as the recipient of notifications, should further ensure the practical effectiveness of the freedom to provide electronic communications services and networks in the whole Union. Furthermore, notification is not mandatory in order to benefit from the general authorisation scheme and not all Member States require it. As a notification requirement imposes an administrative burden on the operator, Member States requiring notification should show that it is justified, in line with Union policy on abolishing unnecessary regulatory burdens. The Commission should be required to evaluate such requirements and, where appropriate, be empowered to request their removal.

networks in the whole Union.

Amendment 14

Proposal for a regulation Recital 10

Text proposed by the Commission

Amendment

(10) The provision of electronic communications services or networks across borders may take different forms, depending on several factors such as the kind of network or services provided, the extent of the physical infrastructure needed or the number of subscribers in the different Member States. The intention to provide electronic communications services cross-border or to operate an electronic communications network in more than one Member State may be demonstrated by activities such as negotiation of agreements on access to networks in a given Member State or marketing via an internet site in the language of the targeted Member State.

deleted

Amendment 15

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(11) Irrespective of how the provider chooses to operate electronic communications networks or provide electronic communications services across borders, the regulatory regime applicable to a European electronic communications provider should be neutral vis-à-vis the commercial choices which underlie the organisation of functions and activities across Member States. Therefore, regardless of the corporate structure of the undertaking, the home Member State of a European electronic communications

deleted

provider should be considered to be the Member State where the strategic decisions concerning the provision of electronic communications networks or services are taken.

Amendment 16

Proposal for a regulation Recital 12

Text proposed by the Commission

Amendment

(12) The single EU authorisation should be based on the general authorisation in the home Member State. It should not be made subject to conditions which are already applicable by virtue of other existing national law which is not specific to the electronic communications sector. In addition, the provisions of this Regulation and Regulation (EU) No. 531/2012 should also apply to European electronic communications providers.

deleted

Amendment 17

Proposal for a regulation Recital 13

Text proposed by the Commission

Amendment

(13) Most sector-specific conditions, for example concerning access to or security and integrity of networks or access to emergency services, are strongly linked to the place where such network is located or the service is provided. Consequently a European electronic communications provider may be subject to conditions applicable in the Member States where it operates, to the extent that this Regulation does not provide otherwise.

deleted

Amendment 18

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) It is necessary to ensure that in similar circumstances there is no discrimination in the treatment of any European electronic communications provider by different Member States and that consistent regulatory practices are applied in the single market, in particular as regards measures falling within the scope of Articles 15 or 16 of Directive 2002/21/EC, or Articles 5 or 8 of Directive 2002/19/EC. European electronic communications providers should therefore have a right to equal treatment by the different Member States in objectively equivalent situations in order to enable more integrated multi-territorial operations. Furthermore, there should be specific procedures at Union level for the review of draft decisions on remedies within the meaning of Article 7a of Directive 2002/21/EC in such cases, in order to avoid unjustified divergences in obligations applicable to European electronic communications providers in different Member States.

Amendment

(15) The principle of equal treatment is a general principle of European Union law enshrined in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union. According to settled case-law, that principle requires that comparable situations must not be treated differently and that different situations must not be treated in the same way unless such treatment is objectively justified. It is necessary to ensure that in similar circumstances there is no discrimination in the treatment of any electronic communications provider by different Member States and that consistent regulatory practices are applied in the single market, in particular as regards measures falling within the scope of Articles 15 or 16 of Directive 2002/21/EC, or Articles 5 or 8 of Directive 2002/19/EC.

Amendment 19

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) An allocation of regulatory and supervisory competences should be established between the home and any host Member State of European electronic communications providers with a view to reducing the barriers to entry while ensuring that the applicable conditions

Amendment

deleted

for the provision of electronic communications services and networks by these providers are properly enforced. Therefore, while each national regulatory authority should supervise compliance with the conditions applicable in its territory in accordance with Union legislation, including by means of sanctions and interim measures, only the national regulatory authority in the home Member State should be entitled to suspend or withdraw the rights of a European electronic communications provider to provide electronic communications networks and services in the whole Union or part thereof.

Amendment 20

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) Radio spectrum is a public good and ***an essential*** resource for the internal market for mobile, wireless broadband and satellite communications in the Union. Development of wireless broadband communications contributes to the implementation of the Digital Agenda for Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens and of providing the Union with the highest possible broadband speed and capacity. However, the Union ***has fallen behind other major global regions - North America, Africa and parts of Asia - in terms of the roll-out and penetration of the latest generation of wireless broadband technologies that are necessary to achieve*** those policy goals. The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States ***seeking*** a derogation or

Amendment

(17) Radio spectrum is a public good and ***finite resource vital for the achievement of a wide range of social, cultural and economic values*** for the internal market for mobile, wireless broadband, ***broadcasting*** and satellite communications in the Union. ***Radio spectrum policy in the Union should contribute to the freedom of expression, including the freedom of opinion and the freedom to receive and disseminate information and ideas, irrespective of borders, as well as freedom and plurality of the media.*** Development of wireless broadband communications contributes to the implementation of the Digital Agenda for Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens and of providing the Union with the highest possible broadband speed and capacity. However, ***while some regions of the Union are far advanced, both with respect to the***

otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council,²³ testifies to the urgency of action even within the term of the current RSPP. Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council²⁴ **have not been sufficient to address** this problem.

²³ Decision 243/2012/EU of the European Parliament and the Council of 14 March 2012, establishing a multiannual radio spectrum policy programme, OJ L 81 of 21.3.2012.

²⁴ Decision 676/2002/EC of the European Parliament and the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)

policy goals of the Digital Agenda for Europe and globally, others have been lagging behind. In particular, this is partly due to the fragmentation of the Union process for making available spectrum particularly suitable for high speed wireless broadband access, which jeopardises the achievement of those policy goals for the Union as a whole. The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States **having been granted** a derogation **by the Commission** or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council, testifies to the urgency of action even within the term of the current RSPP. **It also indicates a need for improvement in the Commission's exercise of its powers, of crucial importance for the loyal implementation of Union measures and sincere cooperation between Member States. Stringent efforts by the Commission to enforce already adopted** Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council **should, by themselves, contribute substantially to addressing** this problem

²³ Decision 243/2012/EU of the European Parliament and the Council of 14 March 2012, establishing a multiannual radio spectrum policy programme, OJ L 81 of 21.3.2012.

²⁴ Decision 676/2002/EC of the European Parliament and the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)

(OJ L 108, 24.4.2002, p. 1).

(OJ L 108, 24.4.2002, p. 1).

Amendment 21

Proposal for a regulation Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Trading and leasing of spectrum harmonised for wireless broadband communications increases flexibility and leads to more efficient allocation of spectrum resources. It should therefore be further facilitated and stimulated, including by ensuring that all rights of use, including those already granted, are of a sufficiently long duration.

Amendment 22

Proposal for a regulation Recital 18

Text proposed by the Commission

Amendment

(18) The application of various national policies creates inconsistencies and fragmentation of the internal market which hamper the roll-out of Union-wide services and the completion of the internal market for wireless broadband communications. It could in particular create unequal conditions for access to such services, hamper competition between undertakings established in different Member States and stifle investments in more advanced networks and technologies and the emergence of innovative services, thereby depriving citizens and businesses of ubiquitous integrated high-quality services and wireless broadband operators of increased efficiency gains from large-scale more integrated operations. Therefore, action at Union level regarding certain

(18) The application of various national policies creates inconsistencies and fragmentation of the internal market which hamper the roll-out of Union-wide services and the completion of the internal market for wireless broadband communications. It could in particular create unequal conditions for access to such services, hamper competition between undertakings established in different Member States and stifle investments in more advanced networks and technologies and the emergence of innovative services, thereby depriving citizens and businesses of ubiquitous integrated high-quality services and wireless broadband operators of increased efficiency gains from large-scale more integrated operations. Therefore, action at Union level regarding certain

aspects of radio spectrum assignment should accompany the development of wide integrated coverage of advanced wireless broadband communications services throughout the Union. At the same time, Member States should retain the right to adopt measures to organise their radio spectrum for public order, public security *purposes and defence*.

aspects of radio spectrum assignment should accompany the development of wide integrated coverage of advanced wireless broadband communications services throughout the Union. At the same time, *sufficient flexibility is needed to accommodate specific national requirements and* Member States should retain the right to adopt measures to organise their radio spectrum for *purposes of public order, public security and defence, safeguarding and promoting general interest objectives such as linguistic and cultural diversity and media pluralism*.

Amendment 23

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) Electronic communications services providers, *including mobile operators or consortia of such operators*, should be able to *collectively* organise the efficient and affordable coverage of a vast part of the Union's territory to the long-term benefit of end users, and therefore use radio spectrum across several Member States with similar conditions, procedures, costs, timing, duration in harmonised bands, and with complementary radio spectrum packages, such as a combination of lower and higher frequencies for coverage of densely and less densely populated areas. Initiatives in favour of greater coordination and consistency would also enhance the predictability of the network investment environment. Such predictability would also be greatly favoured by a clear policy in favour of long-term duration of rights of use related to radio spectrum, without prejudice to the indefinite character of such rights in some Member States, and linked in its turn to

Amendment

(19) Electronic communications services providers should be able to organise the efficient, *technologically modern, advanced* and affordable coverage of a vast part of the Union's territory to the long-term benefit of end users, and therefore use radio spectrum across several Member States with similar conditions, procedures, costs, timing, duration in harmonised bands, and with complementary radio spectrum packages, such as a combination of lower and higher frequencies for coverage of densely and less densely populated areas. Initiatives in favour of greater coordination and consistency would also enhance the predictability of the network investment environment. Such predictability would also be greatly favoured by a clear policy in favour of long-term duration of rights of use related to radio spectrum, without prejudice to the indefinite character of such rights in some Member States, and linked in its turn to *improved* conditions for the transfer, lease

clear conditions for the transfer, lease or sharing of part of all of the radio spectrum subject to such an individual right of use.

or sharing of part of all of the radio spectrum subject to such an individual right of use.

Amendment 24

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Coordination and consistency of rights of use for radio spectrum should be improved, ***at least for the bands which have been harmonised for wireless fixed, nomadic and mobile broadband communications***. This includes the bands identified at ITU level for International Mobile Telecommunications (IMT) Advanced systems, as well as bands used for radio local area networks (RLAN) such as 2.4 GHz and 5 GHz. It should also extend to bands that may be harmonised in the future for wireless broadband communications, as envisaged in Article 3(b) of the RSPP and in the RSPG Opinion on ‘Strategic challenges facing Europe in addressing the growing radio spectrum demand for wireless broadband’ adopted on 13 June 2013, ***such as, in the near future, the 700 MHz, 1.5 GHz and 3.8-4.2 GHz bands***.

Amendment

(20) Coordination and consistency of rights of use for radio spectrum should be improved. This includes the bands identified at ITU level for International Mobile Telecommunications (IMT) Advanced systems, as well as bands used for radio local area networks (RLAN) such as 2.4 GHz and 5 GHz. It should also extend to bands that may be harmonised in the future for wireless broadband communications, as envisaged in Article 3(b) of the RSPP and in the RSPG Opinion on “Strategic challenges facing Europe in addressing the growing radio spectrum demand for wireless broadband” adopted on 13 June 2013. ***Considering the significant societal, cultural, social and economic impact of decisions regarding spectrum, such decisions should take due account of the considerations mentioned in Article 8a of Directive 2002/21/EC and, where relevant, of the general-interest objectives mentioned in Article 9(4) of that Directive.***

Amendment 25

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) ***As regards the other main substantive conditions which may be attached to rights of use of radio spectrum for wireless broadband***, the convergent application by individual Member States of

Amendment

(24) The convergent application by individual Member States of the regulatory principles and criteria set down in ***the Union regulatory framework*** would be favoured by a coordination mechanism

the regulatory principles and criteria set down in *this Regulation* would be favoured by a coordination mechanism whereby the Commission and the competent authorities of the other Member States have an opportunity to comment in advance of the granting of rights of use by a given Member State and whereby the Commission has an opportunity, taking into account the views of the Member States, to forestall implementation of any proposal which appears to be non-compliant with Union law.

whereby the Commission and the competent authorities of the other Member States have an opportunity to comment in advance of the granting of rights of use by a given Member State and whereby the Commission has an opportunity, taking into account the views of the Member States, to forestall implementation of any proposal which appears to be non-compliant with Union law.

Amendment 26

Proposal for a regulation Recital 25

Text proposed by the Commission

(25) Considering the massive growth in radio spectrum demand for wireless broadband, solutions for alternative spectrally efficient access to wireless broadband should be ***promoted***. ***This*** includes the use of low-power wireless access systems with a small-area operating range such as so called ‘hotspots’ of radio local area networks (RLAN, ***also known as ‘Wi-Fi’***), as well as networks of low-power small size cellular access points (also called femto-, pico- or metrocells).

Amendment

(25) Considering the massive growth in radio spectrum demand for wireless broadband, solutions for alternative spectrally efficient access to wireless broadband should be ***encouraged and not prevented***. ***This currently*** includes ***but is not restricted to*** the use of low-power wireless access systems with a small-area operating range such as so called ‘hotspots’ of radio local area networks (RLAN,), as well as networks of low-power small size cellular access points (also called femto-, pico- or metrocells). ***Dynamic spectrum access, including on a licence-exempt basis and other innovative technologies and uses of spectrum should be encouraged and made possible.***

Amendment 27

Proposal for a regulation Recital 30

Text proposed by the Commission

Amendment

(30) Member States should ensure that the management of radio spectrum at national level does not prevent other Member States from using the radio spectrum to which they are entitled, or from complying with their obligations as regards bands for which the use is harmonised at Union level. Building on the existing activities of the RSPG, a coordination mechanism is necessary to ensure that each Member State has equitable access to radio spectrum and that the outcomes of coordination are consistent and enforceable. *deleted*

Amendment 28

Proposal for a regulation

Recital 31

Text proposed by the Commission

Amendment

(31) Experience in the implementation of the Union's regulatory framework indicates that existing provisions requiring the consistent application of regulatory measures together with the goal of contributing to the development of the internal market have not created sufficient incentives to design access products on the basis of harmonised standards and processes, in particular in relation to fixed networks. When operating in different Member States, operators have difficulties in finding access inputs with the right quality and network and service interoperability levels, and when they are available, such inputs exhibit different technical features. This increases costs and constitutes an obstacle to the provision of services across national borders. *deleted*

Amendment 29

Proposal for a regulation Recital 32

Text proposed by the Commission

Amendment

(32) The integration of the single market for electronic communications would be accelerated through establishment of a framework to define certain key European virtual products, which are particularly important for providers of electronic communication services to provide cross-border services and to adopt a pan-Union strategy in an increasingly all-IP environment, based on key parameters and minimum characteristics. **deleted**

Amendment 30

Proposal for a regulation Recital 33

Text proposed by the Commission

Amendment

(33) The operational needs served by various virtual products should be addressed. European virtual broadband access products should be available in cases where an operator with significant market power has been required under the terms of the Framework Directive and the Access Directive to provide access on regulated terms at a specific access point in its network. First, efficient cross-border entry should be facilitated by harmonised products that enable initial provision by cross-border providers of services to their end customers without delay and with a predictable and sufficient quality, including services to business customers with multiple sites in different Member States, where this would be necessary and proportionate pursuant to market analysis. These harmonised products should be available for a sufficient period **deleted**

in order to allow access seekers and providers to plan medium and long term investments.

Amendment 31

Proposal for a regulation Recital 34

Text proposed by the Commission

Amendment

(34) Secondly, sophisticated virtual access products that require a higher level of investment by access seekers and allow them a greater level of control and differentiation, particularly by providing access at a more local level, are key to creating the conditions for sustainable competition across the internal market. Hence, these key wholesale access products to next-generation access (NGA) networks should also be harmonised to facilitate cross-border investment. Such virtual broadband access products should be designed to have equivalent functionalities to physical unbundling, in order to broaden the range of potential wholesale remedies available for consideration by national regulatory authorities under the proportionality assessment pursuant to Directive 2002/19/EC.

deleted

Amendment 32

Proposal for a regulation Recital 35

Text proposed by the Commission

Amendment

(35) Thirdly, it is also necessary to harmonise a wholesale access product for terminating segments of leased lines with enhanced interfaces, in order to enable cross-border provision of mission-critical connectivity services for the most

deleted

demanding business users.

Amendment 33

Proposal for a regulation Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) There is a need to harmonise the conditions for high-quality wholesale products used for the supply of business services to enable the provision of seamless services to cross-border and multi-national corporations across the European Union. Such harmonisation could play a significant role in terms of EU business competitiveness with regards to communications costs.

Amendment 34

Proposal for a regulation Recital 36

Text proposed by the Commission

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 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

deleted

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 35

Proposal for a regulation Recital 37

Text proposed by the Commission

Amendment

(37) The establishment of European virtual broadband access products under this Regulation should be reflected in the assessment by national regulatory authorities of the most appropriate access remedies to the networks of operators designated as having significant market power, while avoiding over-regulation through the unnecessary multiplication of wholesale access products, whether imposed pursuant to market analysis or provided under other conditions. In particular, the introduction of the European virtual access products should not, in and of itself, lead to an increase in the number of regulated access products imposed on a given operator. Moreover, the need for national regulatory authorities, following the adoption of this Regulation, to assess whether a European virtual broadband access product should be imposed instead of existing wholesale access remedies, and to assess the appropriateness of imposing a European virtual broadband access product in the context of future market reviews where they find significant market power, should not affect their responsibility to identify the most appropriate and proportionate remedy to address the identified competition problem in accordance with

deleted

Amendment 36

Proposal for a regulation

Recital 38

Text proposed by the Commission

Amendment

(38) In the interests of regulatory predictability, key elements of evolving decisional practice under the current legal framework which affect the conditions under which wholesale access products, including European virtual broadband access products, are made available for NGA networks, should also be reflected in the legislation. These should include provisions reflecting the importance, for the analysis of wholesale access markets and in particular of whether there is a need for price controls on such access to NGA networks, of the relationship between competitive constraints from alternative fixed and wireless infrastructures, effective guarantees of non-discriminatory access, and the existing level of competition in terms of price, choice and quality at retail level. The latter consideration ultimately determines the benefits to end users. For example, in the conduct of their case-by-case assessment pursuant to Article 16 of Directive 2002/21/EC and without prejudice to the assessment of significant market power and the application of EU competition rules, national regulatory authorities may consider that in the presence of two fixed NGA networks, market conditions are competitive enough to be able to drive network upgrades and to evolve towards the provision of ultra-fast services, which is one important parameter of retail competition.

deleted

Amendment 37

Proposal for a regulation Recital 40

Text proposed by the Commission

Amendment

(40) Disparities in the national implementation of sector-specific end-user protection rules create significant barriers to the single digital market, in particular in the form of increased compliance costs for providers of electronic communications to the public wishing to offer services across Member States. Moreover, fragmentation and uncertainty as to the level of protection granted in different Member States undermines end-users' trust and dissuades them from purchasing electronic communications services abroad. In order to achieve the Union's objective to remove barriers to the internal market it is necessary to replace existing, divergent national legal measures with a single and fully harmonised set of sector-specific rules which create a high common level of end-user protection. Such full harmonisation of the legal provisions should not prevent providers of electronic communications to the public from offering end-users contractual arrangements which go beyond that level of protection.

deleted

Justification

Once the rules contained in this Proposal for a Regulation are transferred to the Universal Services Directive, there is no need to maintain the recitals of this Regulation which are linked to consumers' rights.

Amendment 38

Proposal for a regulation Recital 41

Text proposed by the Commission

Amendment

(41) *As* this Regulation **harmonises only certain sector-specific rules, it** should be without prejudice to the general consumer protection rules, as established by Union **acts** and national legislation implementing them.

(41) This Regulation should be without prejudice to the general consumer protection rules, as established by Union **law** and national legislation implementing them.

Justification

Once the rules contained in this Proposal for a Regulation are transferred to the Universal Services Directive, there is no need to maintain the recitals of this Regulation which are linked to consumers' rights.

Amendment 39

Proposal for a regulation Recital 42

Text proposed by the Commission

Amendment

(42) *Where the provisions in Chapters 4 and 5 of this Regulation refer to end-users, such provisions should apply not only to consumers but also to other categories of end-users, primarily micro enterprises. At their individual request, end-users other than consumers should be able to agree, by individual contract, to deviate from certain provisions.*

deleted

Justification

Once the rules contained in this Proposal for a Regulation are transferred to the Universal Services Directive, there is no need to maintain the recitals of this Regulation which are linked to consumers' rights.

Amendment 40

Proposal for a regulation Recital 44

(44) Very significant price differences continue to prevail, both for fixed and mobile communications, between domestic voice and SMS communications and those terminating in another Member State. While there are substantial variations between countries, operators and tariff packages, and between mobile and fixed services, this continues to affect more vulnerable customer groups and to pose barriers to seamless communication within the Union. This occurs in spite of a very significant reduction, and convergence in absolute terms, of termination rates in the different Member States, and low prices on transit markets. Moreover, the transition to an ‘all-IP’ electronic communications environment should in due course bring additional cost reductions. Any significant retail tariff differences between domestic fixed long-distance communications which are communications other than those within one local area identified by a geographic area code in the national numbering plan, and fixed communications terminating in another Member State, should therefore be justified by reference to objective criteria. Retail tariffs for international mobile communications should not exceed the euro-voice and euro-SMS tariffs for regulated roaming calls and SMS messages, respectively, provided for in Regulation (EU) No 531/2012 unless justified by reference to objective criteria. Such criteria may include additional costs and a reasonable related margin. Other objective factors may include differences in related price elasticity and the easy availability to all end users of alternative tariffs from providers of electronic communications to the public which offer cross-border communications within the Union at little or no extra charge, or of information society services with

deleted

comparable functionalities, provided that end users are actively informed of such alternatives by their providers.

Amendment 41

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 users, content and application providers and internet service providers. The ***principle of "net neutrality" in the open internet means that traffic should be treated equally, without discrimination, restriction or interference, independent of the sender, receiver, type, content, device, service or application. 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.*** The existing regulatory framework aims at promoting the ability of 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 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 42

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 users to access and distribute information and 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.

Amendment 43

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,

Amendment

(47) In an open internet, providers of **internet access services** should, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate

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.**

against specific content, applications or services or specific classes thereof except for a limited number of traffic management measures. Such measures should be **technically necessary**, transparent, proportionate and non-discriminatory. **Addressing network congestion should be allowed provided that network congestion occurs only temporarily or in exceptional circumstances. National Regulatory Authorities should be able to require that a provider demonstrates that equal treatment of traffic will be substantially less efficient.**

Amendment 44

Proposal for a regulation Recital 47 a (new)

Text proposed by the Commission

Amendment

(47a) This Regulation is without prejudice to 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 (E-Privacy Directive).

Amendment 45

Proposal for a regulation Recital 48

Text proposed by the Commission

Amendment

(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow **end-**users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice.

(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow users to choose the tariff corresponding to their normal data consumption based on **clear,** transparent **and explicit** information about the conditions and implications of such

At the same time, such tariffs should enable providers of **electronic communications to the public** to better adapt network capacities to expected data volumes. It is essential that **end-users** are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired.

choice. At the same time, such tariffs should enable providers of **internet access services** to better adapt network capacities to expected data volumes. It is essential that users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired.

Amendment 46

Proposal for a regulation

Recital 49

Text proposed by the Commission

(49) **There is also end-user demand** for services and applications requiring an enhanced level of assured service quality **offered by providers of electronic communications to the public or by content, applications or service providers**. Such services may comprise inter alia broadcasting **via Internet Protocol (IP-TV)**, video-conferencing and certain health applications. **End-users** should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services.

Amendment

(49) **It should be possible to meet** user demand for services and applications requiring an enhanced level of assured service quality. Such services may comprise inter alia broadcasting, video-conferencing and certain health applications. Users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of **internet access services, providers of** electronic communications to the public or providers of content, applications or services. **Where such agreements are concluded with the provider of internet access, that provider should ensure that the enhanced quality service does not cause material detriment to the general quality of internet access. Furthermore, traffic management measures should not be applied in such a way as to discriminate between competing services.**

Amendment 47

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) 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**.

Amendment 48

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

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 **may also be necessary for the provision of certain services** such as machine-to-machine (M2M) communications. Providers of content, applications and services and providers of electronic communications should therefore **continue to** be free to conclude specialised services agreements on defined levels of quality of service as long as such agreements do not impair the general quality of internet access **services**.

Amendment

(51) National regulatory authorities play an essential role in ensuring that 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 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.

monitoring and reporting obligations, and ensure compliance of providers of **internet access services, other providers of electronic communications and other service providers** 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 **enhanced quality** services, and quality as perceived by users. National regulatory authorities should **establish complaint procedures providing effective, simple and readily available redress mechanisms for users** and be empowered to impose minimum quality of service requirements on all or individual providers of **internet access services, other providers of electronic communications and other service providers** if this is necessary to prevent general impairment/degradation of the quality of service of internet access services.

Amendment 49

Proposal for a regulation Recital 52

Text proposed by the Commission

(52) The measures to ensure better transparency and comparability of prices, tariffs, terms and conditions, and quality of service parameters including those specific to the provision of internet access services, should increase the ability of end-users to optimise their selection of providers and thus benefit fully from competition.

Amendment

(52) The measures to ensure better transparency and comparability of prices, tariffs, terms and conditions, and quality of service parameters including those specific to the provision of internet access services, should increase the ability of end-users to optimise their selection of providers and thus benefit fully from competition. **Any voluntary certification scheme for**

interactive comparison websites, guides or similar tools should be independent from any provider of electronic communications, use plain and clear language, use complete and up-to-date information, have transparent methodology, be reliable and accessibility according to Web Content Accessibility Guidelines 2.0 and have an effective complaints handling procedure

Amendment 50

Proposal for a regulation Recital 53

Text proposed by the Commission

Amendment

(53) End-users should be adequately informed of the price and the type of service offered before they purchase a service. This information should also be provided immediately prior to connection of the call when a call to a specific number or service is subject to particular pricing conditions, such as calls to premium rate services which are often subject to a special rate. Where such an obligation is disproportionate in view of the duration and cost of the tariff information for the service provider compared to the average call duration and the cost risk to which the end-user is exposed, national regulatory authorities may grant a derogation. End-users should also be informed if a free-phone number is subject to additional charges.

deleted

Amendment 51

Proposal for a regulation Recital 54

Text proposed by the Commission

Amendment

(54) Providers of electronic

(54) Providers of electronic

communications to the public should inform end-users adequately inter alia on their services and tariffs, quality of service parameters, access to emergency services and any limitation, and the choice of services and products designed for disabled consumers. This information should be provided in a clear and transparent manner and be specific to the Member States where the services are provided, and in the event of any change, be updated. Providers should be exempted from such information requirements as regards *those* offers which are individually negotiated.

communications to the public should inform end-users adequately inter alia on their services and tariffs, quality of service parameters, access to emergency services and any limitation, and the choice of services and products designed for disabled consumers. ***In the case of tariff plans with a predefined volume of communications, providers of electronic communications to the public should also inform on the ability of consumers and other end-users so requesting to roll-over any unused volume of the previous billing period into the current billing period.*** This information should be provided in a clear and transparent manner and be specific to the Member States where the services are provided, and in the event of any change, be updated. Providers should be exempted from such information requirements as regards offers which are individually negotiated.

Amendment 52

Proposal for a regulation

Recital 56

Text proposed by the Commission

(56) Contracts are an important means of giving end-users a high level of transparency of information and legal certainty. Providers of electronic communications to the public should give end-users clear and comprehensible information on all essential elements of the contract before the end-user is bound by the contract. The information should be mandatory and not be altered except by subsequent agreement of the end-user and the provider. The Commission and several national regulatory authorities recently found considerable discrepancies between the advertised speed of internet access services and the speed actually available to

Amendment

(56) Contracts are an important means of giving end-users a high level of transparency of information and legal certainty. Providers of electronic communications to the public should give end-users clear and comprehensible information on all essential elements of the contract before the user is bound by the contract. The information should be mandatory and not be altered except by subsequent agreement of the end-user and the provider. The Commission and several national regulatory authorities recently found considerable discrepancies between the advertised speed of internet access services and the speed actually available to

end-users. Providers of electronic communications to the public should therefore inform *end*-users, prior to the conclusion of the contract, of the speed and other quality of service parameters which they can realistically deliver at the *end*-user's main location.

end-users. Providers of electronic communications to the public should therefore inform end-users, prior to the conclusion of the contract, of the speed and other quality of service parameters which they can realistically deliver at the end-user's main location. ***For fixed and mobile data links, normally available speed is the speed of a communications service that a consumer could expect to receive most of the time when accessing the service, regardless of the time of day. Normally available speed should be derived from estimated speed ranges, speed averages, peak-hour speed and minimal speed. The methodology should be established in BEREC guidelines and regularly reviewed and updated to reflect technology and infrastructure evolution. Member States should ensure that providers enable end-users to have access to comparable information on the coverage of the mobile networks, including different technologies in their Member State, prior to the conclusion of the contract, to enable those end-users to make informed purchasing decisions.***

Amendment 53

Proposal for a regulation Recital 57

Text proposed by the Commission

(57) With respect to terminal equipment, contracts should specify any restrictions imposed by the provider on the use of the equipment, for example by way of 'SIM-locking' mobile devices, and any charges due on termination of the contract prior to the agreed expiry date. No charges should be due after expiry of the agreed contract duration.

Amendment

(57) With respect to terminal equipment, contracts should specify any restrictions imposed by the provider on the use of the equipment, for example by way of 'SIM-locking' mobile devices, and any charges due on termination of the contract prior to the agreed expiry date. No charges should be due after expiry of the agreed contract duration. ***Contracts should also specify the types of after-sales services, maintenance services and customer support services provided. Whenever possible, that***

information should also include technical information, provided on demand, concerning the proper functioning of the end-user's chosen terminal equipment. Provided that no technical incompatibility has been identified, that information should be provided free of charge.

Amendment 54

Proposal for a regulation Recital 58

Text proposed by the Commission

(58) In order to avoid bill shocks, users should be able to **define** maximum financial limits for the charges related to their usage of calls and internet access services. This facility should **be available free of charge, with** an appropriate notification that can be consulted again subsequently, when the limit is being approached. **Upon reaching the maximum limit, end-users should no longer receive or be charged for those services unless they specifically request the continued provision as agreed with the provider.**

Amendment

(58) In order to avoid bill shocks, **for all post-paid services, end-**users should be able to **set a predefined** maximum financial limit for the charges related to their usage of calls and internet access services. This facility should **include** an appropriate notification that can be consulted again subsequently, when the limit is being approached.

Amendment 55

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 56

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 57

Proposal for a regulation Recital 59

Text proposed by the Commission

Amendment

(59) Experience from Member States and from a recent study commissioned by the Executive Agency for Consumers and Health has shown that long contract periods and automatic or tacit extensions of contracts constitute significant obstacles to changing a provider. It is thus desirable that end-users should be able to terminate, without incurring any costs, a contract six months after its conclusion. In such a case, end-users may be requested to compensate their providers for the residual value of subsidised terminal equipment or for the pro rata temporis value of any other promotions. Contracts which have been tacitly extended should be subject to termination with a one-month notice period.

deleted

Amendment 58

Proposal for a regulation Recital 63

Text proposed by the Commission

Amendment

(63) In order to **support the provision of one-stop-shops and to** facilitate a seamless

(63) In order to facilitate a seamless switching experience for end-users,

switching experience for *end-users*, ***the switching process should be led by the receiving provider of electronic communications to the public.*** The transferring provider of electronic communications to the public ***should*** not delay or hamper the switching process. ***Automated processes should be used as widely*** as possible and a high level of protection of personal data should ***be ensured.*** Availability of transparent, accurate and timely information on switching should increase the *end-users'* confidence in switching and make them more willing to engage actively in the competitive process.

BEREC should be empowered to lay down guidelines setting out the respective responsibilities of the receiving and transferring provider in the switching and porting process, ensuring inter alia that the transferring provider of electronic communications to the public does not delay or hamper the switching process, that the process is automated as much as possible and that a high level of protection of personal data is ensured. Those guidelines should also address the question of how to ensure continuity in the experience of end-users, including through identifiers, such as email addresses, through, for instance, the opportunity to opt for an email forwarding facility. Availability of transparent, accurate and timely information on switching should increase the *end-users'* confidence in switching and make them more willing to engage actively in the competitive process.

Amendment 59

Proposal for a regulation

Recital 64

Text proposed by the Commission

(64) Contracts with transferring providers of electronic communications to the public should be cancelled automatically after switching without any additional steps being required from end-users. In the case of pre-paid services any credit balance which has not been spent should be refunded to the switching consumer.

Amendment

deleted

Amendment 60

Proposal for a regulation

Recital 65

Text proposed by the Commission

Amendment

(65) End-users need to experience continuity when changing important identifiers such as email addresses. To this end, and to ensure that email communications are not lost, end-users should be given the opportunity to opt, free of charge, for an email forwarding facility offered by the transferring internet access service provider in cases where the end-user has an email address provided by the transferring provider.

deleted

Amendment 61

Proposal for a regulation Recital 68

Text proposed by the Commission

Amendment

(68) In order to take account of market and technical developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of adapting the Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

deleted

Amendment 62

Proposal for a regulation Recital 70

Text proposed by the Commission

(70) The implementing powers relating to the harmonisation and coordination of authorisation of radio spectrum, characteristics of small-area wireless access points, ***coordination between Member States regarding allocation of radio spectrum, more detailed technical and methodological rules concerning European virtual access products and the safeguarding of internet access and of reasonable traffic management and quality of service***, should be exercised in accordance with Regulation (EU) No182/2011 of the European Parliament and of the Council²⁵.

²⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment 63

Proposal for a regulation Recital 71

Text proposed by the Commission

(71) In order to ensure consistency between the objective and the measures needed to ***complete the single market for electronic communications pursuant to this Regulation and some specific existing legislative provisions and to reflect key elements of evolving decisional practice***, Directive 2002/21/EC, the Directives 2002/20/EC and 2002/22/EC and Regulation No 531/2012 should be amended. This includes ***making provision for Directive 2002/21/EC and the related***

Amendment

(70) The implementing powers relating to the harmonisation and coordination of authorisation of radio spectrum, characteristics of small-area wireless access points ***and fair use criteria*** should be exercised in accordance with Regulation (EU) No182/2011 of the European Parliament and of the Council²⁵.

²⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment

(71) In order to ensure consistency between the objective and the measures needed to ***meet the objectives of*** this Regulation and some specific existing legislative provisions, Directive 2002/21/EC, the Directives 2002/20/EC and 2002/22/EC and Regulations No 531/2012 ***and Regulation (EC) No 1211/2009, as well as Decision No 243/2012/EU***, should be amended. This includes harmonisation of the criteria adopted in assessing the definition and

Directives to be read in conjunction with this Regulation, the introduction of strengthened powers of the Commission in order to ensure consistency of remedies imposed on European electronic communications providers having significant market power in the context of the European consultation mechanism, harmonisation of the criteria adopted in assessing the definition and competitiveness of relevant markets, the adaptation of the notification system under Directive 2002/20/EC ***in view of the single EU authorisation*** as well as the repeal of provisions on minimum harmonisation of end-users rights provided in Directive 2002/22/EC made redundant by the ***full*** harmonisation provided in this Regulation.

competitiveness of relevant markets, the adaptation of the notification system under Directive 2002/20/EC as well as the repeal of provisions on minimum harmonisation of end-users rights provided in Directive 2002/22/EC made redundant by the harmonisation provided in this Regulation.

Amendment 64

Proposal for a regulation Recital 72

Text proposed by the Commission

Amendment

(72) The mobile communications market remains fragmented in the Union, with no mobile network covering all Member States. As a consequence, in order to provide mobile communications services to their domestic customers travelling within the Union, roaming providers have to purchase wholesale roaming services from operators in a visited Member State. These wholesale charges constitute an important impediment to providing roaming services at price levels corresponding to domestic mobile services. Therefore further measures should be adopted to facilitate lowering these charges. Commercial or technical agreements among roaming providers which allow a virtual extension of their network coverage across the Union provide a means to internalise wholesale costs. To provide appropriate incentives,

deleted

certain regulatory obligations laid down in Regulation (EC) No 531/2012 of the European Parliament and the Council²⁶ should be adapted. In particular, when roaming providers, through their own networks or through bilateral or multilateral roaming agreements ensure that all customers in the Union are offered by default roaming tariffs at the level of domestic tariffs, the obligation of domestic providers to enable their customers to access voice, SMS and data roaming services of any alternative roaming provider should not apply to such providers, subject to a transitional period where such access has already been granted.

²⁶ Regulation (EU) No 531/2012 of the European Parliament and the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10).

Amendment 65

Proposal for a regulation Recital 73

Text proposed by the Commission

Amendment

(73) Bilateral or multilateral roaming agreements can allow a mobile operator to treat roaming by its domestic customers on the networks of partners as being to a significant degree equivalent to providing services to such customers on its own networks, with consequential effects on its retail pricing for such virtual on-net coverage across the Union. Such an arrangement at the wholesale level could allow the development of new roaming products and therefore increase choice and competition at retail level.

deleted

Amendment 66

Proposal for a regulation Recital 74

Text proposed by the Commission

Amendment

(74) The Digital Agenda for Europe and Regulation No 531/2012 establish the policy objective that the difference between roaming and domestic tariffs should approach zero. In practical terms, this requires that consumers falling into any of the broad observable categories of domestic consumption, identified by reference to a party's various domestic retail packages, should be in a position to confidently replicate the typical domestic consumption pattern associated with their respective domestic retail packages while periodically travelling within the Union, without additional costs to those incurred in a domestic setting. Such broad categories may be identified from current commercial practice by reference, for example, to the differentiation in domestic retail packages between pre-paid and post-paid customers; GSM-only packages (i.e. voice, SMS); packages adapted for different volumes of consumption; packages for business and consumer use respectively; retail packages with prices per unit consumed and those which provide 'buckets' of units (e.g. voice minutes, megabytes of data) for a standard fee, irrespective of actual consumption. The diversity of retail tariff plans and packages available to customers in domestic mobile markets across the Union accommodates varying user demands associated with a competitive market. That flexibility in domestic markets should also be reflected in the intra-Union roaming environment, while bearing in mind that the need of roaming providers for wholesale inputs from independent network operators in different Member States may still justify

deleted

the imposition of limits by reference to reasonable use if domestic tariffs are applied to such roaming consumption.

Amendment 67

Proposal for a regulation Recital 75

Text proposed by the Commission

(75) While ***it is in the first place for*** roaming providers ***to*** assess themselves the ***reasonable character of the*** volumes of roaming voice calls, SMS and data to be covered at domestic rates under their various retail packages, national regulatory authorities should supervise the application by roaming providers of such ***reasonable*** use limits and ensure that they are specifically defined by reference to detailed quantified information in the contracts in terms which are clear and transparent to customers. In so doing, national regulatory authorities should take utmost account of relevant guidance from BEREC. In its guidance, BEREC should identify various usage patterns substantiated by the underlying voice, data and SMS usage trends at the Union level, and the evolution of expectations as regards in particular wireless data consumption.

Amendment

(75) While roaming providers assess themselves the volumes of roaming voice calls, SMS and data to be covered at domestic rates under their various retail packages, ***they may, notwithstanding the abolition of retail roaming charges by 15 December 2015, apply a "fair use clause" to the consumption of regulated retail roaming services provided at the applicable domestic price level, by reference to fair use criteria. These criteria should be applied in such a way that consumers are in a position to confidently replicate the typical domestic consumption pattern associated with their respective domestic retail packages while periodically travelling within the Union.*** National regulatory authorities should supervise the application by roaming providers of such ***fair*** use limits and ensure that they are specifically defined by reference to detailed quantified information in the contracts in terms which are clear and transparent to customers. In so doing, national regulatory authorities should take utmost account of relevant guidance from BEREC, ***based on the results of a public consultation, for the application of fair use criteria in retail contracts provided by roaming providers.*** In its guidance, BEREC should identify various usage patterns substantiated by the underlying voice, data and SMS usage trends at the Union level, and the evolution of expectations as regards in particular wireless data consumption. ***The maximum***

eurotariff price caps should continue to serve as a safeguard limit for charges for consumption in excess of fair use limits until the expiry of the Regulation (EU) No 531/2012.

Amendment 68

Proposal for a regulation Recital 76

Text proposed by the Commission

(76) In addition, the significant reduction in mobile termination rates throughout the Union in the recent past should now allow the elimination of additional roaming charges for incoming calls.

Amendment

(76) In order to provide clarity and legal certainty, the date of 15 December 2015 should be set for the final phasing out of retail roaming surcharges which began with Regulation (EC) No 717/2007. In addition, the Commission should by 30 June 2015, in advance of that final abolition of retail surcharges, report on any necessary changes to the wholesale rates or wholesale market mechanisms, taking into account also mobile termination rates (MTR) applicable to roaming throughout the Union.

Amendment 69

Proposal for a regulation Recital 77

Text proposed by the Commission

(77) In order to provide stability and strategic leadership to BEREC activities, BEREC Board of Regulators should be represented by a full-time Chairperson appointed by the Board of Regulators, on the basis of merit, skills, knowledge of electronic communication market participants and markets, and of experience relevant to supervision and regulation, following an open selection procedure organised and managed by the Board of Regulators assisted by the

Amendment

deleted

Commission. For the designation of the first Chairperson of the Board of Regulators, the Commission should, inter alia, draw up a shortlist of candidates on the basis of merit, skills, knowledge of electronic communication market participants and markets, and of experience relevant to supervision and regulation. For the subsequent designations, the opportunity of having a shortlist drawn up by the Commission should be reviewed in a report to be established pursuant to this Regulation. The Office of BEREC should therefore comprise the Chairperson of the Board of Regulators, a Management Committee and an Administrative Manager.

Amendment 70

Proposal for a regulation

Recital 78

Text proposed by the Commission

(78) Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012 should therefore be amended accordingly.

Amendment

(78) Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012, **as well as Decision 243/2012/EU**, should therefore be amended accordingly.

Amendment 71

Proposal for a regulation

Recital 79

Text proposed by the Commission

(79) The Commission **may always** seek BEREC's opinion in accordance with Regulation (EC) No 1211/2009, when **it considers it** necessary for the implementation of the provisions of this Regulation.

Amendment

(79) The Commission **should** seek BEREC's opinion in accordance with Regulation (EC) No 1211/2009, when necessary for the implementation of the provisions of this Regulation.

Amendment 72

Proposal for a regulation Recital 79 a (new)

Text proposed by the Commission

Amendment

(79 a) The regulatory framework for electronic communications should be reviewed as called for in the European Parliament resolution on Implementation report on the regulatory framework for electronic communications^{1a}. The review should be based on ex-post assessments of the impact of the framework since 2009, a full consultation and a thorough ex-ante assessment of expected impacts of the proposals emanating from the review. The proposals should be presented in sufficient time to enable the legislator to analyse and debate them properly.

^{1a} P7_TA(2013)0454

Amendment 73

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

Text proposed by the Commission

Amendment

1. This Regulation establishes ***the regulatory principles and detailed*** rules necessary to ***complete a European single market for electronic communications*** where:

1. This Regulation establishes rules necessary to:

Amendment 74

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

Text proposed by the Commission

(a) **providers of electronic communications services and networks have the right, the ability and the incentive to develop, extend and** operate their networks and to provide services irrespective of where the provider is established or its customers are situated in the Union,

Amendment

(a) **facilitate the practical exercise of the right of providers of electronic communications services and networks to** operate their networks and to provide services irrespective of where the provider is established or its customers are situated in the Union **through a harmonised and simplified notification system based on a harmonised template,**

Amendment 75

Proposal for a regulation

Article 1 – paragraph 1 – point b

Text proposed by the Commission

(b) **citizens and businesses have the right and the possibility** to access competitive, secure and reliable electronic communications services, **irrespective of where they are provided from in the Union,** without being hampered by cross-border restrictions or unjustified additional costs.

Amendment

(b) **facilitate the practical exercise of the right of citizens and businesses** to access competitive, secure and reliable electronic communications services, **with common rules to guarantee high standards of protection, privacy and security of their personal data,** without being hampered by cross-border restrictions or unjustified additional costs **and penalties,**

Amendment 76

Proposal for a regulation

Article 1 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) achieve a more coordinated Union framework for harmonised radio spectrum for wireless broadband communications services;

Amendment 77

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(bb) to address the phasing out of unjustified surcharges for roaming communications within the Union.

Amendment 78

Proposal for a regulation

Article 1 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. This Regulation establishes in particular regulatory principles pursuant to which the Commission, the Body of European Regulators for Electronic Communications (BEREC) and the national competent authorities shall act, each within its own competences, in conjunction with the provisions of Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC:

2. This Regulation establishes in particular regulatory principles pursuant to which the Commission, the Body of European Regulators for Electronic Communications (BEREC) and the national ***and regional*** competent authorities shall act, each within its own competences, in conjunction with the provisions of Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC:

Amendment 79

Proposal for a regulation

Article 1 – paragraph 2 – point a

Text proposed by the Commission

Amendment

a) to secure simplified, predictable and convergent regulatory conditions regarding key administrative and commercial parameters, including as regards the proportionality of individual obligations which may be imposed pursuant to market analysis;

deleted

Amendment 80

Proposal for a regulation

Article 1 – paragraph 2 – point b

Text proposed by the Commission

Amendment

b) to promote sustainable competition within the single market and the global competitiveness of the Union, and to reduce sector-specific market regulation accordingly as and when these objectives are achieved;

deleted

Amendment 81

Proposal for a regulation

Article 1 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) to favour investment and innovation in new and enhanced high-capacity infrastructures *which* reach throughout the Union and *which* can cater for evolving end-user demand;

(c) to favour investment and innovation in new and enhanced high-capacity infrastructures *and to ensure that they* reach throughout the Union and can cater for evolving end-user demand, *wherever end-users may be located in the Union;*

Amendment 82

Proposal for a regulation

Article 1 – paragraph 2 - point d

Text proposed by the Commission

Amendment

d) to facilitate innovative and high-quality service provision;

deleted

Amendment 83

Proposal for a regulation

Article 1 – paragraph 2 – point e

Text proposed by the Commission

Amendment

e) to ensure the availability and highly efficient use of radio spectrum, whether subject to general authorisation or to individual rights of use, for wireless broadband services in support of innovation, investment, jobs and end-user benefits;

deleted

Amendment 84

Proposal for a regulation

Article 1 – paragraph 2 – point f

Text proposed by the Commission

Amendment

f) to serve the interests of citizens and end-users in connectivity by fostering the investment conditions for an increase in the choice and quality of network access and of service, and by facilitating mobility across the Union and both social and territorial inclusion.

deleted

Amendment 85

Proposal for a regulation

Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. In order to ensure implementation of the overarching regulatory principles set out in paragraph 2, this Regulation furthermore establishes the necessary detailed rules for:

deleted

(a) a single EU authorisation for European electronic communications providers;

(b) further convergence of regulatory conditions as regards the necessity and proportionality of remedies imposed by national regulatory authorities on

European electronic communications providers;

(c) the harmonised provision at Union level of certain wholesale products for broadband under convergent regulatory conditions;

(d) a coordinated European framework for the assignment of harmonised radio spectrum for wireless broadband communications services, thereby creating a European wireless space;

(e) the harmonisation of rules related to rights of end-users and the promotion of effective competition in retail markets, thereby creating a European consumer space for electronic communications;

(f) the phasing out of unjustified surcharges for intra-Union communications and roaming communications within the Union

Justification

With the transfer of the consumer rights contained in this proposal for a Regulation to the Universal Services Directive, there is no need for them to remain in the draft regulation.

Amendment 86

Proposal for a regulation

Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The provisions of this Regulation shall be without prejudice to the Union acquis relating to data protection and Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.

Amendment 87

Proposal for a regulation

Article 2 – paragraph 2 – point 1

Text proposed by the Commission

Amendment

(1) ‘European electronic communications provider’ means an undertaking established in the Union providing or intending to provide electronic communications networks or services, whether directly or by means of one or more subsidiaries, directed to more than one Member State and which cannot be considered a subsidiary of another electronic communications provider; **deleted**

Justification

These provisions introduce a massively complex edifice involving an unpredictable supervisory structure. Any such proposal should undergo a deep and thorough consultation process and should consequently be analysed during the review of the entire framework.

Amendment 88

Proposal for a regulation Article 2 – paragraph 2 – point 3

Text proposed by the Commission

Amendment

(3) ‘subsidiary’ means an undertaking in which another undertaking directly or indirectly: **deleted**

(i) has the power to exercise more than half the voting rights, or

(ii) has the power to appoint more than half the members of the supervisory board, board of management or bodies legally representing the undertaking, or

(iii) has the right to manage the undertaking's affairs;

Amendment 89

Proposal for a regulation Article 2 – paragraph 2 – point 4

Text proposed by the Commission

Amendment

(4) ‘single EU authorisation’ means the legal framework applicable to a European electronic communications provider in the whole Union based on the general authorisation in the home Member State and in accordance with this Regulation;

deleted

Amendment 90

Proposal for a regulation Article 2 – paragraph 2 – point 5

Text proposed by the Commission

Amendment

(5) ‘home Member State’ means the Member State where the European electronic communications provider has its main establishment;

deleted

Amendment 91

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

Text proposed by the Commission

Amendment

(6) ‘main establishment’ means the place of establishment in the Member State where the main decisions are taken as to the investments in and conduct of the provision of electronic communications services or networks in the Union;

deleted

Amendment 92

Proposal for a regulation Article 2 – paragraph 2 – point 7

Text proposed by the Commission

Amendment

(7) ‘host Member State’ means any Member State different from the home Member State where a European electronic communications provider provides electronic communications networks or services;

deleted

Amendment 93

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

Text proposed by the Commission

Amendment

(8) ‘harmonised radio spectrum for wireless broadband communications’ means radio spectrum for which the conditions of availability **and efficient** use are harmonised at Union level, in **particular pursuant to** Decision 676/2002/EC of the European Parliament and the Council,²⁷ and which serves for electronic communications services other than broadcasting;

(8) ‘harmonised radio spectrum for wireless broadband communications’ means radio spectrum for which the conditions of availability, **efficiency and primary** use are harmonised at Union level, **in accordance with provisions laid down in Directive 2002/21/EC and** Decision 676/2002/EC of the European Parliament and the Council, and which serves for electronic communications services other than broadcasting;

²⁷ Decision 676/2002/EC of the European Parliament and the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002, p. 1).

²⁷ Decision 676/2002/EC of the European Parliament and the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002, p. 1).

Amendment 94

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

Text proposed by the Commission

Amendment

(9) ‘small-area wireless access point’ means a low power wireless network access equipment of small size operating

(9) ‘small-area wireless access point’ means a low power wireless network access equipment of small size operating

within a small range, which may or may not be part of a public terrestrial mobile communications network, and be equipped with one or more low visual impact antennas, which allows wireless access by the public to electronic communications networks regardless of the underlying network topology;

within a small range, ***using licensed spectrum or a combination of licensed and license-exempt spectrum***, which may or may not be part of a public terrestrial mobile communications network, and be equipped with one or more low visual impact antennas, which allows wireless access by the public to electronic communications networks regardless of the underlying network topology;

Amendment 95

Proposal for a regulation

Article 2 – paragraph 2 – point 10

Text proposed by the Commission

(10) ‘radio local area network’ (RLAN) means a low power wireless access system, operating within a small range, with a low risk of interference to other such systems deployed in close proximity by other users, using on a ***non-exclusive*** basis spectrum for which the conditions of availability and efficient use for this purpose are harmonised at Union level;

Amendment

(10) ‘radio local area network’ (RLAN) means a low power wireless access system, operating within a small range, with a low risk of interference to other such systems deployed in close proximity by other users, using on a ***license-exempt*** basis spectrum for which the conditions of availability and efficient use for this purpose are harmonised at Union level;

Amendment 96

Proposal for a regulation

Article 2 – paragraph 2 – point 11

Text proposed by the Commission

(11) ‘virtual broadband access’ means a type of wholesale access to broadband networks that consists of a virtual access link to the customer premises over any access network architecture, excluding physical unbundling, together with a transmission service to a defined set of points of handover, and including specific network elements, specific network functionalities and ancillary IT systems;

Amendment

deleted

Amendment 97

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 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;

deleted

Amendment 98

Proposal for a regulation Article 2 – paragraph 2 – point 13

Text proposed by the Commission

Amendment

(13) ‘long-distance communications’ means voice or messages services terminating outside the local exchange and regional charging areas as identified by a geographic area code in the national numbering plan;

deleted

Amendment 99

Proposal for a regulation Article 2 – paragraph 2 – point 14

Text proposed by the Commission

Amendment

(14) ‘internet access service’ means a publicly available electronic

(14) “internet access service” means a publicly available electronic

communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points ***connected to*** the internet, irrespective of the network ***technology*** used;

communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points ***of*** the internet, irrespective of the network ***technologies or terminal equipment*** used;

Amendment 100

Proposal for a regulation

Article 2 – paragraph 2 – point 15

Text proposed by the Commission

(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;

Amendment

(15) 'specialised service' means an electronic communications service ***optimised for*** specific content, applications or services, or a combination thereof, ***provided over logically distinct capacity and relying on strict admission control with a view to ensuring enhanced quality from end to end*** and that is not marketed or ***usable*** as a substitute for internet access service;

Amendment 101

Proposal for a regulation

Article 2 – paragraph 2 – point 16

Text proposed by the Commission

(16) ‘receiving provider of electronic communications to the public’ means the provider of electronic communications to the public to which the telephone number or service is transferred;

Amendment

deleted

Amendment 102

Proposal for a regulation

Article 2 – paragraph 2 – point 17

Text proposed by the Commission

Amendment

(17) ‘transferring provider of electronic communications to the public’ means the provider of electronic communications to the public from which a telephone number or service is transferred.

deleted

Amendment 103

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. ***A European*** electronic communications provider has the right to provide electronic communications networks and services in the whole Union and to exercise the rights linked to the provision of such networks and services in each Member State where it operates ***pursuant to a single EU authorisation which is subject only to the notification requirements provided in Article 4.***

1. ***Any*** electronic communications provider has the right to provide electronic communications networks and services in the whole Union and to exercise the rights linked to the provision of such networks and services in each Member State where it operates.

Amendment 104

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. ***The European electronic communications provider is subject to the rules and conditions applied in each Member State concerned in compliance with Union law unless otherwise provided in this Regulation and without prejudice to Regulation (EU) No 531/2012.***

deleted

Amendment 105

Proposal for a regulation Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. By way of derogation from Article 12 of Directive 2002/20/EC, a European electronic communications provider may be subject to administrative charges applicable in the host Member State only if it has an annual turnover for electronic communications services in that Member State above 0,5% of the total national electronic communications turnover. In levying these charges only the turnover for electronic communications services in the Member State concerned shall be taken into account. *deleted*

Amendment 106

Proposal for a regulation Article 3 – paragraph 4

Text proposed by the Commission

Amendment

4. By way of derogation from Article 13(1)(b) of Directive 2002/22/EC a European electronic communications provider may be subject to the contributions imposed to share the net cost of universal service obligations in the host Member State only if it has an annual turnover for electronic communications services in that Member State above 3% of the total national electronic communications turnover. In levying any such contribution only the turnover in the Member State concerned shall be taken into account. *deleted*

Amendment 107

Proposal for a regulation Article 3 – paragraph 5

Text proposed by the Commission

Amendment

5. **A European** electronic communications **provider** shall **be entitled to equal treatment** by the **national** regulatory authorities **of different** Member States in **objectively equivalent** situations.

5. **National** regulatory authorities shall **treat** electronic communications **providers equally** in **comparable** situations, **irrespective of their** Member State of **establishment**.

Amendment 108

Proposal for a regulation Article 3 – paragraph 6

Text proposed by the Commission

Amendment

6. In the event of a dispute between undertakings involving a European electronic communications provider regarding obligations applicable in accordance with Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC, this Regulation or Regulation (EU) No 531/2012 in a host Member State, the European electronic communications provider may consult the national regulatory authority in the home Member State, which may deliver an opinion with a view to ensuring the development of consistent regulatory practices. The national regulatory authority in the host Member State shall take utmost account of the opinion issued by the national regulatory authority of the home Member State when deciding the dispute.

deleted

Amendment 109

Proposal for a regulation Article 3 – paragraph 7

Text proposed by the Commission

Amendment

7. European electronic communications providers who, at the date of entry into force of this Regulation, have the right to

deleted

provide electronic communications networks and services in more than one Member State shall submit the notification provided for in Article 4 at the latest by 1 July 2016.

Amendment 110

Proposal for a regulation Article 4

Text proposed by the Commission

Amendment

[...] *deleted*

Amendment 111

Proposal for a regulation Article 5

Text proposed by the Commission

Amendment

[...] *deleted*

Amendment 112

Proposal for a regulation Article 6

Text proposed by the Commission

Amendment

[...] *deleted*

Amendment 113

Proposal for a regulation Article 7

Text proposed by the Commission

Amendment

[...] *deleted*

Amendment 114

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

1. This section shall apply to harmonised radio spectrum for wireless broadband communications.

Amendment

1. This section shall apply to harmonised radio spectrum for wireless broadband communications ***in accordance with Directive 2002/21/EC, Decision 676/2002/EC and Decision 243/2012.***

Amendment 115

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

2. This section shall be without prejudice to the right of the Member States to benefit from fees imposed to ensure the optimal use of radio spectrum resources in accordance with Article 13 of Directive 2002/20/EC and to organise and use their radio spectrum for public order, public security and defence.

Amendment

2. This section shall be without prejudice to the right of the Member States to benefit from fees imposed to ensure the optimal use of radio spectrum resources in accordance with Article 13 of Directive 2002/20/EC and to organise and use their radio spectrum for public order, public security and defence ***safeguarding general interest objectives such as cultural diversity and media pluralism.***

Amendment 116

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

3. In the exercise of powers conferred in this section, the Commission shall take utmost account of any relevant opinion issued by the Radio Spectrum Policy Group (RSPG) established by Commission Decision 2002/622/EC²⁸.

Amendment

3. In the exercise of powers conferred in this section, the Commission shall take utmost account of any relevant opinion issued by the Radio Spectrum Policy Group (RSPG) established by Commission Decision 2002/622/EC²⁸ ***and of any regulatory best practice, report or advice issued by BEREC on matters within its***

²⁸ Commission Decision 2002/622/EC of 26 July 2002 establishing a Radio Spectrum Policy Group (OJ L 198, 27.07.2002, p. 49)

competence.

²⁸ Commission Decision 2002/622/EC of 26 July 2002 establishing a Radio Spectrum Policy Group (OJ L 198, 27.07.2002, p. 49)

Amendment 117

Proposal for a regulation Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Harmonisation of certain aspects relating to transfer or lease of individual rights to use radio frequencies and their duration

1. Without prejudice to Directive 2002/21 or to the application of competition rules to undertakings, the following shall apply with respect to the transfer or lease of rights of use of spectrum, or parts thereof, identified in Article 6(8) of Decision No 243/2012/EU:

(a) Member States shall make current details of all such rights of use publicly available in a standardised electronic format;

(b) Member States may not refuse to allow a transfer or lease to an existing holder of such rights of use;

(c) in cases not covered by point (b), Member States may refuse a transfer only where it is found that there is a clear risk that the new holder would be unable to meet the existing conditions for the right of use;

(d) in cases not covered by point (b), Member States may not refuse a lease where the transferor undertakes to remain liable for meeting the existing conditions for the right of use.

2. Any administrative charge imposed on undertakings in connection with processing an application for the transfer or lease of spectrum shall, in total, cover only the administrative costs, including ancillary steps such as the issuance of a new right of use, incurred in processing the application. Any such charges shall be imposed in an objective, transparent and proportionate manner which minimises additional administrative costs and attendant charges. Article 12(2) of Directive 2002/20/EC shall apply to charges imposed under this paragraph.

3. All rights of use of spectrum shall be granted with a minimum duration of 25 years, and in any case for a duration appropriate to incentivise investment and competition and discourage the under-use or "hoarding" of spectrum. Member States may grant rights of use of indefinite duration.

4. Member States may provide for proportionate and non-discriminatory withdrawal of rights, including those with a 25 year minimum duration, in order to ensure the efficient use of spectrum including, but not limited to, spectrum management purposes, national security, breach of licence, harmonised change of use of a band and non-payment of fees.

5. The duration of all existing rights of use of spectrum is hereby extended to 25 years from their date of grant, without prejudice to other conditions attached to the right of use and to rights of use of indefinite duration.

6. The introduction of minimum 25 year licence duration should not impede the ability of regulators to issue temporary licences and licences for secondary uses in a harmonised band.

Amendment 118

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

The national competent authorities for radio spectrum shall contribute to the development of a wireless space where investment and competitive conditions for high-speed wireless broadband communications converge and which enables planning and provision of integrated multi-territorial networks and services and economies of scale, thereby fostering innovation, economic growth and the long-term benefit of end users.

The national competent authorities shall refrain from applying procedures or imposing conditions for the use of radio spectrum which may unduly impede **European** electronic communications providers from providing integrated electronic communications networks and services in several Member States or throughout the Union.

Amendment 119

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. The national competent authorities shall apply the least onerous authorisation system possible for allowing the use of radio spectrum, on the basis of objective,

Amendment

Without prejudice to general interest objectives, the national competent authorities for radio spectrum shall contribute to the development of a wireless space where investment and competitive conditions for high-speed wireless broadband communications converge and which enables planning and provision of integrated, ***interoperable, open*** multi-territorial networks and services and economies of scale, thereby fostering innovation, economic growth and the long-term benefit of end users.

The national competent authorities shall refrain from applying procedures or imposing conditions for the use of radio spectrum which may unduly impede electronic communications providers from providing integrated electronic communications networks and services in several Member States or throughout the Union. ***They shall ensure that the development of such a wireless space does not unduly impede, by creating interferences, the operation of existing services or applications in the concerned spectrum bands as well as in adjacent bands.***

transparent, non-discriminatory and proportionate criteria, in such a way as to maximise flexibility and efficiency in radio spectrum use and to promote comparable conditions throughout the Union for integrated multi-territorial investments and operations by *European* electronic communications providers.

transparent, non-discriminatory and proportionate criteria, in such a way as to maximise flexibility and efficiency in radio spectrum use and to promote comparable conditions throughout the Union for integrated multi-territorial investments and operations by electronic communications providers.

Amendment 120

Proposal for a regulation Article 9 – paragraph 3

Text proposed by the Commission

3. When establishing authorisation conditions and procedures for the use of radio spectrum, national competent authorities shall have regard in particular to *equal* treatment between existing and potential operators *and* between *European electronic communications providers and other undertakings*.

Amendment

3. When establishing authorisation conditions and procedures for the use of radio spectrum, national competent authorities shall have regard in particular to *objective, transparent and non-discriminatory* treatment between existing and potential operators, *as well as to collective, shared and unlicensed use of spectrum. National competent authorities shall also ensure the coexistence between existing and new radio spectrum users. To this end, they shall conduct a comprehensive impact assessment as well as consultations, which both shall involve all stakeholders.*

Amendment 121

Proposal for a regulation Article 9 – paragraph 4

Text proposed by the Commission

4. Without prejudice to paragraph 5, the national competent authorities shall take into account and, where necessary, shall reconcile the following regulatory principles when establishing authorisation conditions and procedures for rights of use

Amendment

4. Without prejudice to paragraph 5, the national competent authorities shall take into account and, where necessary, shall reconcile the following regulatory principles when establishing authorisation conditions and procedures for rights of use

for radio spectrum:

- a) maximisation of end user interest, including end users' interest in both efficient long-term investment and innovation in wireless networks and services and in effective competition;
- b) ensuring the most efficient use and effective management of radio spectrum;
- c) ensuring predictable and comparable conditions to enable the **planning of** network investments and services on a multi-territorial basis and the achievement of scale economies;
- d) ensuring the necessity and proportionality of the conditions imposed, including through an objective assessment of whether it is justified to impose additional conditions which could be in favour of or to the detriment of certain operators;
- e) ensuring wide territorial coverage of high-speed wireless broadband networks and a high level of penetration and consumption of related services.

for radio spectrum:

- a) maximisation of end user interest, including end users' interest in both efficient long-term investment and innovation in wireless networks and services and in effective competition;
- b) ensuring the most efficient use and effective management of radio **spectrum as well as availability of unlicensed** spectrum;
- c) ensuring predictable and comparable conditions to enable the **long-term** network investments and services on a multi-territorial basis and the achievement of scale economies;
- d) ensuring the necessity and proportionality of the conditions imposed, including through an objective **and transparent** assessment of whether it is justified to impose additional conditions which could be in favour of or to the detriment of certain operators;
- e) ensuring wide territorial coverage of high-speed wireless broadband networks and a high level of penetration and consumption of related services **at the same time taking account of the public interest and the social, cultural and economic value of spectrum as a whole.**
ea) ensuring that any change in policy with regard to the efficient use of spectrum takes account of its impact on the public interest in terms of harmful interference and costs.

Amendment 122

Proposal for a regulation Article 9 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. National competent authorities shall ensure that information is available on authorisation conditions and procedures

for the use of radio spectrum, and allow stakeholders to present their views during the process.

Amendment 123

Proposal for a regulation

Article 10 – paragraph 1 – point a

Text proposed by the Commission

(a) the technical characteristics of different available radio spectrum bands,

Amendment

(a) the technical characteristics ***and the current and planned use*** of different available radio spectrum bands,

Amendment 124

Proposal for a regulation

Article 10 – paragraph 2 – point a

Text proposed by the Commission

(a) the most efficient use of the radio spectrum in accordance with Article 9(4)(b), taking into account the characteristics of the band or bands concerned;

Amendment

(a) the most efficient use of the radio spectrum in accordance with Article 9(4)(b), taking into account the characteristics ***and the current and planned use*** of the band or bands concerned;

Amendment 125

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

National competent authorities shall ensure that the fees for rights of use for radio spectrum, if any:

(a) appropriately reflect the social and economic value of the radio spectrum, including beneficial externalities;

(b) avoid under-utilisation and foster investment in capacity, coverage and

Amendment

National competent authorities shall ensure that the fees for rights of use for radio spectrum ***of all types***, if any:

(a) appropriately reflect the social, ***cultural*** and economic value of the radio spectrum, including beneficial externalities;

(b) avoid under-utilisation and foster investment in capacity, coverage and

quality of networks and services;

(c) avoid discrimination and ensure equality of opportunity between operators, including between existing and potential operators;

(d) achieve an optimal distribution between ***immediate and, if any***, periodic payments, having regard in particular to the need to incentivise rapid network roll-out and radio spectrum utilisation in accordance with Article 9(4)(b) and (e).

This paragraph shall be without prejudice to the application of paragraph 5 as regards any conditions resulting in differentiated fees between operators which are laid down with a view to promoting effective competition.

Amendment 126

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

1. Where the technical conditions for the availability and efficient use of harmonised radio spectrum for wireless broadband communications make it possible to use the relevant radio spectrum under a general authorisation regime, national competent authorities shall avoid imposing any additional condition and shall prevent any alternative use from impeding the effective application of such harmonised regime.

quality of networks and services;

(c) avoid discrimination and ensure equality of opportunity between operators, including between existing and potential operators;

(d) achieve an optimal distribution between ***upfront and, preferably***, periodic payments, having regard in particular to the need to incentivise rapid network roll-out and radio spectrum utilisation in accordance with Article 9(4)(b) and (e);

(da) are paid not more than one year before operators can start using the radio spectrum.

The technical and regulatory conditions attached to the rights of use for radio spectrum shall be defined and available to the operators and stakeholders prior the start of the auction process.

This paragraph shall be without prejudice to the application of paragraph 5 as regards any conditions resulting in differentiated fees between operators which are laid down with a view to promoting effective competition.

Amendment

1. Where the technical conditions for the availability and efficient use of harmonised radio spectrum for wireless broadband communications make it possible to use the relevant radio spectrum under a general authorisation regime, national competent authorities shall avoid imposing any additional condition and shall prevent any alternative use from impeding the effective application of such harmonised regime.

This shall be without prejudice to the

provisions of Article 2(8).

Amendment 127

Proposal for a regulation

Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. National competent authorities shall establish timetables for the granting or reassignment of rights of use, or for the renewal of those rights under the terms of existing rights, ***which shall apply to radio spectrum harmonised for wireless broadband communications.***

Amendment

1. Taking full account of Directive 2002/21/EC, in particular Articles 7, 8, 8a, 9 and 9a thereof, Decision No 676/2002/EU and Decision No 243/2012/EU, in particular Articles 2, 3, 5 and 6 thereof, national competent authorities shall establish timetables for the granting or reassignment of rights of use, or for the renewal of those rights under the terms of existing rights.

Amendment 128

Proposal for a regulation

Article 12 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The duration of the rights of use or the dates for subsequent renewal shall be set well in advance of the relevant procedure included in the timetable referred to in the first subparagraph. The timetables, durations and renewal cycles shall take account of the need for a predictable investment environment, the effective possibility to release any relevant new radio spectrum bands harmonised for wireless broadband communications and of the period for amortisation of related investments under competitive conditions.

Amendment

deleted

Amendment 129

Proposal for a regulation

Article 12 – paragraph 2

Text proposed by the Commission

2. In order to ensure a coherent implementation of paragraph 1 throughout the Union and in particular to enable the synchronised availability of wireless services within the Union, the Commission **may**, by way of implementing acts:

(a) establish a common timetable for the Union as a whole, or timetables appropriate to the circumstances of different categories of Member States, the date or dates by which individual rights of use for a harmonised band, or a combination of complementary harmonised bands, shall be granted and actual use of the radio spectrum shall be allowed for exclusive or shared provision of wireless broadband communications throughout the Union;

(b) determine a minimum duration for the rights granted in the harmonised bands;

(c) determine, in the case of rights which are not indefinite in character, a synchronised expiry or renewal date for the Union as a whole;

(d) define the date ***of expiry of any existing rights of use of harmonised bands other than*** for wireless broadband communications, ***or, in the case of rights of indefinite duration, the date by which the right of use*** shall be amended, in order to allow the provision of wireless broadband communications.

Those implementing acts shall be adopted in accordance with the examination

Amendment

2. In order to ensure a coherent implementation of paragraph 1 throughout the Union and in particular to enable the synchronised availability of wireless services within the Union, the Commission **shall**, by way of implementing acts ***to be adopted within one year from the date of entry into force of this Regulation***:

(a) establish a common timetable for the Union as a whole, or timetables appropriate to the circumstances of different categories of Member States, the date or dates by which individual rights of use for a harmonised band, or a combination of complementary harmonised bands, shall be granted and actual use of the radio spectrum shall be allowed for exclusive or shared provision of wireless broadband communications throughout the Union;

(b) determine a minimum duration ***that is no less than 25 years***, for the rights granted in the harmonised bands, ***and in any case for a duration appropriate to incentivise investment, innovation and competition, and discourage the under-use or 'hoarding' of spectrum; or determine that the rights are to be granted for an indefinite duration***;

(c) determine, in the case of rights which are not indefinite in character, a synchronised expiry or renewal date for the Union as a whole;

(d) define the date ***by which, in bands*** harmonised for wireless broadband communications, ***an existing right of use of spectrum*** shall be amended, in order to allow the provision of wireless broadband communications.

Those implementing acts shall be adopted in accordance with the examination

procedure referred to in Article 33(2).

procedure referred to in Article 33(2) *as well as without prejudice to the provisions set in article 9 (3) and (4) of Directive 2002/21/EC.*

Amendment 130

Proposal for a regulation Article 12 – paragraph 3

Text proposed by the Commission

The Commission *may* also adopt implementing acts harmonising the date of expiry or renewal of individual rights to use radio spectrum for wireless broadband in harmonised bands, which already exist at the date of adoption of such acts, with a view to synchronising throughout the Union the date for renewal or reassignment of rights of use for such bands, including possible synchronisation with the date of renewal or reassignment of other bands harmonised by implementing measures adopted in accordance with paragraph 2 or with this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Where implementing acts provided for in this paragraph define a harmonised date for renewal or reassignment of rights of use of radio spectrum which falls after the date of expiry or renewal of any existing individual rights of use of such radio spectrum in any of the Member States, the *national competent authorities shall extend the existing rights until the harmonised date under the same previously applicable substantive authorisation conditions, including any applicable periodic fees.*

Where the extension period granted in accordance with the second subparagraph

Amendment

Subject to Article 8a(4), the Commission ***shall*** also adopt implementing acts ***within one year from the date of entry into force of this Regulation***, harmonising the date of expiry or renewal of individual rights to use radio spectrum for wireless broadband in harmonised bands, which already exist at the date of adoption of such acts, with a view to synchronising throughout the Union the date for renewal or reassignment of rights of use for such bands, including possible synchronisation with the date of renewal or reassignment of other bands harmonised by implementing measures adopted in accordance with paragraph 2 or with this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Where implementing acts provided for in this paragraph define a harmonised date for renewal or reassignment of rights of use of radio spectrum which falls after the date of expiry or renewal of any existing individual rights of use of such radio spectrum in any of the Member States, the ***duration of those rights of use shall be extended without prejudice to other conditions attached to those rights.***

is significant in comparison with the original duration of the rights of use, national competent authorities may subject the extension of rights to any adaptations of the previously applicable authorisation conditions which are necessary in the light of the changed circumstances, including the imposition of additional fees. These additional fees shall be based on an application pro rata temporis of any initial fee for the original rights of use which was expressly calculated by reference to the originally foreseen duration.

The implementing acts provided for in this paragraph shall not require the shortening of the duration of existing rights of use in any Member State except in accordance with Article 14(2) of Directive 2002/20/EC and shall not apply to existing rights of indefinite duration.

Where the Commission adopts an implementing act pursuant to paragraph 2, it may apply the provisions of this paragraph *mutatis mutandis* to any rights of use of the harmonised band concerned for wireless broadband.

Amendment 131

Proposal for a regulation Article 12 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Where national competent authorities grant rights of use in a harmonised band before the adoption of an implementing act in respect of that band, they shall define the conditions of such grant, ***and in particular those relative to duration***, in such a way that beneficiaries of the rights of use are made aware of the possibility that the Commission ***would*** adopt implementing acts in accordance with paragraph 2 ***establishing a minimum duration of such***

The implementing acts provided for in this paragraph shall not require the shortening of the duration of existing rights of use in any Member State except in accordance with Article 14(2) of Directive 2002/20/EC and shall not apply to existing rights of indefinite duration.

Where the Commission adopts an implementing act pursuant to paragraph 2, it may apply the provisions of this paragraph *mutatis mutandis* to any rights of use of the harmonised band concerned for wireless broadband.

Amendment

Where national competent authorities grant rights of use in a harmonised band before the adoption of an implementing act in respect of that band, they shall define the conditions of such grant, in such a way that beneficiaries of the rights of use are made aware of the possibility that the Commission ***will*** adopt implementing acts in accordance with paragraph 2 for the Union as a whole. This subparagraph shall not apply to the grant of rights of indefinite

rights or a synchronised expiry or renewal cycle for the Union as a whole. This subparagraph shall not apply to the grant of rights of indefinite duration.

duration.

Amendment 132

Proposal for a regulation Article 12 – paragraph 6 – subparagraph 1

Text proposed by the Commission

For the harmonised bands for which a common timetable for granting rights of use and allowing actual use has been established in an implementing act adopted in accordance with paragraph 2, national competent authorities shall provide timely and sufficiently detailed information to the Commission on their plans to ensure compliance. The Commission ***may*** adopt implementing ***acts*** defining the format and procedures for the provision of such information. ***Those*** implementing ***acts*** shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Amendment

For the harmonised bands for which a common timetable for granting rights of use and allowing actual use has been established in an implementing act adopted in accordance with paragraph 2, national competent authorities shall provide timely and sufficiently detailed information to the Commission on their plans to ensure compliance. The Commission ***shall*** adopt ***an*** implementing ***act*** defining the format and procedures for the provision of such information ***within one year from the date of entry into force of this Regulation.*** ***That*** implementing ***act*** shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Amendment 133

Proposal for a regulation Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Joint authorisation process to grant individual rights of use of radio spectrum

1. Two or several Member States may cooperate with each other, and with the Commission, in meeting their obligations under Article 6 and 7 of the Authorisation Directive with a view to establish a joint authorisation process to grant individual

rights of use of radio spectrum, in line, where applicable, with any common timetable established in accordance with Article 12(2). The joint authorisation process shall meet the following criteria:

(a) the individual national authorisation processes shall be initiated and implemented by the national competent authorities according to a common schedule;

(b) it shall provide where appropriate for common conditions and procedures for the selection and granting of individual rights among the Member States concerned;

(c) it shall provide where appropriate for common or comparable conditions to be attached to the individual rights of use among the Member States concerned inter alia allowing operators to be granted consistent spectrum portfolios with regard to the spectrum blocks to be assigned.

2. Where Member States intend to establish a joint authorisation process, the national competent authorities concerned shall simultaneously make their draft measures accessible to the Commission and the competent authorities. The Commission shall inform the other Member States.

3. A joint authorisation process shall be open at any time to other Member States.

Amendment 134

Proposal for a regulation

Article 13 – paragraph 1 – subparagraph 2 – point c

Text proposed by the Commission

Amendment

(c) the duration of the rights of use;

(c) the duration of the rights of use, *which shall be no less than 25 years, and in any case appropriate to incentivise investment and competition, and discourage the*

under-use or 'hoarding' of spectrum;

Amendment 135

Proposal for a regulation

Article 13 – paragraph 1 – subparagraph 2 – point j

Text proposed by the Commission

(j) conditions related to the assignment, transfer or accumulation of rights of use;

Amendment

(j) conditions related to the assignment, **reassignment**, transfer or accumulation of rights of use;

Amendment 136

Proposal for a regulation

Article 13 – paragraph 2 – subparagraph 2 – point d

Text proposed by the Commission

(d) **any** implementing **act** adopted in accordance with Article 12;

Amendment

(d) implementing **acts** adopted in accordance with Article 12;

Amendment 137

Proposal for a regulation

Article 15 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. For the purposes of the uniform implementation of the general authorisation regime for the deployment, connection and operation of small-area wireless access points pursuant to paragraph 1, the Commission **may**, by means of an implementing act, specify technical characteristics for the design, deployment and operation of small-area wireless access points, compliance with which shall ensure their unobtrusive character when in use in different local contexts. The Commission shall specify those technical characteristics by reference to the maximum size, power and

Amendment

2. For the purposes of the uniform implementation of the general authorisation regime for the deployment, connection and operation of small-area wireless access points pursuant to paragraph 1, the Commission **shall**, by means of an implementing act **to be adopted within one year from the date of entry into force of this Regulation**, specify technical characteristics for the design, deployment and operation of small-area wireless access points, compliance with which shall ensure their unobtrusive character when in use in different local contexts. The Commission shall specify

electromagnetic characteristics, as well as the visual impact, of the deployed small-area wireless access points. Those technical characteristics for use of small-area wireless access points shall at a minimum comply with the requirements of Directive 2013/35/EU³⁰ and with the thresholds defined in Council Recommendation No 1999/519/EC.³¹

those technical characteristics by reference to the maximum size, power and electromagnetic characteristics, as well as the visual impact, of the deployed small-area wireless access points. Those technical characteristics for use of small-area wireless access points shall at a minimum comply with the requirements of Directive 2013/35/EU³⁰ and with the thresholds defined in Council Recommendation No 1999/519/EC³¹.

³⁰ Directive 2013/35/EU of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) and repealing Directive 2004/40/EC (OJ L 179, 29.6.2013, p. 1).

³⁰ Directive 2013/35/EU of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) and repealing Directive 2004/40/EC (OJ L 179, 29.6.2013, p. 1).

³¹ Recommendation 1999/519/EC of the Council of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz) (OJ L 1999, 30.7.1999, p. 59).

³¹ Recommendation 1999/519/EC of the Council of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz) (OJ L 1999, 30.7.1999, p. 59).

Amendment 138

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

Text proposed by the Commission

The characteristics specified in order for the deployment, connection and operation of small-area wireless access point to benefit from paragraph 1 shall be without prejudice to the essential requirements of Directive 1999/5/EC of the European Parliament and the Council relative to the placing on the market of such products.³²

Amendment

The ***technical*** characteristics specified in order for the deployment, connection and operation of small-area wireless access point to benefit from paragraph 1 shall be without prejudice to the essential requirements of Directive 1999/5/EC of the European Parliament and the Council relative to the placing on the market of such products.

³² Directive 1999/5/EC of the European Parliament and the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 7.4.1999, p. 10).

³² Directive 1999/5/EC of the European Parliament and the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 7.4.1999, p. 10).

Amendment 139

Proposal for a regulation Article 16

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 140

Proposal for a regulation Article 17

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 141

Proposal for a regulation Article 17a (new)

Text proposed by the Commission

Amendment

Article 17a

Wholesale high-quality access products allowing the provision of business communications services

1. National Regulatory Authorities shall consider the proportionality of imposing on providers of electronic communications services designated in accordance with article 16 of Directive 2002/21/EC (Framework Directive) as having significant market power in a

relevant market relating to the provision of wholesale high-quality electronic communications services an obligation to publish a wholesale reference offer taking into account the BEREC guidelines referred to in paragraph 2. This consideration should take place within one month after the publication of the BEREC guideline.

2. By 31 December 2015 BEREC shall, after consulting stakeholders and in cooperation with the Commission lay down guidelines specifying the elements to be included in the reference offer. The guidelines should cover terminating segments of leased lines as a minimum and may cover other business wholesale access products that BEREC deems appropriate taking into account retail and wholesale demand as well as regulatory best practices. NRAs may require additional elements to be included in the reference offer. BEREC shall review these guidelines regularly in light of market and technological developments.

Amendment 142

Proposal for a regulation Article 18

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 143

Proposal for a regulation Article 19

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 144

Proposal for a regulation Article 20

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 145

Proposal for a regulation Article 21 – paragraph 3

Text proposed by the Commission

Amendment

3. Providers of electronic communications to the public shall not apply tariffs for intra-Union communications terminating in another Member State which are higher, unless objectively justified:

deleted

a) as regards fixed communications, than tariffs for domestic long-distance communications;

b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.

Justification

Fixed and mobile international calls are currently deregulated competitive markets that do not require regulation through EU intervention.

Amendment 146

Proposal for a regulation Chapter 4 – title

Text proposed by the Commission

Amendment

Harmonised rights of end-users

Users' rights to open internet access

Amendment 147

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Proposal for a regulation
Article 22

Text proposed by the Commission

Amendment

Article 22

deleted

Cross-border dispute resolution

1. The out-of-court procedures set up in accordance with Article 34 (1) of Directive 2002/22/EC shall also apply to disputes related to contracts between consumers, and other end-users to the extent that such out-of-court procedures are available also for them, and providers of electronic communications to the public which are established in another Member State. For disputes within the scope of Directive 2013/11/EU³³, the provisions of that Directive shall apply.

³³ ***Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC, OJ L 165 of 18 June 2013, p.63.***

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 148

Proposal for a regulation
Article 23 – title

Text proposed by the Commission

Amendment

Freedom to provide and avail of open internet access, and ***reasonable*** traffic management

Freedom to provide and avail of open internet access, and traffic management

Amendment 149

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

1. **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.

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 150

Proposal for a regulation Article 23 – paragraph 2

Text proposed by the Commission

2. **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.

In order to enable the provision of specialised services to end-users,

Amendment

1. Users shall be free to access and distribute information and content, run **and provide** applications and **services and use terminals** of their choice, **irrespective of the user's or provider's location or the location, origin or destination of the service, information or content**, via their internet access service.

Amendment

2. **Providers of internet access**, of electronic communications to the public **and providers of content, applications and services shall be free to offer** specialised services **to users. Such services shall only be offered if the network capacity is sufficient to provide them in addition to internet access services and they are not to the material detriment of the availability or quality of internet access services. Providers of internet access to users shall not discriminate between such services.**

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 in order to enable the provision of specialised services. The provision of specialised services shall not impair in a recurring or continuous manner the general quality of internet access services.

Amendment 151

Proposal for a regulation Article 23 – paragraph 4

Text proposed by the Commission

4. *The exercise of the freedoms provided for in paragraphs 1 and 2 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and (2).*

Amendment

4. *Users shall be provided with complete information in accordance with Article 20(2), Article 21(3) and Article 21a of Directive 2002/22/EC, including information on any traffic management measures applied that might affect access to and distribution of information, content, applications and services as specified in paragraphs 1 and 2 of this Article.*

Amendment 152

Proposal for a regulation Article 23 – paragraph 5

Text proposed by the Commission

5. 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

Amendment

5. 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, ***altering or degrading*** specific content, applications or services, or specific classes thereof, except

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:

- a) *implement a legislative provision or a court order, or prevent or impede serious crimes;*
- b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;
- c) *prevent the transmission of unsolicited communications to end-users who have given their prior consent to such restrictive measures;*
- d) *minimise* the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.

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

in cases where it is necessary to apply traffic management measures. Traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:

- a) implement a court order;
- b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;
- d) *prevent or mitigate* the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.

Traffic management measures shall not be maintained longer than necessary.

Without prejudice to Directive 95/46, traffic management measures shall only entail such processing of personal data that is necessary and proportionate to achieve the purposes set out in this paragraph, and shall also be subject to Directive 2002/58, in particular with respect to confidentiality of communications.

Providers of internet access services shall put in place appropriate, clear, open and efficient procedures aimed at addressing complaints alleging breaches of this Article. Such procedures shall be without prejudice to the users right to refer the matter to the national regulatory authority.

Amendment 153

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 154

Proposal for a regulation Article 24 – paragraph 2

Text proposed by the Commission

2. In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of **end**-users to access and distribute content or information or to run applications and services of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements on providers of electronic communications to the public.

National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action,

Amendment

1. **In exercising their powers under Article 30a with respect to Article 23, national regulatory authorities shall closely monitor compliance with Article 23(5) and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology.** They shall, in cooperation with other competent national authorities, also monitor the effects on cultural diversity and innovation. National regulatory authorities shall **publish reports** on an annual basis **regarding their monitoring and findings, and provide those reports to the Commission and BEREC.**

Amendment

2. In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of users to access and distribute content or information or to run applications, services **and software** of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements, **and where appropriate, other quality of service parameters, as defined by the national regulatory authorities** on providers of electronic communications to the public.

National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action,

the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. ***The envisaged requirements shall not be adopted during a period of two months from the receipt of complete information by the Commission unless otherwise agreed between the Commission and the national regulatory authority, or the Commission has informed the national regulatory authority of a shortened examination period, or the Commission has made comments or recommendations.*** National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.

Amendment 155

Proposal for a regulation Article 24 – paragraph 3

Text proposed by the Commission

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).***

the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.

Amendment

3. ***Within six months of adoption of this regulation, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down general guidelines*** defining uniform conditions for the implementation of the obligations of national competent authorities under this Article, ***including with respect to the application of traffic management measures and for monitoring of compliance.***

Amendment 156

Proposal for a regulation Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24a

Review

The Commission shall, in close cooperation with BEREC, review the functioning of the provisions on specialised services and, after a public consultation, shall report and submit any appropriate proposals to the European Parliament and the Council by [insert date three years after the date of applicability of this regulation].

Amendment 157

Proposal for a regulation Article 25

Text proposed by the Commission

Amendment

[...]

deleted

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 158

Proposal for a regulation Article 26

Text proposed by the Commission

Amendment

[...]

deleted

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending

Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 159

Proposal for a regulation Article 27

Text proposed by the Commission

Amendment

[...]

deleted

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 160

Proposal for a regulation Article 28

Text proposed by the Commission

Amendment

[...]

deleted

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 161

Proposal for a regulation Article 29

Text proposed by the Commission

Amendment

[...]

deleted

Justification

The rapporteur proposes a full deletion of this article. Although it is desirable to ensure that

consumers are appropriately protected in relation to all elements in a bundle, the rapporteur believes that this is not the best way of achieving this, as the scope of the Telecoms Framework remains limited to electronic communication services and networks. A selective extension of scope (as suggested in Art 29) creates a legally blurry situation, the resolution of which would require a long list of consequential amendments across the rest of the Framework (none of which are being proposed).

Amendment 162

Proposal for a regulation Article 30

Text proposed by the Commission

Amendment

[...]

deleted

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 163

Proposal for a regulation Article 30 a (new)

Text proposed by the Commission

Amendment

Article 30 a

Supervision and enforcement

- 1. National regulatory authorities shall have the necessary resources to monitor and supervise compliance with this Regulation within their territories.***
- 2. National regulatory authorities shall make up-to-date information on the application of this Regulation publicly available in a manner that enables interested parties to have easy access to it.***
- 3. National regulatory authorities shall have the power to require undertakings subject to obligations under this Regulation to supply all information***

relevant to the implementation and enforcement of this Regulation. Those undertakings shall provide such information promptly on request and in accordance with time limits and the level of detail required by the national regulatory authority.

4. National regulatory authorities may intervene on their own initiative in order to ensure compliance with this Regulation.

5. National regulatory authorities shall put in place appropriate, clear, open and efficient procedures to address complaints alleging breaches of Article 23. National regulatory authorities shall respond to complaints without undue delay.

6. Where a national regulatory authority finds that a breach of the obligations set out in this Regulation has occurred, it shall require the immediate cessation of such a breach.

Amendment 164

Proposal for a regulation Article 31 – paragraph 2

Text proposed by the Commission

Amendment

With regard to European electronic communications providers, penalties shall be imposed in accordance with Chapter II regarding the respective competences of national regulatory authorities in the home and host Member States.

deleted

Amendment 165

Proposal for a regulation Article 32

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 166

Proposal for a regulation

Article 34 – point 1

Directive 2002/20/EC

Article 3

Text proposed by the Commission

Amendment

In Article 3(2), *the second subparagraph is deleted.*

(1) Article 3 is amended as follows:

Amendment 167

Proposal for a regulation

Article 34 – point 1 – point a (new)

Directive 2002/20/EC

Article 3 – paragraph 2

Present text

Amendment

2. The provision of electronic communications networks or the provision of electronic communications services may, without prejudice to the specific obligations referred to in Article 6(2) or rights of use referred to in Article 5, only be subject to a general authorisation. ***The undertaking concerned may be required to submit a notification but may not be required to obtain an explicit decision or any other administrative act by the national regulatory authority before exercising the rights stemming from the authorisation. Upon notification, when required, an undertaking may begin activity, where necessary subject to the provisions on rights of use in Articles 5, 6 and 7.***

(a) paragraph 2 is replaced by the following:

'2. The provision of electronic communications networks or the provision of electronic communications services may, without prejudice to the specific obligations referred to in Article 6(2) or rights of use referred to in Article 5, only be subject to a general authorisation. ***Where a Member State deems that a notification requirement is justified, that Member State may require undertakings to submit a notification to BEREC but it may not require them to obtain an explicit decision or any other administrative act by the national regulatory authority or any other authority before exercising the rights stemming from the authorisation. Upon notification to BEREC, when required, an***

undertaking may begin activity, where necessary subject to the provisions on rights of use in Articles 5, 6 and 7.'

Undertakings providing cross-border electronic communications services to undertakings located in several Member States shall not be required to submit more than one notification per Member State concerned."

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2002L0020:20091219:EN:HTML>)

Justification

A standardised notification to BEREC would ensure that carriers don't suffer discrimination in similar circumstances in the treatment by different Member States and that consistent regulatory practices are applied in the single market.

Amendment 168

Proposal for a regulation

Article 34 – point 1 – point b (new)

Directive 2002/20/EC

Article 3 – paragraph 3

Present text

3. ***The*** notification referred to in paragraph 2 shall not entail more than a declaration by a legal or natural person to ***the national regulatory authority*** of the intention to commence the provision of electronic communication networks or services and the submission of the minimal information which is required to allow the national regulatory authority to keep a register or list of providers of electronic communications networks and services. ***This information must be limited to what is necessary for the identification of the provider, such as company registration numbers, and the provider's contact persons, the provider's address, a short description of the network or service, and***

Amendment

(b) paragraph 3 is replaced by the following:

'3. *A* notification referred to in paragraph 2 shall not entail more than a declaration ***on a harmonised template in the form set out in part D of the Annex*** by a legal or natural person to ***BEREC*** of the intention to commence the provision of electronic communication networks or services and the submission of the minimal information which is required to allow ***BEREC and*** the national regulatory authority to keep a register or list of providers of electronic communications networks and services. ***Member States may not impose any additional or separate notification requirements.'***

an estimated date for starting the activity.

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2002L0020:20091219:EN:PDF>)

Amendment 169

Proposal for a regulation

Article 34 – point 1 – point c (new)

Directive 2002/20/EC

Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(c) the following paragraph is added:

'3a. Member States shall provide the Commission and the other Member States with a reasoned notification within 12 months following the date of application of Regulation No [XX/2014] if they deem that a notification requirement is justified. The Commission shall examine the notification and, where appropriate, adopt a decision within a period of three months from the date of the notification requesting the Member State in question to abolish the notification requirement.*

** Regulation (EU) No [XX/2014] of the European Parliament and of the Commission of ... laying down measures concerning the European single market for electronic communications and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012 (OJ L... , p. ...).'*

Amendment 170

Proposal for a regulation

Article 34 – point 2 (new)

Directive 2002/20/EC

Article 10 – paragraph 6a (new)

Text proposed by the Commission

Amendment

(2) In Article 10, the following new paragraph 6a is added:

'6a. A national regulatory authority shall notify BEREC of any measures intended to be taken by it under paragraphs 5 and 6. Within two months from receipt of a notification, during which period the national regulatory authority may not adopt a final measure, BEREC shall adopt a reasoned opinion if it considers that the draft measure would create a barrier to the single market. BEREC shall forward any opinion to the national regulatory authority and the Commission. The national regulatory authority shall take the utmost account of any BEREC opinion and shall communicate any final measure to BEREC. BEREC shall update its register accordingly.'

Amendment 171

Proposal for a regulation
Article 34 – point 3 (new)
Directive 2002/20/EC
Annex – part D (new)

Text proposed by the Commission

Amendment

(3) In the Annex, the following part D is added:

'D. Information required in a notification pursuant to Article 3

A notification shall contain a declaration of the intention to commence the provision of electronic communications networks and services and shall be accompanied by the following information only:

- 1. the name of the provider,***
- 2. the provider's legal status, form and registration number, where the provider is***

registered in a trade or other similar public register,

3. the geographical address of the provider's main establishment,

4. a contact person,

5. a short description of the networks or services intended to be provided,

6. the Member States concerned, and

7. an estimated date for starting the activity.'

Amendment 172

Proposal for a regulation

Article 34 a (new)

Decision No 243/2012/EU

Article 6 – paragraph 8 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Article 34a

Amendments to Decision No 243/2012/EU

In Article 6(8) of Decision No 243/2012/EU,

the following subparagraph is added:

'Member States shall allow the transfer or leasing of any additional harmonised bands on the same basis as those enumerated in the first subparagraph.'

Amendment 173

Proposal for a regulation

Article 35 – point 1

Directive 2002/21/EC

Article 1

Text proposed by the Commission

Amendment

(1) In Article 1, the following paragraph 6 is added:

deleted

'This Directive and the Specific Directives shall be interpreted and applied in conjunction with the provisions of Regulation No [XX/2014].'

Amendment 174

Proposal for a regulation
Article 35 – point 1 a (new)
Directive 2002/21/EC
Article 2 – point g

Present text

'national regulatory authority' means the body *or bodies* charged by a Member State with *any of* the regulatory tasks assigned in this Directive and the Specific Directives;

Amendment

(1a) In Article 2, point g is amended as follows:

'national regulatory authority' means the body charged by a Member State with the regulatory tasks assigned in this Directive and the Specific Directives;

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2002L0020:20091219:EN:PDF>)

Amendment 175

Proposal for a regulation
Article 35 – point 1 b (new)
Directive 2002/21/EC
Article 3 – paragraph 3a

Present text

3a. Without prejudice to the provisions of paragraphs 4 and 5, national regulatory *authorities* responsible for ex-ante market regulation *or* for the resolution of disputes between undertakings in accordance with Article 20 *or* 21 of this Directive shall act independently and shall not seek or take instructions from any other body in relation to the exercise of these tasks assigned to them under national law implementing Community law. This shall not prevent supervision in accordance with national

Amendment

(1b) In Article 3, paragraph 3a is replaced by the following:

'3a. Without prejudice to the provisions of paragraphs 4 and 5, *each* national regulatory *authority shall be* responsible *at least* for ex-ante market regulation *under Articles 7, 7a, 15 and 16 of this Directive and Articles 9 to 13b of Directive 2002/19/EC; for numbering, naming and addressing, co-location and sharing of network elements and associated facilities and* for the resolution of disputes between undertakings in accordance with *Articles 10, 12, 20 and 21* of this Directive *and for*

constitutional law. Only appeal bodies set up in accordance with Article 4 shall have the power to suspend or overturn decisions by the national regulatory authorities.

Member States shall ensure that the head of a national regulatory authority, or where applicable, members of the collegiate body fulfilling that function within a national regulatory authority referred to in the first subparagraph or their replacements may be dismissed only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law. The decision to dismiss the head of the national regulatory authority concerned, or where applicable members of the collegiate body fulfilling that function shall be made public at the time of dismissal. The dismissed head of the national regulatory authority, or where applicable, members of the collegiate body fulfilling that function shall receive a statement of reasons and shall have the right to request its publication, where this would not otherwise take place, in which case it shall be published.

affordability of tariffs, quality of service of designated undertakings, costing of universal service obligation, regulatory controls on retail services, contracts, transparency and publication of information, quality of service, ensuring equivalence in access and choice for disabled end-users, emergency services and the single European emergency call number, access to numbers and services, provision of additional facilities and facilitating change of provider under Articles 9, 11, 12, 17, 20, 20a, 21, 21a, 22, 23a, 26, 26a, 28, 29 and 30 of Directive 2002/22/EC, issues related to authorisation under Directive 2002/20, as well as for Directive 2002/58/EC.

Each national regulatory authority shall act independently and shall not seek or take instructions from any other body in relation to the exercise of these tasks assigned to them under national law implementing Community law. This shall not prevent supervision in accordance with national constitutional law. Only appeal bodies set up in accordance with Article 4 shall have the power to suspend or overturn decisions by the national regulatory authorities. Member States shall ensure that the head of a national regulatory authority, or where applicable, members of the collegiate body fulfilling that function within a national regulatory authority referred to in the first subparagraph or their replacements may be dismissed only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law. The decision to dismiss the head of the national regulatory authority concerned, or where applicable members of the collegiate body fulfilling that function shall be made public at the time of dismissal. The dismissed head of the national regulatory authority, or where applicable, members of the collegiate body fulfilling that function shall receive a statement of reasons and shall have the

Member States shall ensure that national regulatory authorities referred to in the first subparagraph have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC)¹.

¹ Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office

right to request its publication, where this would not otherwise take place, in which case it shall be published.

Member States shall ensure that national regulatory authorities referred to in the first subparagraph have separate annual budgets **and that the budgets are sufficient for the performance of their tasks**. The budgets **and audited annual accounts** shall be made public **by each national regulatory authority**. **Each national regulatory authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities and shall have a number of competent personnel at its disposal for the proper performance of its tasks**. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC)¹.

¹ Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office'

Justification

To have one NRA per MS and to harmonise their core competences and strengthen their resources will not only be directly beneficial for the supervision and enforcement of the framework in the MS, but will also indirectly further support the work of the NRAs together in BEREC.

Amendment 176

Proposal for a regulation
Article 35 – point 2 – point a
Directive 2002/21/EC
Article 7a

Text proposed by the Commission

Amendment

– (a) in paragraph 1, the first sub-paragraph is replaced by the following:

deleted

1. Where an intended measure covered by Article 7(3) aims at imposing, amending or withdrawing an obligation on an operator in application of Article 16 of this Directive in conjunction with Article 5 and Articles 9 to 13 of Directive 2002/19/EC (Access Directive), and Article 17 of Directive 2002/22/EC (Universal Service Directive), the Commission may, within the period of one month provided for by Article 7(3) of this Directive, notify the national regulatory authority concerned and BEREC of its reasons for considering that the draft measure would create a barrier to the single market or its serious doubts as to its compatibility with Union law, taking into account as appropriate any Recommendation adopted pursuant to Article 19(1) of this Directive concerning the harmonised application of specific provisions of this Directive and the Specific Directives. In such a case, the draft measure shall not be adopted for a further three months following the Commission's notification.

Justification

In order to prevent detrimental effects on end users, it is necessary to reaffirm the competence of national authorities with regard to the task of harmonizing the application of specific provisions of this - and other specific - Directives.

Amendment 177

Proposal for a regulation

Article 35 – point 2 – point b

Directive 2002/21/EC

Article 7a

Text proposed by the Commission

Amendment

– (b) paragraph 2 is replaced by the

deleted

following:

'2. Within the three-month period referred to in paragraph 1, the Commission, BEREC and the national regulatory authority concerned shall cooperate closely to identify the most appropriate and effective measure in the light of the objectives laid down in Article 8, whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice. When the intended measure aims at imposing, amending or withdrawing an obligation on a European electronic communications provider within the meaning of Regulation [XXX/2014] in a host Member State, the national regulatory authority of the home Member State may also participate in the cooperation process.'

Amendment 178

Proposal for a regulation
Article 35 – point 2 – point c
Directive 2002/21/EC
Article 7a

Text proposed by the Commission

Amendment

- (c) in paragraph 5 the following point (aa) is inserted: ***deleted***

'(aa) take a decision requiring the national regulatory authority concerned to withdraw the draft measure, together with specific proposals for amending it, when the intended measure aims at imposing, amending or withdrawing an obligation on a European electronic communications provider within the meaning of Regulation [XXX/2014]'

Amendment 179

Proposal for a regulation

Article 35 – point 2 – point d

Directive 2002/21/EC

Article 7a

Text proposed by the Commission

Amendment

– (d) in paragraph 6 the following subparagraph is added:

deleted

'Article 7(6) shall apply in the cases where the Commission takes a decision in accordance with paragraph 5 point (aa).'

Amendment 180

Proposal for a regulation

Article 35 – point 2 a (new)

Directive 2002/21/EC

Article 8 – paragraph 4

Text proposed by the Commission

Amendment

(2a) In Article 8(4), point (g) is deleted.

Amendment 181

Proposal for a regulation

Article 35 – point 2 b (new)

Directive 2002/21/EC

Article 9b – paragraph 3 – subparagraph 1

Present text

Amendment

The Commission *may* adopt appropriate implementing measures to **identify the bands for which** rights to use radio frequencies **may be transferred or leased between undertakings**. These measures shall not cover frequencies which are used for broadcasting.

(2b) In Article 9b(3), the first subparagraph is replaced by the following:

'3. The Commission shall adopt appropriate implementing measures to facilitate the transfer or lease of rights to use radio frequencies between undertakings. Those measures shall be adopted by within 12 months following the date of application of Regulation

[XXX/2014]*. Those measures shall not cover frequencies which are used for broadcasting.

** Regulation (EU) No XXX/20XX of the European Parliament and of the Commission of laying down measures concerning the European single market for electronic communications and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012 (OJ L XXX, XX.XX.20XX, p. X).'*

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2002L0021:20091219:EN:HTML>)

Amendment 182

Proposal for a regulation

Article 35 – point 4

Directive 2002/21/EC

Article 19 – paragraph 1

Text proposed by the Commission

‘Without prejudice to Article 9 of this Directive and Articles 6 and 8 of Directive 2002/20/EC (Authorisation Directive), where the Commission finds that divergences in the implementation by the national regulatory authorities of the regulatory tasks specified in this Directive, and the Specific Directives and Regulation No [XX/2014] may create a barrier to the internal market, the Commission *may*, taking the utmost account of the opinion of BEREC, issue a recommendation or a decision on the harmonised application of the provisions in this Directive, the Specific Directives and Regulation No [XX/2014] in order to further the achievement of the objectives set out in Article 8.’

Amendment

‘Without prejudice to Article 9 of this Directive and Articles 6 and 8 of Directive 2002/20/EC (Authorisation Directive), where the Commission finds that divergences in the implementation by the national regulatory authorities of the regulatory tasks specified in this Directive, and the Specific Directives and Regulation No [XX/2014] may create a barrier to the internal market, the Commission *shall*, taking the utmost account of the opinion of BEREC, issue a recommendation or a decision on the harmonised application of the provisions in this Directive, the Specific Directives and Regulation No [XX/2014] in order to further the achievement of the objectives set out in Article 8.’

Amendment 183

Proposal for a regulation

Article 36 – paragraph 1 – point 1 a (new)

Directive 2002/22/EC

Article 2 – point f a (new)

Text proposed by the Commission

Amendment

(1a) In the second subparagraph of Article 2, the following points are inserted:

‘(fa) receiving provider of electronic communications to the public’ means the provider of electronic communications to the public to which the telephone number or service is transferred.’;

(fb) ‘transferring provider of electronic communications to the public’ means the provider of electronic communications to the public from which a telephone number or service is transferred.

Justification

This provision inserts a new definition of "receiving provider of electronic communication to the public" as a new definition in article 2 of the USD Directive.

Amendment 184

Proposal for a regulation

Article 36 – paragraph 1 – point 1 b (new)

Directive 2002/22/EC

Article 20 – title

Present text

Amendment

‘Contracts’

(1b) The title of Article 20 is replaced by:

‘Information requirements for contracts’;

Amendment 185

Article 36 – paragraph 1 – point 1 c (new)

Directive 2002/22/EC

Article 20 – paragraph –1 a (new)

Text proposed by the Commission

Amendment

(1c) In Article 20, the following paragraph is inserted:

‘-1a. Member States shall ensure that the information referred to in paragraphs 1 and 1a is provided prior to contract conclusion in a clear, comprehensive and easily accessible manner and without prejudice to the requirements set out in the Consumer Rights Directive* regarding off-premises/ distance contracts. The consumer and other end-user so requesting shall have access to a copy of the contract on a durable medium.

Member States may maintain or introduce in their national law language requirements regarding the contractual information, so as to ensure that such information is easily understood by the consumer or other end-user so requesting.

**** Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).’***

Amendment 186
Proposal for a regulation
Article 36 – paragraph 1 – point 1 d (new)
Directive 2002/22/EC
Article 20 – paragraph 1

Present text

Amendment

(1d) Article 20(1) is replaced by the following:

‘1. Member States shall ensure that, when subscribing to services providing connection to a public communications network and/or publicly available electronic communications services, consumers, and other end-users so requesting, have a right to a contract with an undertaking or undertakings providing such connection and/or services. The contract shall specify ***in a clear, comprehensive and easily accessible form*** at least:

(a) the identity and address of the undertaking;

(b) the services provided, including in particular,

— ***whether or not*** access to emergency services and caller location ***information is being provided, and*** any limitations on the provision of emergency services under Article 26,

— ***information on any other conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law in accordance with Community law,***

— the minimum service quality levels offered, namely the time for the initial connection and, where appropriate, other quality of service parameters, as defined by the national regulatory authorities,

— ***information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link, and information on how those procedures could impact on service quality,***

‘1. Member States shall ensure that, when subscribing to services providing connection to a public communications network and/or publicly available electronic communications services, consumers, and other end-users so requesting, have a right to a contract with an undertaking or undertakings providing such connection and/or services. The contract shall specify at least ***the following information***:

(a) the identity, address ***and contact information*** of the undertaking ***and, if different, the address and contact information for any complaints***;

(b) the ***main characteristics of the*** services provided, including in particular,

(i) the specific tariff plan or tariff plans to which the contract applies and, for each such tariff plan, the types of services offered, including the volumes of communications;

(ii) access to information on emergency services and caller location ***for all relevant services offered, and*** any limitations on the provision of emergency services under Article 26,

(iii) the minimum service quality levels offered, namely the time for the initial connection and, where appropriate, other quality of service parameters, as defined by the national regulatory authorities,

— the types *of maintenance service offered* and customer support services provided, *as well as* the means of contacting *these* services,

— any restrictions imposed by the provider on the use of terminal equipment supplied;

(c) where an obligation exists under Article 25, the subscriber's options as to whether or not to include his or her personal data in a directory, *and the data concerned*;

(d) details of prices and tariffs, the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained, *payment methods offered and any differences in costs due to payment method*;

(e) the duration of the contract and the conditions for renewal and termination of services and of the contract, including:

— any minimum usage or duration

(iv) the types of after-sales services, maintenance services and customer support services provided, including, where feasible, technical information for the proper functioning of the end-user's chosen terminal equipment, the conditions and charges for those services, and the means of contacting those services,

(v) any restrictions imposed by the provider on the use of terminal equipment supplied, including information on unlocking the terminal equipment and any charges involved if the contract is terminated before the end of the minimum contract period;

(vi) any restrictions imposed on the consumption of regulated retail roaming services provided at the applicable domestic price level, by reference to fair use criteria, including detailed information on how such fair use criteria are applied in relation to the main pricing, volume or other parameters of the tariff plan in question;

(c) where an obligation exists under Article 25, the subscriber's options as to whether or not to include his or her personal data in a directory, *and their ability to verify, correct or withdraw their entry*;

(d) details of prices and tariffs *including taxes and additional charges that may possibly be levied, and* the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;

(da) payment methods offered and any differences in costs due to the payment method chosen, and available facilities to safeguard bill transparency and monitor the level of consumption;

(e) the duration of the contract and the conditions for renewal and termination of services and of the contract, including:

(i) any minimum usage or duration

required to benefit from promotional terms,
— any charges related to portability of numbers and other identifiers,

— any charges due on termination of the contract, including any cost recovery with respect to terminal equipment,

(f) any compensation and the refund arrangements which apply if contracted service quality levels are not met;

(g) the means of initiating procedures for the settlement of disputes in accordance with Article 34;

(h) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.

Member States may also require that the contract include any information which may be provided by the relevant public authorities for this purpose on the use of electronic communications networks and services to engage in unlawful activities or to disseminate harmful content, and on the means of protection against risks to personal security, privacy and personal data, referred to in Article 21(4) and relevant to the service provided.'

Amendment 187

Article 36 – paragraph 1 – point 1 e (new)

required to benefit from promotional terms,

(ii) any charges related to *switching and* portability of numbers and other identifiers, *including compensation and refund arrangements for delay or abuse of switching;*

(iii) any charges due on *early* termination of the contract, including any cost recovery with respect to terminal equipment, *on the basis of customary depreciation methods, and other promotional advantages, on a pro rata temporis basis,*

(f) any compensation and the refund arrangements, *including, where applicable, an explicit reference to statutory rights of the consumer* which apply if contracted service quality levels are not met;

(g) the means of initiating procedures for the settlement of disputes, *including cross-border disputes,* in accordance with Article 34;

(ga) details on how disabled end-users can obtain information on products and services designed for them;

(h) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.

Member States may also require that the contract include any information which may be provided by the relevant public authorities for this purpose on the use of electronic communications networks and services to engage in unlawful activities or to disseminate harmful content, and on the means of protection against risks to personal security, privacy and personal data, referred to in Article 21(4) and relevant to the service provided.'

Text proposed by the Commission

Amendment

(1e) In Article 20, the following paragraph is inserted:

‘1a. In addition to the information referred to in paragraph 1, if the contract includes the provision of internet access services, that contract shall also include the following information:

(a) details of unit data pricing plans, pricing plans for bulk data and any applicable thresholds related to the specific tariff plan or tariff plans to which the contract applies. For data volumes above thresholds, unit or bulk pricing on an ad hoc or lasting basis and any data speed limitations that may be applied to the specific tariff plan or tariff plans to which the contract applies;

(b) how end-users can monitor the current level of their consumption, whether and how any voluntary limits can be set;

(c) for fixed data links, the normally available and minimum download and upload speed at the main location of the end-user;

(d) for mobile data links, the estimated and minimum download and upload speed when connected through the provider's wireless network in the end-user's Member State of residence;

(e) other quality of service parameters, as set out in accordance with Article 24 (2) of Regulation (EU) .../... *;

(f) information on any procedures put in place by the provider to measure and shape traffic including an indication of the underlying communication inspection methods used for reasonable traffic management measures and information on how those procedures could impact on

service quality, end-users' privacy and the protection of personal data; and

(g) a clear and comprehensible explanation as to how any volume limitation, the speed and other quality of service parameters may in practice have an impact on internet access services, in particular the use of content, applications and services.

** OL: Please insert the number of this Regulation.'*

Amendment 188

Proposal for a regulation

Article 36 – paragraph 1 – point 1 f (new)

Directive 2002/22/EC

Article 20 – paragraph 2

Present text

Amendment

(1f) Article 20 (2) is deleted

2. Member States shall ensure that subscribers have a right to withdraw from their contract without penalty upon notice of modification to the contractual conditions proposed by the undertakings providing electronic communications networks and/or services. Subscribers shall be given adequate notice, not shorter than one month, of any such modification, and shall be informed at the same time of their right to withdraw, without penalty, from their contract if they do not accept the new conditions. Member States shall ensure that national regulatory authorities are able to specify the format of such notifications.

Justification

The Rapporteur proposes a new article 20a on contract duration and termination. This provision is included there.

Amendment 189

Proposal for a regulation

Article 36 – paragraph 1 – point 1 g (new)

Directive 2002/22/EC

Article 20 – paragraph 2 a (new)

Present text

Amendment

(1g) In Article 20, the following paragraph is added:

‘2a. Member States may maintain or introduce additional contractual information requirements in relation to contracts to which this Article applies.’;

Amendment 190

Proposal for a regulation

Article 36 – paragraph – point 1 h (new)

Directive 2002/22/EC

Article 20 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(1h) In Article 20, the following paragraph is added:

‘2b. BEREC shall issue guidelines for the establishment of standard contractual information templates containing the information required under paragraphs 1 and 1a of this Article.

National regulatory authorities may specify additional requirements on the content, form and manner of the contractual information to be published, including in particular data delivery speeds, taking utmost account of the BEREC guidelines for the methods of measuring the speed and for the content, form and manner of the information to be published, as set out in Article 21(3a).’;

Amendment 191

Proposal for a regulation

Article 36 – paragraph 1 – point 1 i (new)

Directive 2002/22/EC

Article 20 a (new)

Text proposed by the Commission

Amendment

(1i) The following Article is inserted:

‘Article 20a

Contract duration and termination

1. Member States shall ensure that the maximum duration of contracts concluded between consumers and providers of electronic communications to the public is 24 months. Providers of electronic communications to the public shall offer end-users the possibility of 12 month contracts.

2. The consumer shall have the right to withdraw from a distance or off premises contract within 14 days after its conclusion in accordance with Directive 2011/83/EU.

3. Where a contract or national law provides for contract periods with a fixed term (as opposed to a minimum term) to be automatically rolled over, the provider of electronic communications to the public shall inform the consumer in due time thereof so that the consumer has at least one month to oppose such automatic roll-over. If the consumer does not oppose such automatic roll-over, the contract shall be deemed to be a permanent rolling contract which can be terminated by the consumer, at any time with a one-month notice period and without incurring any costs except the cost of providing service during the notice period.

4. Member States shall ensure that consumers have the right to terminate their contract without incurring any costs upon receiving notice of changes in the

contractual conditions proposed by the provider of electronic communications to the public unless the proposed changes are exclusively to the benefit of the end-user. Providers shall give consumers adequate notice, not less than one month, of any such change, and shall inform them at the same time of their right to terminate their contract without incurring any costs if they do not accept the new contractual conditions. Paragraph 2 shall apply mutatis mutandis.

5. Any significant discrepancy, continuous or regularly recurring, between the actual performance regarding speed or other quality of service parameters and the performance indicated by the provider of electronic communications to the public in accordance with Article 20 shall be deemed to constitute non-conformity of performance for the purposes of determining the remedies available to the consumer in accordance with national law.

6. Member States shall ensure that a subscription to additional services provided by the same provider of electronic communications to the public shall not re-start the initial contract period unless the additional services are offered at a special promotional price available only on the condition that the existing contract period is re-started.

7. Member States shall ensure that providers of electronic communications to the public apply conditions and procedures for contract termination which do not raise obstacles to or disincentives against changing service providers.

8. If a bundle of services offered to consumers comprises at least a connection to an electronic communications network or an electronic communications service, the provisions of

this Article shall apply to all elements of the bundle.

9. Member States may maintain or introduce additional requirements to ensure a higher level of consumer protection in relation to contracts to which this Article applies.’;

Amendment 192

Proposal for a regulation

Article 36 – paragraph 1 – point 1 j (new)

Directive 2002/22/EC

Article 21

Present text

‘Article 21

‘1. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on termination of a contract and on standard terms and conditions in respect of access to, and use of, services provided by them to end-users *and consumers* in accordance with Annex II. Such information shall be published in a clear, comprehensive and easily accessible form. National regulatory authorities may specify additional requirements regarding the form in which such information is to be published.

Amendment

(1j) Article 21 is replaced by the following:

‘Article 21

‘1. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on *early* termination of a contract and on standard terms and conditions in respect of access to, and use of, services provided by them to end-users in accordance with Annex II. Such information shall be published in a clear, comprehensive and easily accessible form *and shall be updated regularly. Any differentiation in the conditions applied to consumers and other end-users so requesting shall be made explicit.* National regulatory authorities may specify additional requirements regarding the form in which such information is to be published, *which may in particular include the introduction of language requirements so as to ensure that such*

2. National regulatory authorities shall **encourage the provision of comparable information to enable end-users and consumers to make an independent evaluation of** the cost of alternative usage patterns, **for instance by means of interactive guides or similar techniques.** Where such facilities are not available on the market free of charge or at a reasonable price, Member States shall ensure that national regulatory authorities are able to make such guides or techniques available themselves or through third party procurement. Third parties shall have a right to use, free of charge, the information published by undertakings providing electronic communications networks and/or publicly available electronic communications services for the purposes of selling or making available such interactive guides or similar techniques.

3. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing public electronic communications networks and/or publicly available electronic communications

information is easily understood by consumers and other end-users so requesting. Member States shall ensure that providers of electronic communications to the public are obliged upon request to supply the information, to the relevant national regulatory authorities, in advance of its publication.

2. National regulatory authorities shall **ensure that consumers and other end-users so requesting have access to independent evaluation tools to enable them to compare the performance of electronic communications network access and services and** the cost of alternative usage patterns. Where such facilities are not available on the market free of charge or at a reasonable price, Member States shall ensure that national regulatory authorities are able to make such guides or techniques available themselves or through third party procurement. Third parties shall have a right to use, free of charge, the information published by undertakings providing electronic communications networks and/or publicly available electronic communications services for the purposes of selling or making available **such independent evaluation tools.**

2a. Member States shall ensure that national regulatory authorities, under guidance from BEREC and following consultation with relevant stakeholders, establish a voluntary certification scheme for interactive comparison websites, guides or similar tools, based on objective, transparent and proportionate requirements, including in particular independence from any provider of electronic communications to the public.

3. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing public electronic communications networks and/or publicly available electronic communications

services to inter alia:

(a) provide applicable tariff information *to subscribers* regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, national regulatory authorities may require such information to be provided immediately prior to connecting the call;

(b) inform subscribers of any change to access to emergency services or caller location information in the service to which they have subscribed;

(c) inform subscribers of any change to conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law in accordance with Community law;

(d) provide information on any procedures put in place by the provider to measure and shape traffic so as to avoid filling or overfilling a network link, and on how those procedures could impact on service quality;

services to inter alia:

(a) provide *end-users with* applicable tariff information regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, national regulatory authorities may require such information to be provided immediately prior to connecting the call;

(b) provide end-users with information on access to emergency services and caller location for all relevant services offered, and any limitations on the provision of emergency services under Article 26, and to ensure that any changes are notified without delay;

(da) provide information on internet access services, where offered, specifying the following:

(i) for fixed data links, the normally available and minimum download and upload speed in the end-user's Member State of residence; for mobile data links, the estimated and minimum download and upload speed when connected through the provider's wireless network in the end-user's Member State of residence;

(ii) details of unit data pricing plans, pricing plans for bulk data and any applicable thresholds. For data volumes above thresholds: unit or bulk pricing on an ad hoc or lasting basis and any data speed limitations that may be applied;

(iii) how end-users can monitor the current level of their consumption, whether and how any voluntary limitations can be set;

(iv) a clear and comprehensible explanation as to how any data volume limitation, the speed and other quality of service parameters may in practice have an impact on the use of internet access services, in particular the use of content, applications and services;

*(v) information on any procedures put in place by the provider to measure and shape traffic as defined in Article 23(5) of Regulation (EU) .../... * including an indication of the underlying communication inspection methods used for reasonable traffic management measures and information on how those procedures could impact on service quality, end-users' privacy and the protection of personal data;*

(e) inform *subscribers* of their right to determine whether or not to include their personal data in a directory, and of the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC (*Directive on privacy and electronic communications*); and

(f) regularly inform disabled *subscribers* of details of products and services designed for them.

If deemed appropriate, national regulatory authorities may promote self or co-regulatory measures prior to imposing any obligation.

(e) inform consumers, *and other end-users where applicable*, of their right to determine whether or not to include their personal data in a directory, and of the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC; and

(f) regularly inform disabled *consumers, and other end-users, where applicable*, of details of products and services designed for them and *the measures taken to ensure equivalence of access*;

If deemed appropriate, national regulatory authorities may promote self- or co-regulatory measures prior to imposing any obligation. *Member States may specify additional requirements on the content, form and manner of the information to be published, taking utmost account of the BEREC guidelines referred to in paragraph 3a of this Article.*

*3a. By ... *, BEREC, after consulting stakeholders and in close cooperation*

with the Commission, shall lay down general guidelines for the methods of measuring the speed, the quality of service parameters to be measured (inter alia average versus advertised speeds; quality as perceived by users), and the methods for measuring them over time, as well as the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information. Where appropriate, the parameters, definitions and measurement methods set out in Annex III may be used.

4. Member States may require that the undertakings referred to in paragraph 3 distribute public interest information free of charge *to existing and new subscribers*, where appropriate, by the same means as those ordinarily used by them in their communications *with subscribers*. In such a case, that information shall be provided by the relevant public authorities in a standardised format and *shall*, inter alia, cover the following topics:

(a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related rights, and their legal consequences; and

(b) the means of protection against risks to personal security, privacy and personal data when using electronic communications services.’

4. Member States may require that the undertakings referred to in paragraph 3 distribute public interest information free of charge *to end-users, where appropriate*, by the same means as those ordinarily used by them in their communications *with end-users*. In such a case, that information shall be provided by the relevant public authorities *to the providers of electronic communications to the public* in a standardised format and *may*, inter alia, cover the following topics:

(a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of *data protection rights*, copyright and related rights, and their legal consequences; and

(b) the means of protection against risks to personal security, privacy and personal data when using electronic communications services.

* *OJ: Please insert the number of this Regulation.*

**** OJ: Please insert the date of application of this Regulation. ’**

Amendment 193
Proposal for a regulation
Article 36 – paragraph 1 – point 1 k (new)
Directive 2002/22/EC
Article 21 a (new)

Text proposed by the Commission

Amendment

(1k) The following Article is inserted:

‘Article 21a

Control of consumption

1. Member States shall ensure that providers of electronic communications offer consumers and end-users the facility to monitor and control their usage of electronic communications services billed on time or volume consumption. This facility must include:

(a) for pre-paid and post-paid services, access to timely information on their service consumption free of charge;

(b) for post-paid services, the ability to set free of charge a predefined financial cap on their usage, to request notification when a predefined proportion of the cap and the cap itself has been reached, the procedure to be followed to continue usage if the cap is exceeded, and the applicable pricing plans;

(c) itemised bills on a durable medium.

2. BEREC shall lay down guidelines for the implementation of paragraph 1.

After having reached the financial limit end-users shall continue to be able to receive calls and SMS messages and access free-phone numbers and emergency services by dialling the European emergency call number "112" free of charge until the end of the agreed billing period.’

Amendment 194

Proposal for a regulation Article 36 – paragraph 1 – point 2

Text proposed by the Commission

Amendment

(2) *Articles 20, 21, 22 and 30 are deleted.*

(2) *Article 22 is deleted.*

Justification

Deletion necessary to maintain / amend the concerned articles.

Amendment 195

Proposal for a regulation Article 36 – paragraph 1 – point 2 a (new) Directive 2002/22EC Article 26

Present text

Amendment

‘1. Member States shall ensure that all end-users of the service referred to in paragraph 2, including users of public pay telephones, are able to call the emergency services free of charge and without having to use any means of payment, by using the single European emergency call number "112" and any national emergency call number specified by Member States.

2. Member States, in consultation with national regulatory authorities, emergency services and providers, shall ensure that

(2a) Article 26 is replaced by the following:

‘1. Member States shall ensure that all end-users of the service referred to in paragraph 2, including users of public pay telephones are able to call the emergency services free of charge and without having to use any means of payment, by using the single European emergency call number "112" and any national emergency call number specified by Member States.

1a. Member States shall ensure that all users of private electronic communication networks are able to call the emergency services, or, where applicable, the internal emergency services, free of charge, by using the single European emergency call number "112" and any national emergency call number specified by the Member States.

2. Member States, in consultation with national regulatory authorities, emergency services and providers, shall ensure that

undertakings providing end-users with an electronic communications service for originating national calls to a number or numbers in a national telephone numbering plan provide access to emergency services.

3. Member States shall ensure that calls to the single European emergency call number "112" are appropriately answered and handled in the manner best suited to the national organisation of emergency systems. Such calls shall be answered and handled at least as expeditiously and effectively as calls to the national emergency number or numbers, where these continue to be in use.

4. Member States shall ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users. Measures taken to ensure that disabled end-users are able to access emergency services whilst travelling in other Member States shall be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework Directive), and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.

5. Member States shall ensure that undertakings concerned make caller location information available free of charge to the authority handling emergency

undertakings providing end-users with an electronic communications service for originating national calls to a number or numbers in a national telephone numbering plan provide access to emergency services.

3. Member States shall ensure that calls to the single European emergency call number "112" are appropriately answered and handled in the manner best suited to the national organisation of emergency systems. Such calls shall be answered and handled at least as expeditiously and effectively as calls to the national emergency number or numbers, where these continue to be in use.

The Commission, in consultation with the relevant competent authorities, shall adopt a recommendation on performance indicators for Member States. The Commission shall submit to the European Parliament and the Council a report on the effectiveness of the implementation of the European emergency call number "112" and on the functioning of the performance indicators by the 31 December 2015 and every two years thereafter.

4. Member States shall ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users. Measures taken to ensure that disabled end-users are able to access emergency services whilst travelling in other Member States shall be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework Directive), and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.

5. Member States shall ensure that undertakings concerned make caller location information available free of charge to the authority handling emergency

calls as soon as the call reaches that authority. This shall apply to all calls to the single European emergency call number "112". Member States may extend this obligation to cover calls to national emergency numbers. Competent regulatory authorities shall lay down criteria for the accuracy and reliability of the location information provided.

6. Member States shall ensure that citizens are adequately informed about the existence and use of the single European emergency call number "112", in particular through initiatives specifically targeting persons travelling between Member States.

7. In order to ensure the effective access to "112" services in the Member States, the Commission, having consulted BEREC, **may adopt technical implementing measures**. However, these **technical implementing** measures shall be adopted without prejudice to, and shall have no impact on, the organisation of emergency services, which remains of the exclusive competence of Member States.'

calls as soon as the call reaches that authority. This shall apply to all calls to the single European emergency call number "112". Member States may extend this obligation to cover calls to national emergency numbers. ***The Commission shall ensure that*** competent regulatory authorities shall lay down criteria for the accuracy and reliability of the location information provided ***in accordance with paragraph 7 and taking utmost account of the BEREC guidelines.***

By (6 months after the DATE OF APPLICATION DEADLINE) BEREC, after consulting relevant stakeholders and in close cooperation with the Commission, shall lay down guidelines for the criteria for the accuracy and reliability of the caller location information provided to emergency services. Those guidelines shall take into account the feasibility of using a mobile terminal equipped with a GNSS devices of mobile terminals in order to improve the accuracy and reliability of the caller location information of a "112" call.

6. Member States ***and the Commission*** shall ensure that citizens are adequately informed about the existence and use of the single European emergency call number "112", in particular through initiatives specifically targeting persons travelling between Member States. ***The Commission shall support and complement Member States' action.***

7. In order to ensure the effective access to "112" services in the Member States, the Commission, having consulted BEREC, ***shall be empowered to adopt delegated acts in accordance with Article 37a concerning caller location criteria and key performance indicators on access to "112"***. However, these measures shall be adopted without prejudice to, and shall have no impact on, the organisation of emergency services, which remains of the

exclusive competence of Member States.

7a. The Commission shall maintain a database of E.164 numbers of European emergency services to ensure that they are able to contact each other from one Member State to another.’;

Amendment 196
Proposal for a regulation
Article 36 – paragraph 1 – point 2 b (new)
Directive 2002/22/EC
Article 26 a (new)

Text proposed by the Commission

Amendment

(2b)The following Article is inserted:

‘Article 26 a

Reverse EU “112” communication system

No later than [1 year after the transposition deadline] the Commission shall submit a report to the European Parliament and the Council on the feasibility for setting up a Reverse EU “112” communication system using existing electronic communication networks, that covers the whole Union, is universal, multilingual, accessible, straightforward and effective in order to alert the public in the event of an imminent or developing disaster or major state of emergency.

The Commission shall consult BEREC and civil defence services, and examine the standards and specifications necessary for the setting up of the system referred to in paragraph 1. While preparing that report the Commission shall take into account existing national and regional “112” systems and shall comply with the Union law on the protection of private data. Where appropriate, that report shall be accompanied by a legislative proposal.’;

Amendment 197

Proposal for a regulation

Article 36 – paragraph 1 – point 2 c (new)

Directive 2002/22/EC

Article 30

Present text

‘1. Member States shall ensure that all subscribers with numbers from the national telephone numbering plan who so request can retain their number(s) independently of the **undertaking** providing the service in accordance with the provisions of Part C of Annex I.

2. National regulatory authorities shall ensure that pricing between operators and/or service providers related to the provision of number portability is cost-oriented, and that direct charges to subscribers, if any, do not act as a disincentive for subscribers against changing service provider.

3. National regulatory authorities shall not impose retail tariffs for the porting of numbers in a manner that would distort competition, such as by setting specific or common retail tariffs.

"4. Porting of numbers and their subsequent activation shall be carried out within the shortest possible time. **In any case, subscribers** who have concluded an agreement to port a number to a new **undertaking shall have** that number activated within one working day.

Without prejudice to the first subparagraph, competent national authorities may establish the global process of porting of numbers, **taking into account national provisions on contracts, technical feasibility** and the need to maintain continuity of service to the **subscriber**. In any event, loss of service

Amendment

(2c) Article 30 is replaced by the following:

‘1. Member States shall ensure that all subscribers with numbers from the national telephone numbering plan who so request can retain their number(s) independently of the **provider of electronic communications to the public** providing the service in accordance with the provisions of Part C of Annex I.’

2. National regulatory authorities shall ensure that pricing between operators and/or service providers related to the provision of number portability is cost-oriented, and that direct charges to subscribers, if any, do not act as a disincentive for subscribers against changing service provider.

3. National regulatory authorities shall not impose retail tariffs for the porting of numbers in a manner that would distort competition, such as by setting specific or common retail tariffs.

4. Porting of numbers and their subsequent activation shall be carried out within the shortest possible time. **For end-users** who have concluded an agreement to port a number to a new **provider** that number **shall be** activated within one working day.

Without prejudice to the first subparagraph, competent national authorities may establish the global process of **switching and** porting of numbers **taking into account the BEREC guidelines referred to in paragraph 4b. They shall take into account necessary end-user protection throughout the**

during the process of porting shall not exceed one working day. **Competent national authorities shall also take into account, where necessary, measures ensuring that subscribers are protected throughout the switching process and are not switched to another provider against their will.**

Member States shall ensure that appropriate sanctions on undertakings are provided for, including an obligation to compensate subscribers in case of delay in porting or abuse of porting by them or on their behalf.

switching process, the need to ensure the efficiency of such a process for the end-user, the need to maintain continuity of service to the end-user and the need to ensure that switching processes are not harmful to competition. In any event, loss of service during the process of porting shall not exceed one working day. **End-users shall not be switched to another provider against their will.**

Member States shall ensure that appropriate sanctions on undertakings are provided for, including an obligation to compensate subscribers in case of delay in porting, **of not making available information necessary for porting in a timely manner,** or abuse of porting by them or on their behalf.

4a. The receiving provider of electronic communications to the public shall lead the switching and porting process. End-users shall receive adequate information on switching before and during the switching process, and also immediately after it is concluded.

4b. BEREC shall lay down guidelines on all the modalities and procedures of the switching and porting process, in particular the respective responsibilities of the receiving and transferring provider in the process of switching and porting, information to be provided to consumers during that process, timely termination of an existing contract the refund of any pre-payments and effective e-mail forwarding services.

4c. If a bundle of services offered to consumers comprises at least a connection to an electronic communications network or an electronic communications service, the provisions of this Article shall apply to all elements of the bundle.’;

5. Member States shall ensure that contracts concluded between consumers and undertakings providing electronic

communications services do not mandate an initial commitment period that exceeds 24 months. Member States shall also ensure that undertakings offer users the possibility to subscribe to a contract with a maximum duration of 12 months.

6. Without prejudice to any minimum contractual period, Member States shall ensure that conditions and procedures for contract termination do not act as a disincentive against changing service provider.’

Amendment 198

Proposal for a regulation

Article 36 – paragraph 1 – point 2 d (new)

Directive 2002/22/EC

Article 34 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(2d) In Article 34 the following paragraph is added:

‘1a. The out-of-court procedures set up in accordance with paragraph 1 shall also apply to disputes related to contracts between consumers, and other end-users to the extent that such out-of-court procedures are available also for them, and providers of electronic communications to the public which are established in another Member State. In the case of disputes falling within the scope of Directive 2013/11/EU*, the provisions of that Directive shall apply.

**** Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18 6 2013, p.63).’***

Amendment 199
Proposal for a regulation
Article 36 – paragraph 1 – point 2 e (new)
Directive 2002/22/EC
Article 37a (new)

Text proposed by the Commission

Amendment

(2e) The following Article 37a is inserted:

‘Article 37a

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts referred to in Article 26 shall be conferred on the Commission for an indeterminate period of time from ... *.***
- 3. The delegation of power referred to in Article 26 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***
- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***

**** OJ: Please insert the date of entry into force of this Regulation’***

Amendment 200
Proposal for a regulation

Article 36 – paragraph 1 – point 2 f (new)
Directive 2002/22/EC
Annex II – point 1

Present text

‘1. Name(s) **and** address(es) of undertaking(s)
i.e. names and head office addresses of undertakings providing public communications networks and/or publicly available telephone services.’

Amendment

(2f) In Annex II, point 1 is replaced by the following:

‘1. Name(s), address(es) **and contact information** of undertaking(s)
i.e. names and head office addresses of undertakings providing public communications networks and/or publicly available telephone services.’;

Amendment 201

Proposal for a regulation
Article 36 – paragraph 1 – point 2g (new)
Directive 2002/22/EC
Annex II – point 2.2

Present text

‘2.2. **Standard tariffs indicating** the services provided **and the content of each tariff element (e.g. charges for access, all types of usage charges, maintenance charges), and including details of standard discounts applied and special and targeted tariff schemes** and any additional charges, as well as costs with respect to terminal equipment.’

Amendment

(2g) In Annex II, point 2.2 is replaced by the following:

‘2.2. **For each tariff plan**, the services provided **and the relevant quality of service parameters, the applicable tariff plan(s) and, for each such tariff plan, the types of services offered, including the volumes of communications, and any applicable charges (access, usage, maintenance** and any additional charges), as well as costs with respect to terminal equipment.’;

Amendment 202

Proposal for a regulation
Article 36 – paragraph 1 – point 2 h (new)
Directive 2002/22/EC
Annex II – point 2.2 a (new)

Text proposed by the Commission

Amendment

(2h) In Annex II, the following point is inserted:

‘2.2.a. Additional information on internet access services, where offered, including in particular details on data pricing, download and upload data speeds and any applicable speed limitations, on possibilities to monitor consumption levels, on any applicable traffic management procedures and their impact on service quality, on end-user privacy and on the protection of personal data.’;

Amendment 203

Proposal for a regulation

Article 36 – paragraph 1 – point 2 i (new)

Directive 2002/22/EC

Annex II – point 2.5

Present text

‘2.5. Standard contract conditions, including any minimum contractual period, termination of the contract **and** procedures and direct charges related to the portability of numbers and other identifiers, if relevant.’

Amendment

(2i) In Annex II, Point 2.5 is replaced by the following:

‘2.5. Standard contract **terms and** conditions, including any minimum contractual period, **the conditions for and any charges due on early** termination of the contract, **the** procedures and direct charges related to the **switching and** portability of numbers and other identifiers, if relevant, **and compensation arrangements for delay or abuse of switching.**’

Amendment 204

Proposal for a regulation

Article 37 – point 1

Regulation (EU) No 531/2012

Article 1

Text proposed by the Commission

Amendment

(1) In Article 1(1), the following third subparagraph is inserted: ***deleted***

'This Regulation shall apply to roaming services provided in the Union to end users whose domestic provider is a provider of electronic communications to the public in a Member State'.

Amendment 205

Proposal for a regulation

Article 37 – point 2

Regulation (EU) No 531/2012

Article 2

Text proposed by the Commission

Amendment

(2) In Article 2(2), the following point (r) is inserted: ***deleted***

(r) 'bilateral or multilateral roaming agreement' means one or more commercial or technical agreements among roaming providers that allow the virtual extension of the home network coverage and the sustainable provision by each roaming provider of regulated retail roaming services at the same price level as their respective domestic mobile communications services'.

Justification

The Commission proposal on tackling roaming through voluntary agreements, as an alternative to the current obligations of the Roaming III regulation, generates a high degree of uncertainty.

Amendment 206

Proposal for a regulation

Article 37 – point 3

Regulation (EU) No 531/2012

Article 4

Text proposed by the Commission

Amendment

(3) In Article 4, the following paragraph 7 is added:

deleted

'7. This Article shall not apply to roaming providers that provide regulated retail roaming services in accordance with Article 4a.'

Amendment 207

Proposal for a regulation

Article 37 – point 4

Regulation (EU) No 531/2012

Article 4 a (new)

Text proposed by the Commission

Amendment

(4) The following Article 4a is inserted:

deleted

Article 4a

[...]

Amendment 208

Proposal for a regulation

Article 37 – point 4 a (new)

Regulation (EU) No 531/2012

Articles 6 a and 6 b (new)

Text proposed by the Commission

Amendment

(4a) The following articles are inserted:

'Article 6a

Abolition of retail roaming charges

With effect from 15 December 2015, roaming providers shall not levy any surcharge in comparison to the charges for mobile communications services at domestic level on roaming customers in any Member States for any regulated roaming call made or received, for any

regulated roaming SMS/MMS message sent and for any regulated data roaming services used, nor any general charge to enable the terminal equipment or service to be used abroad.'

'Article 6b

Fair usage

1. By way of derogation from article 6a, and to prevent anomalous or abusive usage of retail roaming services, roaming providers may apply a "fair use clause" to the consumption of regulated retail roaming services provided at the applicable domestic price level, by reference to fair use criteria. These criteria shall be applied in such a way that consumers are in a position to confidently replicate the typical domestic consumption pattern associated with their respective domestic retail packages while periodically travelling within the Union.

2. In accordance with Article 20 of Directive 2002/22/EC, roaming providers shall publish and include in their contracts detailed quantified information on how any fair use criteria are applied, by reference to the main pricing, volume or other parameters of the retail package in question.

3. By 31 December 2014, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down general guidelines for the application of fair use criteria in retail contracts provided by roaming providers. BEREC shall have regard in particular to the evolution of pricing and consumption patterns in the Member States, to the degree of convergence of domestic price levels across the Union, to any observable effect of roaming at domestic service rates on the evolution of such rates, and to the evolution of effective wholesale roaming rates for unbalanced traffic between roaming providers. In addition, BEREC's guidelines may also have regard to

relevant objective variations between Member States or between roaming providers in respect of factors such as domestic price levels, typical volumes included in retail packages or the average period during which customers travel within the Union.

4. In order to ensure consistent and simultaneous implementation across the Union of the application of the fair use criteria, the Commission shall, by means of implementing acts and based on the BEREC guidelines referred on paragraph 3, adopt, by 30 June 2015, detailed rules on the application of fair use criteria.

5. The competent national regulatory authority shall strictly monitor and supervise the application of fair use criteria as defined by the Commission implementing act referred on paragraph 4, taking utmost account of the BEREC general guidelines, of relevant objective factors specific to its Member State and of relevant objective variations between roaming providers, and shall ensure that unreasonable terms are not applied.

6. The retail charges for euro tariff services established by articles 8, 10 and 13 of Regulation (EU) No 531/2012 apply for regulated roaming services in excess of any fair usage limit applied in accordance with article 6b.

Amendment 209

Proposal for a regulation

Article 37 – point 5 – point a

Regulation (EU) No 531/2012

Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

(a) the first subparagraph is replaced by the following:

'2. With effect from 1 July **2013**, the retail charge (excluding VAT) for a euro-voice

Amendment

(a) the first subparagraph is replaced by the following

'2. With effect from 1 July **2012**, the retail charge (excluding VAT) for a euro-voice

tariff which a roaming provider may levy on its roaming customer for the provision of a regulated roaming call may vary for any roaming call but shall not exceed EUR **0,24** per minute for any call made or EUR **0,07** per minute for any call received. The maximum retail charge for calls made shall decrease to EUR **0,19** on 1 July 2014. *As of 1 July 2014, roaming providers shall not levy any charge on their roaming customers for calls received, without prejudice to measures taken to prevent anomalous or fraudulent usage. Without prejudice to Article 19 those maximum retail charges for the euro-voice tariff shall remain valid until 30 June 2017.*

tariff which a roaming provider may levy on its roaming customer for the provision of a regulated roaming call may vary for any roaming call but shall not exceed EUR **0,29** per minute for any call made or EUR **0,08** per minute for any call received. The maximum retail charge for calls made shall decrease to EUR **0,24** on 1 July 2013 *and to EUR 0,19 on 1 July 2014 and the maximum retail charge for calls received shall decrease to EUR 0,07 on 1 July 2013 and to EUR 0,05 on 1 July 2014. The maximum charges applicable as of 1 July 2014 shall expire 16 December 2015 save for regulated roaming calls in excess of any fair use limit applied in accordance with Article 6b.*

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:172:0010:01:EN:HTML>)

Amendment 210

Proposal for a regulation
Article 37 – point 5 – point b
Regulation (EU) No 531/2012
Article 8

Text proposed by the Commission

Amendment

(b) the third subparagraph is replaced by the following:

deleted

[...]

Amendment 211

Proposal for a regulation
Article 37 – point 5 a (new)
Regulation (EU) No 531/2012
Article 10 – paragraph 2

Present text

Amendment

(5a) In Article 10, paragraph 2 is replaced by the following:

2. With effect from 1 July 2012, the retail charge (excluding VAT) for a euro-SMS tariff which a roaming provider may levy on its roaming customer for a regulated roaming SMS message sent by that roaming customer may vary for any regulated roaming SMS message but shall not exceed EUR 0,09. That maximum charge shall decrease to EUR 0,08 on 1 July 2013 and to EUR 0,06 on 1 July 2014 **and shall, without prejudice to Article 19, remain at EUR 0,06 until 30 June 2017.**

'2. With effect from 1 July 2012, the retail charge (excluding VAT) for a euro-SMS tariff which a roaming provider may levy on its roaming customer for a regulated roaming SMS message sent by that roaming customer may vary for any regulated roaming SMS message but shall not exceed EUR 0,09. That maximum charge shall decrease to EUR 0,08 on 1 July 2013 and to EUR 0,06 on 1 July 2014. **The maximum charges applicable as of 1 July 2014 shall expire 16 December 2015 save for regulated roaming SMS messages in excess of any fair use limit applied in accordance with Article 6b.'**

Amendment 212

Proposal for a regulation

Article 37 – point 5 b (new)

Regulation (EU) No 531/2012

Article 13 – paragraph 2

Present text

2. With effect from 1 July 2012, the retail charge (excluding VAT) of a euro-data tariff which a roaming provider may levy on its roaming customer for the provision of a regulated data roaming service shall not exceed EUR 0,70 per megabyte used. The maximum retail charge for data used shall decrease to EUR 0,45 per megabyte used on 1 July 2013 and to EUR 0,20 per megabyte used on 1 July 2014 **and shall, without prejudice to Article 19, remain at EUR 0,20 per megabyte used until 30 June 2017.**

Amendment

(5b) In Article 13, paragraph 2, the first subparagraph is replaced by the following:

'2. With effect from 1 July 2012, the retail charge (excluding VAT) of a euro-data tariff which a roaming provider may levy on its roaming customer for the provision of a regulated data roaming service shall not exceed EUR 0,70 per megabyte used. The maximum retail charge for data used shall decrease to EUR 0,45 per megabyte used on 1 July 2013 and to EUR 0,20 per megabyte used on 1 July 2014. **The maximum charges applicable as of 1 July 2014 shall expire 16 December 2015 save for regulated data roaming services in excess of any fair use limit applied in accordance with Article 6b.'**

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:172:0010:01:EN:HTML>)

Amendment 213

Proposal for a regulation

Article 37 – point 6

Regulation (EU) No 531/2012

Article 14

Present text

Amendment

(6) In Article 14, the following paragraph 1a is inserted:

deleted

Amendment 214

Proposal for a regulation

Article 37 – point 6 a (new)

Regulation (EU) No 531/2012

Article 14

Present text

Amendment

(6a) Article 14 is deleted and replaced by the following with effect from 15 December 2015.

1. To alert roaming customers to the fact that they will be subject to roaming charges when making or receiving a call or when sending an SMS message, each roaming provider shall, except when the customer has notified the roaming provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his domestic provider, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls and to the sending of SMS messages by that customer in the visited Member State.

1. To alert roaming customers to the fact that they will be subject to roaming charges when making or receiving a call or when sending an SMS message, each roaming provider shall, except when the customer has notified the roaming provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his domestic provider, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls and to the sending of SMS messages by that customer in the visited Member State.

That basic personalised pricing information shall include the maximum charges (in the

That basic personalised pricing information shall include the maximum charges (in the currency of the home bill provided by the

currency of the home bill provided by the customer's domestic provider) to which the customer may be subject under his tariff scheme for:

(a) making regulated roaming calls within the visited Member State and back to the Member State of his domestic provider, as well as for regulated roaming calls received; and

(b) sending regulated roaming SMS messages while in the visited Member State.

It shall also include the free-of-charge number referred to in paragraph 2 for obtaining more detailed information and information on the possibility of accessing emergency services by dialling the European emergency number 112 free of charge.

On the occasion of each message, a customer shall have the opportunity to give notice to the roaming provider, free of charge and in an easy manner, that he does not require the automatic Message Service. A customer who has given notice that he does not require the automatic Message Service shall have the right at any time and free of charge to require the roaming provider to provide the service again.

Roaming providers shall provide blind or partially-sighted customers with the basic personalised pricing information referred to in the first subparagraph automatically, by voice call, free of charge, if they so request.

The first, second, fourth and fifth subparagraphs shall also apply to voice and SMS roaming services used by roaming customers travelling outside the Union and provided by a roaming

customer's domestic provider) to which the customer may be subject under his tariff scheme for:

(a) making regulated roaming calls within the visited Member State and back to the Member State of his domestic provider, as well as for regulated roaming calls received; and

(b) sending regulated roaming SMS messages while in the visited Member State.

It shall also include the free-of-charge number referred to in paragraph 2 for obtaining more detailed information and information on the possibility of accessing emergency services by dialling the European emergency number 112 free of charge.

On the occasion of each message, a customer shall have the opportunity to give notice to the roaming provider, free of charge and in an easy manner, that he does not require the automatic Message Service. A customer who has given notice that he does not require the automatic Message Service shall have the right at any time and free of charge to require the roaming provider to provide the service again.

Roaming providers shall provide blind or partially-sighted customers with the basic personalised pricing information referred to in the first subparagraph automatically, by voice call, free of charge, if they so request.

provider.

2. In addition to paragraph 1, customers shall have the right to request and receive, free of charge, and irrespective of their location within the Union, more detailed personalised pricing information on the roaming charges that apply in the visited network to voice calls and SMS, and information on the transparency measures applicable by virtue of this Regulation, by means of a mobile voice call or by SMS. Such a request shall be to a free-of-charge number designated for this purpose by the roaming provider. Obligations provided for in paragraph 1 shall not apply to devices which do not support SMS functionality.

3. Roaming providers shall provide all users with full information on applicable roaming charges, in particular on the euro-voice tariff and the euro-SMS tariff, when subscriptions are taken out. They shall also provide their roaming customers with updates on applicable roaming charges without undue delay each time there is a change in these charges.

Roaming providers shall take the necessary steps to secure awareness by all their roaming customers of the availability of the euro-voice tariff and the euro-SMS tariff. They shall in particular communicate to all roaming customers the conditions relating to the euro-voice tariff and the conditions relating to the euro-SMS tariff, in each case in a clear and unbiased manner. They shall send a reminder at reasonable intervals thereafter to all customers who have opted for another tariff.

The information provided shall be sufficiently detailed for customers to judge whether or not it is beneficial for them to switch to a Eurotariff.

4. Roaming providers shall make available

2. In addition to paragraph 1, customers shall have the right to request and receive, free of charge, and irrespective of their location within the Union, more detailed personalised pricing information on the roaming charges that apply in the visited network to voice calls and SMS, and information on the transparency measures applicable by virtue of this Regulation, by means of a mobile voice call or by SMS. Such a request shall be to a free-of-charge number designated for this purpose by the roaming provider. Obligations provided for in paragraph 1 shall not apply to devices which do not support SMS functionality.

4. Roaming providers shall make available information to their customers on how to

information to their customers on how to avoid inadvertent roaming in border regions. Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for inadvertently accessed roaming services while situated in their home Member State.

avoid inadvertent roaming in border regions. Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for inadvertently accessed roaming services while situated in their home Member State.

4a. The present article shall also apply to roaming calls and roaming SMS/MMS messages used by roaming customers travelling outside the Union and provided by a roaming provider.

With effect from 15 December 2015, this article shall also apply in cases where the consumption of roaming calls and roaming SMS/MMS messages at the applicable domestic service rate is limited by reference to a fair use criterion in accordance with Article 6b and when the consumption has reached the fair use limit.

Amendment 215

Proposal for a regulation

Article 37 – point 7

Regulation (EU) No 531/2012

Article 15

Text proposed by the Commission

Amendment

(7) In Article 15, the following paragraph 2a is inserted:

deleted

Amendment 216

Proposal for a regulation

Article 37 – point 7 a (new)

Regulation (EU) No 531/2012

Article 15

Present text

Amendment

(7a) Article 15 is deleted and replaced by the following with effect from 15

December 2015:

Transparency and safeguard mechanisms
for retail data roaming services

1. Roaming providers shall ensure that their roaming customers, both before and after the conclusion of a contract, are kept adequately informed of the charges which apply to their use of regulated data roaming services, in ways which facilitate customers' understanding of the financial consequences of such use and permit them to monitor and control their expenditure on regulated data roaming services in accordance with paragraphs 2 and 3.

Where appropriate, roaming providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, roaming providers shall notify to their customers, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

2. An automatic message from the roaming provider shall inform the roaming customer that the latter is roaming and provide basic personalised tariff information on the charges (in the currency of the home bill provided by the customer's domestic provider), expressed in price per megabyte, applicable to the provision of regulated data roaming services to that roaming customer in the Member State concerned, except where the customer has notified the roaming provider that he does not require that information.

Such basic personalised tariff information shall be delivered to the roaming customer's mobile device, for example by an SMS message, an e-mail or a pop-up window on the mobile device, every time the roaming customer enters a Member

Transparency and safeguard mechanisms
for retail data roaming services

1. Roaming providers shall ensure that their roaming customers, both before and after the conclusion of a contract, are kept adequately informed of the charges which apply to their use of regulated data roaming services, in ways which facilitate customers' understanding of the financial consequences of such use and permit them to monitor and control their expenditure on regulated data roaming services in accordance with paragraphs 2 and 3.

Where appropriate, roaming providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, roaming providers shall notify to their customers, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

2. An automatic message from the roaming provider shall inform the roaming customer that the latter is roaming and provide basic personalised tariff information on the charges (in the currency of the home bill provided by the customer's domestic provider), expressed in price per megabyte, applicable to the provision of regulated data roaming services to that roaming customer in the Member State concerned, except where the customer has notified the roaming provider that he does not require that information.

Such basic personalised tariff information shall be delivered to the roaming customer's mobile device, for example by an SMS message, an e-mail or a pop-up window on the mobile device, every time the roaming customer enters a Member

State other than that of his domestic provider and initiates for the first time a data roaming service in that particular Member State. It shall be provided free of charge at the moment the roaming customer initiates a regulated data roaming service, by an appropriate means adapted to facilitate its receipt and easy comprehension.

A customer who has notified his roaming provider that he does not require the automatic tariff information shall have the right at any time and free of charge to require the roaming provider to provide this service again.

3. Each roaming provider shall grant to all their roaming customers the opportunity to opt deliberately and free of charge for a facility which provides information on the accumulated consumption expressed in volume or in the currency in which the roaming customer is billed for regulated data roaming services and which guarantees that, without the customer's explicit consent, the accumulated expenditure for regulated data roaming services over a specified period of use, excluding MMS billed on a per-unit basis, does not exceed a specified financial limit.

To this end, the roaming provider shall make available one or more maximum financial limits for specified periods of use, provided that the customer is informed in advance of the corresponding volume amounts. One of those limits (the default financial limit) shall be close to, but not exceed, EUR 50 of outstanding charges per monthly billing period (excluding VAT).

Alternatively, the roaming provider may establish limits expressed in volume, provided that the customer is informed in advance of the corresponding financial amounts. One of those limits (the default volume limit) shall have a corresponding financial amount not exceeding EUR 50 of outstanding charges per monthly billing

State other than that of his domestic provider and initiates for the first time a data roaming service in that particular Member State. It shall be provided free of charge at the moment the roaming customer initiates a regulated data roaming service, by an appropriate means adapted to facilitate its receipt and easy comprehension.

A customer who has notified his roaming provider that he does not require the automatic tariff information shall have the right at any time and free of charge to require the roaming provider to provide this service again.

3. Each roaming provider shall grant to all their roaming customers the opportunity to opt deliberately and free of charge for a facility which provides information on the accumulated consumption expressed in volume or in the currency in which the roaming customer is billed for regulated data roaming services and which guarantees that, without the customer's explicit consent, the accumulated expenditure for regulated data roaming services over a specified period of use, excluding MMS billed on a per-unit basis, does not exceed a specified financial limit.

To this end, the roaming provider shall make available one or more maximum financial limits for specified periods of use, provided that the customer is informed in advance of the corresponding volume amounts. One of those limits (the default financial limit) shall be close to, but not exceed, EUR 50 of outstanding charges per monthly billing period (excluding VAT).

Alternatively, the roaming provider may establish limits expressed in volume, provided that the customer is informed in advance of the corresponding financial amounts. One of those limits (the default volume limit) shall have a corresponding financial amount not exceeding EUR 50 of outstanding charges per monthly billing

period (excluding VAT).

In addition, the roaming provider may offer to its roaming customers other limits with different, that is, higher or lower, maximum monthly financial limits.

The default limits referred to in the second and third subparagraphs shall be applicable to all customers who have not opted for another limit.

Each roaming provider shall also ensure that an appropriate notification is sent to the roaming customer's mobile device, for example by an SMS message, an e-mail or a pop-up window on the computer, when the data roaming services have reached 80 % of the agreed financial or volume limit. Each customer shall have the right to require the roaming provider to stop sending such notifications and shall have the right, at any time and free of charge, to require the provider to provide the service again.

When the financial or volume limit would otherwise be exceeded, a notification shall be sent to the roaming customer's mobile device. That notification shall indicate the procedure to be followed if the customer wishes to continue provision of those services and the cost associated with each additional unit to be consumed. If the roaming customer does not respond as prompted in the notification received, the roaming provider shall immediately cease to provide and to charge the roaming customer for regulated data roaming services, unless and until the roaming customer requests the continued or renewed provision of those services.

Whenever a roaming customer requests to opt for or to remove a financial or volume limit facility, the change shall be made within one working day of receipt of the request, shall be free of charge, and shall not entail conditions or restrictions pertaining to other elements of the

period (excluding VAT).

In addition, the roaming provider may offer to its roaming customers other limits with different, that is, higher or lower, maximum monthly financial limits.

The default limits referred to in the second and third subparagraphs shall be applicable to all customers who have not opted for another limit.

Each roaming provider shall also ensure that an appropriate notification is sent to the roaming customer's mobile device, for example by an SMS message, an e-mail or a pop-up window on the computer, when the data roaming services have reached 80 % of the agreed financial or volume limit. Each customer shall have the right to require the roaming provider to stop sending such notifications and shall have the right, at any time and free of charge, to require the provider to provide the service again.

When the financial or volume limit would otherwise be exceeded, a notification shall be sent to the roaming customer's mobile device. That notification shall indicate the procedure to be followed if the customer wishes to continue provision of those services and the cost associated with each additional unit to be consumed. If the roaming customer does not respond as prompted in the notification received, the roaming provider shall immediately cease to provide and to charge the roaming customer for regulated data roaming services, unless and until the roaming customer requests the continued or renewed provision of those services.

Whenever a roaming customer requests to opt for or to remove a financial or volume limit facility, the change shall be made within one working day of receipt of the request, shall be free of charge, and shall not entail conditions or restrictions pertaining to other elements of the

subscription.

4. Paragraphs 2 and 3 shall not apply to machine-to-machine devices that use mobile data communication.'

5. Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for inadvertently accessed roaming services while situated in their home Member State. This shall include informing customers on how to avoid inadvertent roaming in border regions.

6. This article, with the exception of paragraph 5, and subject to the second and third subparagraph of this paragraph, shall also apply to data roaming services at the applicable domestic service rate used by roaming customers travelling outside the Union and provided by a roaming provider.

subscription.

4. Paragraphs 2 and 3 shall not apply to machine-to-machine devices that use mobile data communication.'

5. Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for inadvertently accessed roaming services while situated in their home Member State. This shall include informing customers on how to avoid inadvertent roaming in border regions.

6. This article shall apply in cases where the consumption of data roaming services at the applicable domestic service rate is limited by reference to a fair use criterion in accordance with Article 6b and when the consumption has reached the fair use limit.

It shall also apply to data roaming services used by roaming customers travelling outside the Union and provided by a roaming provider.

Where the customer opts for the facility referred to in the first subparagraph of paragraph 3, the requirements provided in paragraph 3 shall not apply if the visited network operator in the visited country outside the Union does not allow the roaming provider to monitor its customers' usage on a real-time basis.

In such a case the customer shall be notified by an SMS message when entering such a country, without undue delay and free of charge, that information on accumulated consumption and the guarantee not to exceed a specified financial limit are not available.'

Amendment 217

**Proposal for a regulation
Article 37 – point 8**

Text proposed by the Commission

Amendment

(8) Article 19 is amended as follows: *deleted*

(a) Paragraph 1 is amended as follows:

(i) the first sentence is replaced by the following:

'The Commission shall review the functioning of this regulation and, after a public consultation, shall report to the European Parliament and the Council by 31 December 2016 at the latest.'

(ii) point (g) is replaced by the following:

'(g) the extent to which the implementation of the structural measures provided for in Articles 3 and 4 and of the alternative regime provided for in Article 4a has produced results in developing competition in the internal market for roaming services to the extent that there is no effective difference between roaming and domestic tariffs;'

(iii) the following point (i) is inserted:

'(i) the extent, if any, to which the evolution of domestic retail prices is observably affected by the application by roaming providers of the domestic service rate to both domestic services and regulated roaming services throughout the Union.'

(ii) Point (d) is replaced by the following:

'(d) to change the duration or reduce the level of maximum wholesale charges provided for in Articles 7, 9 and 12 with a view to reinforcing the ability of all roaming providers to make available in their respective retail packages for reasonable use tariff options in which the applicable domestic service rate applies to both domestic services and regulated roaming services, as if the latter were consumed on the home network.'

Amendment 218

Proposal for a regulation

Article 37 – point 8 a (new)

Regulation (EU) No 531/2012

Article 19

Present text

1. The Commission shall review the functioning of this Regulation and, ***after a public consultation***, shall report to the European Parliament and the Council ***by 30 June 2016***. The Commission shall ***evaluate in particular whether the objectives of this Regulation have been achieved. In so doing, the Commission shall review, inter alia:***

(a) whether competition has sufficiently developed in order to justify the expiry of maximum retail charges; (b) whether competition will be sufficient for the removal of maximum wholesale charges;

(b) whether competition will be sufficient for the removal of maximum wholesale charges;

(c) to extend the duration and possibly revise the level of the maximum retail charges provided for in Articles 8, 10 and 13;

(d) the availability and quality of services

Amendment

(8a) Article 19 is deleted and replaced by the following:

'1. The Commission shall review the functioning of this Regulation and shall report to the European Parliament and the Council in accordance with paragraphs 2 to 6.

2. The Commission shall, by 30 June 2015, after a public consultation, report to the European Parliament and the Council on whether to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12 or to provide for other arrangements to address wholesale market problems, including as regards mobile termination rates applicable to roaming. BEREC shall, by 31 December 2014, after a public consultation, lay down guidelines on measures to prevent anomalous or abusive usage for the purpose of Article 6a.

3. The Commission shall, by 30 June 2016, after a public consultation, report to the European Parliament and the Council on, inter alia:

(a) the availability and quality of services

including those which are an alternative to voice, SMS and data roaming services, in particular in the light of technological developments;

(e) the extent to which consumers have benefited through real reductions in the price of roaming services, the variety of tariffs and products which are available to consumers with different calling patterns, and the difference between roaming and national tariffs, including the availability of offers providing a single tariff for national and roaming services;

(f) the degree of competition in both the retail and wholesale markets, in particular the competitive situation of smaller, independent or newly started operators, including the competition effects of commercial agreements and the degree of interconnection between operators;

(g) the extent to which the implementation of the structural measures provided for in Articles 3 and 4 has produced results in developing competition in the internal market for roaming services to the extent that the difference between roaming and national tariffs has approached zero;

(h) the extent to which the level of wholesale and retail maximum charges has provided adequate safeguards against excessive prices for consumers while allowing the development of competition in the internal market for roaming services.

including those which are an alternative to voice, SMS and data roaming services, in particular in the light of technological developments;

(b) the degree of competition in both the retail and wholesale markets, in particular the competitive situation of smaller, independent or newly started operators, including the competition effects of commercial agreements and the degree of interconnection between operators;

(c) the extent to which the implementation of the structural measures provided for in Articles 3 and 4 has produced results in developing competition in the internal market for roaming services.

The Commission shall examine, in particular, whether it is necessary to lay down additional technical and structural measures or to modify the structural measures.

4. If the report referred to in paragraph 2 shows that there is no level playing field between roaming providers and consequently that there is a need to change the duration or lower the level of maximum wholesale charges or to provide for other arrangements to address wholesale market problems, including by a significant reduction of the mobile termination rates applicable to roaming throughout the Union, the Commission shall, after consulting BEREC, make appropriate legislative proposals to the European Parliament and the Council to

2. If the report shows that the structural measures provided for by this Regulation have not been sufficient to promote competition in the internal market for roaming services for the benefit of all European consumers or that the differences between roaming tariffs and national tariffs have not approached zero, the Commission shall make appropriate proposals to the European Parliament and the Council to address this situation and thus achieve an internal market for mobile communication services, ultimately with there being no difference between national and roaming tariffs. The Commission shall examine, in particular, whether it is necessary:

(a) to lay down additional technical and structural measures;

(b) to modify the structural measures;

(c) to extend the duration and possibly revise the level of the maximum retail charges provided for in Articles 8, 10 and 13;

(d) to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12;

(e) to introduce any other necessary requirements, including non-differentiation of roaming and national tariffs.

3. In addition, the Commission shall submit a report to the European Parliament and the Council every two years after the report referred to in paragraph 3. Each report shall include a summary of the monitoring of the provision of roaming services in the Union and an assessment of the progress towards achieving the objectives of this Regulation.

4. In order to assess the competitive developments in the Union-wide roaming markets, BEREC shall regularly collect

address this situation **by 30 June 2015.**

If the report referred to in paragraph 3 shows that the structural measures provided for by this Regulation have not been sufficient to promote competition in the internal market for roaming services for the benefit of all European consumers, the Commission shall make appropriate proposals to the European Parliament and the Council to address this situation. With respect to both reports, proposals for any appropriate measures shall be presented simultaneously with the reports.

5. In addition, the Commission shall submit a report to the European Parliament and the Council every two years after the report referred to in paragraph 3. Each report shall include a summary of the monitoring of the provision of roaming services in the Union and an assessment of the progress towards achieving the objectives of this Regulation.

6. In order to assess the competitive developments in the Union-wide roaming markets, BEREC shall regularly collect

data from national regulatory authorities on the development of retail and wholesale charges for voice, SMS and data roaming services. Those data shall be notified to the Commission at least twice a year. The Commission shall make them public.

data from national regulatory authorities on the development of retail and wholesale charges for voice, SMS and data roaming services. Those data shall be notified to the Commission at least twice a year. The Commission shall make them public.

Amendment 219

Proposal for a regulation

Article 38 – point 1 a (new)

Regulation (EU) No 1211/2009

Article 3 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(1a) In Article 3(1), the following points (ma) and (mb) are inserted:

'(ma) to receive notifications submitted pursuant to Article 3 of Directive 2002/20/EC, to maintain an inventory of those notifications and to inform the national regulatory authorities concerned about notifications received;

(mb) to issue opinions on measures intended to be adopted by national regulatory authorities under Article 10, paragraphs 5 and 6, of Directive 2002/20/EC.'

Amendment 220

Proposal for a regulation

Article 38 – point 1 b (new)

Regulation (EU) No 1211/2009

Article 3 – paragraph 1 – point n a (new)

Text proposed by the Commission

Amendment

(1b) In Article 3(1), the following point (na) is inserted:

'(na) to support the development of Union policy and law in the field of electronic communications, including by delivering

Amendment 221

Proposal for a regulation

Article 38 – point 2

Regulation (EU) No 1211/2009

Article 4

Text proposed by the Commission

Amendment

**(2) In Article 4, paragraphs 4 and 5 are
deleted** **deleted**

Amendment 222

Proposal for a regulation

Article 38 – point 3

Regulation (EU) No 1211/2009

Article 4a (new)

Text proposed by the Commission

Amendment

**(3) The following Article 4a is inserted:
[...]** **deleted**

Justification

*In order to safeguard its independence from Member States and the Commission alike, it is
critical to ensure that BEREC is led by one of its members.*

Amendment 223

Proposal for a regulation

Article 38 – point 4

Regulation (EU) No 1211/2009

Article 6

Text proposed by the Commission

Amendment

**(4) Article 6 is amended as follows:
[...]** **deleted**

Amendment 224

Proposal for a regulation

Article 38 – point 5

Regulation (EU) No 1211/2009

Article 7

Text proposed by the Commission

Amendment

(5) Article 7 is amended as follows:

deleted

[...]

Amendment 225

Proposal for a regulation

Article 38 – point 6

Regulation (EU) No 1211/2009

Article 8

Text proposed by the Commission

Amendment

(6) Article 8 paragraphs 2,3 and 4 are deleted and replaced as follows:

deleted

[...]

Amendment 226

Proposal for a regulation

Article 38 – point 7

Regulation (EU) No 1211/2009

Article 9

Text proposed by the Commission

Amendment

(7) Article 9 paragraph 2 is amended as follows:

deleted

[...]

Amendment 227

Proposal for a regulation

Article 38 – point 8

Regulation (EU) No 1211/2009

Article 10

Text proposed by the Commission

Amendment

(8) Article 10 is amended as follows:

deleted

[...]

Amendment 228

Proposal for a regulation

Article 38 – point 9

Regulation (EU) No 1211/2009

Article 10 a (new)

Text proposed by the Commission

Amendment

(9) The following Article 10a is inserted:

deleted

[...]

Amendment 229

Proposal for a regulation

Article 39 – paragraph 1

Text proposed by the Commission

Amendment

The Commission shall ***submit reports on the*** evaluation and review of ***this Regulation*** to the European Parliament and the Council ***at regular intervals. The first report*** shall be ***submitted no later than 1 July 2018. Subsequent reports shall be submitted every four years thereafter.*** The Commission shall, ***if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning other legal instruments,*** taking account ***in particular of*** developments in information ***technology and*** of the ***state of progress in the*** information society. ***The reports shall be made public.***

The Commission shall ***perform a comprehensive*** evaluation and review of ***the entire regulatory framework for electronic communications, and shall submit a report with appropriate proposals*** to the European Parliament and the Council ***by 30 June 2016 in order to allow sufficient time for the legislator to analyse and debate the proposals properly.***

The review shall be based on a full public consultation as well as on ex-post assessments of the impact of the regulatory framework since 2009 and a thorough ex-ante assessment of the

expected impact of the options emanating from the review.

The main goals of the review shall include:

(i) ensuring that substitutable services are subject to the same rules, taking into consideration the definition of electronic communications services in Article 2(c) of Directive 2002/21/EC, in order to achieve equivalent, coherent and consistent regulation of electronic communications services and services substitutable to them, including with respect to access, all aspects of consumer protection, including portability, as well as privacy and data protection;

(ii) ensuring a high degree of consumer protection and more informed consumer choice through increased transparency and access to clear and comprehensive information, including on data delivery speeds and mobile network coverage;

(iii) ensuring that users of digital services are able to control their digital life and data by removing obstacles to switching operating systems without losing their applications and data;

(iv) further promoting effective and sustainable competition;

(v) providing a stable and sustainable framework for investment;

(vi) ensuring a harmonised, consistent and effective application;

(vii) facilitating the development of pan-European providers and the provision of cross-border business services;

(viii) ensuring that the regulatory framework is adequate for the digital age and delivers an internet ecosystem that supports the entire economy, and

(ix) increasing user confidence in the internal market for electronic communications, including through

measures to implement the future regulatory framework for the protection of personal data and measures to increase the security of electronic communications in the internal market.

The review shall inter alia include:

(i) the universal service obligation, including a review of the need for an additional obligation to offer broadband internet access at a fair price;

(ii) the competence of national regulatory authorities for all issues, including spectrum, that are addressed by the framework; the powers granted to the national regulatory authorities in the Member States and the scope of the requirement of independence of national regulatory authorities;

(iii) cooperation between the national regulatory authorities and national competition authorities;

(iv) the symmetric obligations relating to network access;

(v) the rules on leverage effects and joint dominance;

(vi) the market review processes;

(vii) the impact of services that are substitutable to electronic communications services; including whether clarifications are needed regarding the reach of the regulatory framework's technological neutrality and regarding the dichotomy between services in the 'information society' bracket and those in the 'electronic communications' bracket;

(viii) the necessity of abolishing redundant regulation;

(ix) the lifting of regulation where a market analysis has shown the market concerned to be truly competitive and that ways and means exist for extended monitoring;

- (x) the experience with non-discrimination obligations and remedies;*
- (xi) the effectiveness and functioning of the procedures established in Articles 7 and 7a of Directive 2002/21/EC;*
- (xii) initiation of an Article 7/7a procedure in situations where phase II of the procedure is not triggered due to an NRA withdrawal of its draft measure or where an NRA does not propose a remedy to a problem recognised on a certain market;*
- (xiii) the effectiveness and functioning of the procedure established in Article 19 of Directive 2002/21/EC;*
- (xiv) transnational services and operators, taking into account the possibility for the Commission to identify transnational markets under Article 15(4) of Directive 2002/21/EC, and with a focus on the competitive provision of communications services to EU businesses and to the effective and consistent application of business grade remedies across the EU;*
- (xv) identification of transnational markets, initially at least with respect to business services; enabling providers to notify BEREC of their intention to serve such markets, and supervision of providers serving such markets by BEREC;*
- (xvi) the scope of BEREC's competencies;*
- (xvii) a single Union authorisation and the supervisory structure for the framework as a whole;*
- (xviii) active and passive inputs;*
- (xix) the recommendation on relevant markets;*
- (xx) the regulation of equipment, including bundling of equipment and operating systems;*
- (xxi) the effectiveness of the implementation of the European*

emergency call number '112', including in particular necessary measures to improve the accuracy and reliability of caller location criteria;

(xxii) the feasibility of setting up a "reverse EU '112' communication system";

(xxiii) the impact of the internet having become a crucial infrastructure for conducting a wide array of economic and social activities.

Amendment 230

Proposal for a regulation Article 39 a (new)

Text proposed by the Commission

Amendment

Article 39a

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 34, 35 and 36 by 12 months after the date of entry into force of this Regulation. They shall forthwith communicate to the Commission the text of those provisions.

2. When Member States adopt those provisions, they shall contain a reference to this Regulation or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by Articles 34, 35 and 36.

Amendment 231

Proposal for a regulation

Article 40 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

However, Articles 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 shall apply from 1 July 2016. **deleted**

Amendment 232

Proposal for a regulation

Annex I

Text proposed by the Commission

Amendment

[...] **deleted**

Amendment 233

Proposal for a regulation

Annex II

Text proposed by the Commission

Amendment

[...] **deleted**

EXPLANATORY STATEMENT

The single market for electronic communications is at the heart of the Digital Economy. In order for Europe to fully seize the growth, competitiveness and employment potential that the Digital Single Market has to offer, the role of telecommunications in providing innovation and connectivity across all sectors of the economy must be enhanced.

Indeed, the economies of scale of a telecoms market with 500 million inhabitants would allow the strengthening of the electronic communications sector and provide high-quality connectivity and innovative services to Europeans and all economic sectors, making Europe a strong global competitive player.

In March 2013 the European Council stressed the importance of the telecommunications sector for growth and employment, and entrusted the European Commission to present concrete measures for the establishment of a single market for electronic communications. The European Council conclusions the following October insisted in the “urgent need for an integrated single digital and telecoms market, benefiting consumers and companies”. The Commission’s proposal, presented in September, aimed at achieving that goal.

In the Rapporteur’s view the completion of the digital single market is a process that needs to move up a gear and the Commission proposal is an important step forward in that direction.

Nevertheless, taking utmost account of the stakeholder views received by the Rapporteur, she believes that some of the proposed measures should be subject to a deeper, structured public consultation and thorough ex-ante assessment of the expected impact and consequently be included in the next review of the framework for electronic communications.

The main proposals developed by the Rapporteur are:

Roaming

After three regulations, in a six year period, the Rapporteur proposes to finally abolish retail roaming charges for voice, SMS and data. This obligation on operators should come into force by the 1st of July 2016 and consequently does not hinder the principle of legal certainty.

In addition, the Rapporteur considers that the Commission proposal on tackling roaming through voluntary agreements, as an alternative to the current obligations of the Roaming III regulation, generates a high degree of uncertainty. We must not forget that the implementation of the Roaming III structural measures, such as decoupling (for which investment is already being made) must be implemented in less than 5 months.

Open Internet

The Rapporteur believes that enshrining into a Regulation the principle that internet should be open and available to all, as it was made clear in the 2007-2009 review of the framework, is crucial for the uniform application of this freedom throughout the Union. The Internet is open and should remain that way. Openness means accessible for all, individuals and businesses, buyers and sellers, providers and consumers at competitive prices. Consequently ISPs should not only be required to meet the basic needs of users; they should also be allowed to meet more specific user demand (services such as: broadcasting via Internet Protocol (IP-TV),

video-conferencing and certain health applications), and to develop their own services and innovate themselves.

While the open internet provisions in the proposal are in line with current practices regarding reasonable traffic management, and that there is nothing in current Union law preventing agreements amongst end users and internet service providers on specialised services, the Rapporteur is of the opinion that the provisions in this regulation must ensure the transparency and non-discrimination principles. Consequently the rapporteur, while supporting the proposal from the Commission, has introduced certain clarifications and entrusted BEREC with the obligation of drafting proper guidelines for the uniform application of the open internet principle across the entire European Union.

Spectrum Policy

Taking into account that according to recent studies, by 2017: 85 % of the world's population will have 3G coverage, 50% will be covered by 4G, smartphone subscriptions are expected to reach 3 billion, and global data traffic to grow 15 times in comparison to today, it is clear that Radio spectrum is a critical resource for the internal market for mobile, wireless broadband and satellite communications in the Union and essential for the future competitiveness of the European Union. Consequently the Rapporteur welcomes the Commission's proposals on spectrum policy. Indeed the Rapporteur firmly believes that it is crucial to address the conditions and procedures for granting spectrum licenses for wireless broadband communications, as well as the use of unlicensed spectrum. Furthermore, the process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States having been granted a derogation by the Commission or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme testifies to the urgency of action and also indicates a need for improvement in the Commission's exercise of its powers.

Complementing the Commission proposal, the Rapporteur believes that trading and leasing of spectrum harmonised for wireless broadband communications increases flexibility and leads to more efficient allocation of spectrum resources and consequently has proposed measures to further facilitate and stimulate the dynamism of spectrum use.

Nevertheless the Rapporteur is of the opinion that additional clarity is needed regarding some of the new proposed guiding principles regarding the coordination and use of radio spectrum. The rapporteur suggests that possible inconsistencies with the already existing principles in the Framework and RSPP are further addressed in the parliamentary debate.

Freedom to provide electronic communications across the Union

Regarding the proposed provisions on "European providers for electronic communications" the Rapporteur believes they introduce a massively complex edifice involving an unpredictable supervisory structure. Any such proposal should undergo a deep and thorough consultation process and should consequently be analysed during the review of the entire framework. Nevertheless the Rapporteur has introduced a simple standardised notification to BEREC in order to ensure that carriers, that already benefit from a general authorisation scheme to provide services in another Member State, don't suffer discrimination in similar circumstances in the treatment by different Member States and that consistent regulatory

practices are applied in the single market.

BEREC

After thorough consideration of the Commission's proposals to amend BEREC's governance structure, and taking into account the professional work BEREC has performed since its establishment two years ago, the Rapporteur continues to believe, as she did when drafting the Regulation establishing BEREC in 2009, that in order to safeguard its independence from Member States and the Commission alike, it is critical to ensure that BEREC is led by one of its members.

The Rapporteur's proposals have focused on ensuring the continued effective work of BEREC by harmonising a minimum set of NRA competences, allowing all NRAs to be adequately equipped to fully participate in BEREC, and by extension improving BEREC's ability to effectively fulfil its role.

Wholesale access products, ASQs and fixed and mobile international calls

Regarding the proposals on wholesale access products and ASQs, after carefully considering stakeholder views, the Rapporteur addresses these issues by requiring the Commission to conduct a comprehensive consultation and present proposals in the review of the entire framework.

In relation to fixed and mobile international calls the Rapporteur stresses that these are currently deregulated competitive markets that do not require regulation through EU intervention and consequently proposes to delete the related provisions.

Framework review

The Rapporteur believes that the Commission must perform a comprehensive evaluation and review of the entire framework for electronic communications, and shall submit a report with appropriate proposals to the European Parliament and the Council by 30 June 2016 in order to allow sufficient time for the co-legislators to analyse and debate the proposals properly.

The review shall be based on a full public consultation as well as on ex-post assessments of the impact of the framework since 2009 and a thorough ex-ante assessment of expected impacts of the options emanating from the review.

In addition, the Rapporteur believes that some of the proposed measures by the Commission should be subject to a deeper, structured public consultation and thorough ex-ante assessment of the expected impact and consequently be included in the next review of the framework for electronic communications.

29.1.2014

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION (*)

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: Malcolm Harbour

(*) Associated committee – Rule 50 of the Rules of Procedure

SHORT JUSTIFICATION

In September 2013, the European Commission presented a proposal for a Regulation on the Single Market for electronic communications to achieve a Connected Continent.

The IMCO Committee will contribute to the Parliament's work on this proposal through a legislative opinion with exclusive competence on issues relating to users' rights and consumer protection and shared competence with ITRE in aspects of "Open Internet Access". We will also take a view on consumer aspects of the proposed revisions to the Roaming Regulation, but our input will be formulated as amendments to this draft after the ITRE report is released. In the short time available, your rapporteur has not examined in detail all the other aspects of the proposed Regulation, but focused only on those areas where IMCO has a direct role. Committee members may, of course, table amendments to his report on all other aspects. He has also left amendments to Recitals aside at this stage, and will propose amended recitals as our collaborative work with ITRE progresses.

In preparing this draft report your rapporteur has taken into account broad stakeholder concerns, giving particular attention to the views of consumer organisations and telecom regulators. He shares the concern of many that, while the objectives and ambitions of the proposal are laudable, the proposed instrument is too fragmented and lacking in strategic direction to achieve the goal of a Single EU Electronic Communications market. His opinion has drawn on the IMCO Committees' extensive experience in the area of enhancing

Consumer Rights, not just in the Electronic Communications sector, in making significant enhancements to the Commission proposal. He is confident that this approach will command wide support.

Securing the Open Internet

An important element of the Commission draft are measures to secure “Net Neutrality”, although this concept is not defined anywhere in the legal text. The IMCO Committee has extensive experience in this area, and the amendments it proposed in the 2009 revision of the Universal Services and Users’ Rights Directive remain the key provisions for EU Regulators to intervene to protect consumers from discriminatory behaviour and unfair service blocking.

The new proposals enhance those provisions and provide a clearer framework for Regulators to intervene. While your Rapporteur would have been happy to incorporate these as revisions to the existing Directive, the ITRE Rapporteur has made a strong case for these to be applied as a Regulation for consistent application across the EU. Your Rapporteur has accepted this strategy and made a number of proposals to clarify and improve the text, which will be jointly developed between the two Committees.

The legal instrument for Users’ Rights

The Commission proposal replaces many central provisions of the Universal Services and Users’ Rights Directive 2002/22/EC (subsequently amended by Directive 2009/136), by taking a number of the provisions and fully harmonising them in the form of a Regulation. It also centralises decisions on detailed implementing rules at the Commission level, removing direct accountability from National Regulatory Authorities. The Commission’s justification for proposing this is the uneven implementation of the rules across all Member States. It does not attempt to base this approach on benefits to the Single Electronic Communications Market. Your rapporteur considers this to be entirely the wrong approach.

Extracting arbitrary elements of the existing regulatory framework will be confusing, while imposing maximum harmonisation in these areas will be a detriment to consumer protection. The IMCO Committee overturned the Commission’s insistence on maximum harmonisation when it revised the Consumer Rights Directive in 2011 and in the fast moving world of electronic communications there is an even more persuasive argument that maximum harmonisation would be detrimental.

Moreover, the Commission is not tackling the real source of market fragmentation, which is the uneven performance of the Regulators in enforcing their existing obligations. Imposing a selection of new centralised regulatory requirements in countries where the Regulator is already underperforming on consumer enforcement is hardly a recipe for long term success! The Commission’s proposal is also far too prescriptive in its content. It is the view of the rapporteur that dedicated national regulatory authorities are much better placed to enforce the rules, with support from BEREC. In this fast moving sector, they will be more aware of anticompetitive behaviour that urgently needs remedying.

While criticising the legal framework, your rapporteur recognises that the Commission proposal contains important improvements to Users Rights. He has therefore reformulated these into proposed amendments to the existing Directive, which could be easily and quickly

transposed by all Member States.

Notably, your rapporteur has proposed that implementing rules be developed by BEREC, which is much better placed than the Commission to formulate detailed standards. He does not consider that Implementing Acts are an appropriate format for developing these measures.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection 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 5

Text proposed by the Commission

(5) The benefits arising from a single market for electronic communications should extend to the wider digital ecosystem that includes Union equipment manufacturers, content *and* application providers and the wider economy, covering sectors such as banking, automotive, logistics, retail, energy and transport, which rely on connectivity to enhance their productivity through, for example, ubiquitous cloud applications, connected objects and possibilities for integrated service provision for different parts of the company. Public administrations and the health sector should also benefit from a wider availability of e-government and e-health services. The offer of cultural content and services, and cultural diversity in general, may be also enhanced in a single market for electronic communications. The provision of connectivity through electronic communications networks and services is of such importance to the wider economy and society that unjustified sector-specific burdens, whether regulatory or otherwise,

Amendment

(5) The benefits arising from a single market for electronic communications should extend to the wider digital ecosystem that includes Union equipment manufacturers, content, application *and software* providers and the wider economy, covering sectors such as banking, automotive, logistics, retail, energy and transport, which rely on connectivity to enhance their productivity through, for example, ubiquitous cloud applications, connected objects and possibilities for integrated service provision for different parts of the company. Public administrations and the health sector should also benefit from a wider availability of e-government and e-health services. The offer of cultural content and services, and cultural diversity in general, may be also enhanced in a single market for electronic communications. The provision of connectivity through electronic communications networks and services is of such importance to the wider economy and society that unjustified sector-specific burdens, whether regulatory

should be avoided.

or otherwise, should be avoided.

Amendment 2

Proposal for a regulation Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) The processing of personal data provided for in this Regulation should be subject to applicable Union law, in particular Directive 95/46/EC of the European Parliament and of the Council^{1a} and Directive 2002/58/EC of the European Parliament and of the Council^{1b}, and to national law.

^{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 (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

Amendment 3

Proposal for a regulation Recital 18

Text proposed by the Commission

Amendment

(18) The application of various national policies creates inconsistencies and

(18) The 2009 EU Telecom reform establishes the principles for spectrum

fragmentation of the internal market which hamper the roll-out of Union-wide services and the completion of the internal market for wireless broadband communications. It could in particular create unequal conditions for access to such services, hamper competition between undertakings established in different Member States and stifle investments in more advanced networks and technologies and the emergence of innovative services, thereby depriving citizens and businesses of ubiquitous integrated high-quality services and wireless broadband operators of increased efficiency gains from large-scale more integrated operations. Therefore, action at Union level regarding certain aspects of radio spectrum assignment should *accompany the development of wide integrated coverage of advanced wireless broadband communications services throughout the Union. At the same time,* Member States should retain the right to adopt measures to organise their radio spectrum for public order, public security purposes and defence.

management. It recognizes Member States' competence with respect to cultural and audiovisual policies and generally leaves them the necessary scope for action. Therefore, action at Union level regarding certain aspects of radio spectrum assignment should *continue to endorse a dynamic approach to spectrum management, which recognizes Member States' competence in this field and respects the cultural, audiovisual and media policies of each Member State. Sufficient flexibility is needed to accommodate specific national requirements and* Member States should retain the right to adopt measures to organise their radio spectrum for public order, public security purposes and defence. *In cases of disputes between Member States over radio spectrum use, the Commission may coordinate and support dispute settlement.*

Amendment 4

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

Amendment

deleted

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 5

Proposal for a regulation

Recital 40

Text proposed by the Commission

Amendment

(40) Disparities in the national implementation of sector-specific end-user protection rules create significant barriers to the single digital market, in particular in the form of increased compliance costs for providers of electronic communications to the public wishing to offer services across Member States. Moreover, fragmentation and uncertainty as to the level of protection granted in different Member States undermines end-users' trust and dissuades them from purchasing electronic communications services abroad. In order to achieve the Union's objective to remove barriers to the internal market it is necessary to replace existing, divergent national legal measures with a single and fully harmonised set of sector-specific rules which create a high common level of end-user protection. Such full harmonisation

deleted

of the legal provisions should not prevent providers of electronic communications to the public from offering end-users contractual arrangements which go beyond that level of protection.

Justification

Once the rules contained in this Proposal for a Regulation are transferred to the Universal Services Directive, there is no need to maintain the recitals of this Regulation which are linked to consumers' rights.

Amendment 6

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) *As this Regulation **harmonises only certain sector-specific rules, it** should be without prejudice to the general consumer protection rules, as established by Union **acts** and national legislation implementing them.*

Amendment

(41) This Regulation should be without prejudice to the general consumer protection rules, as established by Union **law** and national legislation implementing them.

Justification

Once the rules contained in this Proposal for a Regulation are transferred to the Universal Services Directive, there is no need to maintain the recitals of this Regulation which are linked to consumers' rights.

Amendment 7

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) *Where the provisions in Chapters 4 and 5 of this Regulation refer to end-users, such provisions should apply not only to consumers but also to other categories of end-users, primarily micro enterprises. At their individual request,*

Amendment

deleted

end-users other than consumers should be able to agree, by individual contract, to deviate from certain provisions.

Justification

Once the rules contained in this Proposal for a Regulation are transferred to the Universal Services Directive, there is no need to maintain the recitals of this Regulation which are linked to consumers' rights.

Amendment 8

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

(47) In an open internet, providers of electronic communications to the public should not block, slow down, degrade, discriminate ***or otherwise interfere with the transmission of internet traffic*** 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 ***and they should not be maintained longer than what is strictly necessary.*** Reasonable traffic management encompasses ***preventing or minimising the effects of network congestion, provided that equivalent types of traffic are treated equally.***

Amendment 9

Proposal for a regulation

Recital 48

Text proposed by the Commission

(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow end-users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of electronic communications to the public to better adapt network capacities to expected data volumes. It is essential that end-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired.

Amendment

(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow end-users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of electronic communications to the public to better adapt network capacities to expected data volumes. It is essential that end-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, ***and*** that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired. ***The contractual data volumes and speeds offered should not be affected by any additional specialised service agreements concluded by the end-user, having regard to the provisions of Article 23 of this Regulation on Open Internet Access, which provide that any offers of specialised services must be in addition to internet access services, where applicable and not to the material detriment of their availability and quality.***

Amendment 10

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,

Amendment

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on quality parameters, including lower levels of priority for traffic which is not time-sensitive. The possibility for content, applications and service

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) 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.

providers to negotiate such *special* 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) 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 impair the general quality of *open* internet access services.

Amendment 11

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

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. 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 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.

versus advertised speeds, performance of internet access services compared with specialised services, and quality as perceived by end-users, ***taking utmost account of any guidelines issued by BEREC on the methods for measuring the speed of internet access services, the quality of service parameters to be measured and on the application of reasonable traffic management measures.*** 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 12

Proposal for a regulation Recital 52

Text proposed by the Commission

(52) The measures to ensure better transparency and comparability of prices, tariffs, terms and conditions, and quality of service parameters including those specific to the provision of internet access services, should increase the ability of end-users to optimise their selection of providers and thus benefit fully from competition.

Amendment

(52) The measures to ensure better transparency and comparability of prices, tariffs, terms and conditions, and quality of service parameters including those specific to the provision of internet access services, should increase the ability of end-users to optimise their selection of providers and thus benefit fully from competition. ***Any voluntary certification scheme for interactive comparison websites, guides or similar tools should be independent from any provider of electronic communications, use plain and clear language, use complete and up-to-date information, have transparent methodology, be reliable and accessibility according to Web Content Accessibility Guidelines 2.0 and have an effective complaints handling procedure***

Amendment 13

Proposal for a regulation Recital 53

Text proposed by the Commission

(53) End-users should be adequately informed of the price and the type of service offered before they purchase a service. This information should also be provided immediately prior to connection of the call when a call to a specific number or service is subject to particular pricing conditions, such as calls to premium rate services which are often subject to a special rate. Where such an obligation is disproportionate in view of the duration and cost of the tariff information for the service provider compared to the average call duration and the cost risk to which the end-user is exposed, national regulatory authorities may grant a derogation. End-users should also be informed if a free-phone number is subject to additional charges.

Amendment

deleted

Amendment 14

Proposal for a regulation Recital 54

Text proposed by the Commission

(54) Providers of electronic communications to the public should inform end-users adequately inter alia on their services and tariffs, quality of service parameters, access to emergency services and any limitation, and the choice of services and products designed for disabled consumers. This information should be provided in a clear and transparent manner and be specific to the Member States where

Amendment

(54) Providers of electronic communications to the public should inform end-users adequately inter alia on their services and tariffs, quality of service parameters, access to emergency services and any limitation, and the choice of services and products designed for disabled consumers. ***In the case of tariff plans with a predefined volume of communications, providers of electronic communications to***

the services are provided, and in the event of any change, be updated. Providers should be exempted from such information requirements as regards *those* offers which are individually negotiated.

the public should also inform on the ability of consumers and other end-users so requesting to roll-over any unused volume of the previous billing period into the current billing period. This information should be provided in a clear and transparent manner and be specific to the Member States where the services are provided, and in the event of any change, be updated. Providers should be exempted from such information requirements as regards offers which are individually negotiated.

Amendment 15

Proposal for a regulation

Recital 56

Text proposed by the Commission

(56) Contracts are an important means of giving end-users a high level of transparency of information and legal certainty. Providers of electronic communications to the public should give end-users clear and comprehensible information on all essential elements of the contract before the end-user is bound by the contract. The information should be mandatory and not be altered except by subsequent agreement of the end-user and the provider. The Commission and several national regulatory authorities recently found considerable discrepancies between the advertised speed of internet access services and the speed actually available to end-users. Providers of electronic communications to the public should therefore inform end-users, prior to the conclusion of the contract, of the speed and other quality of service parameters which they can realistically deliver at the end-user's main location.

Amendment

(56) Contracts are an important means of giving end-users a high level of transparency of information and legal certainty. Providers of electronic communications to the public should give end-users clear and comprehensible information on all essential elements of the contract before the end-user is bound by the contract. The information should be mandatory and not be altered except by subsequent agreement of the end-user and the provider. The Commission and several national regulatory authorities recently found considerable discrepancies between the advertised speed of internet access services and the speed actually available to end-users. Providers of electronic communications to the public should therefore inform end-users, prior to the conclusion of the contract, of the speed and other quality of service parameters which they can realistically deliver at the end-user's main location. ***For fixed and mobile data links, normally available speed is the speed of a communications service that a consumer could expect to receive most of***

the time when accessing the service, regardless of the time of day. Normally available speed should be derived from estimated speed ranges, speed averages, peak-hour speed and minimal speed. The methodology should be established in BEREC guidelines and regularly reviewed and updated to reflect technology and infrastructure evolution. Member States should ensure that providers enable end-users to have access to comparable information on the coverage of the mobile networks, including different technologies in their Member State, prior to the conclusion of the contract, to enable those end-users to make informed purchasing decisions.

Amendment 16

Proposal for a regulation

Recital 57

Text proposed by the Commission

(57) With respect to terminal equipment, contracts should specify any restrictions imposed by the provider on the use of the equipment, for example by way of ‘SIM-locking’ mobile devices, and any charges due on termination of the contract prior to the agreed expiry date. No charges should be due after expiry of the agreed contract duration.

Amendment

(57) With respect to terminal equipment, contracts should specify any restrictions imposed by the provider on the use of the equipment, for example by way of ‘SIM-locking’ mobile devices, and any charges due on termination of the contract prior to the agreed expiry date. No charges should be due after expiry of the agreed contract duration. ***Contracts should also specify the types of after-sales services, maintenance services and customer support services provided. Whenever possible, that information should also include technical information, provided on demand, concerning the proper functioning of the end-user's chosen terminal equipment. Provided that no technical incompatibility has been identified, that information should be provided free of charge.***

Amendment 17

Proposal for a regulation Recital 58

Text proposed by the Commission

(58) In order to avoid bill shocks, -users should be able to **define** maximum financial limits for the charges related to their usage of calls and internet access services. This facility should **be available free of charge, with** an appropriate notification that can be consulted again subsequently, when the limit is being approached. **Upon reaching the maximum limit, end-users should no longer receive or be charged for those services unless they specifically request the continued provision as agreed with the provider.**

Amendment

(58) In order to avoid bill shocks, **for all post-paid services, end-**users should be able to **set a predefined** maximum financial limit for the charges related to their usage of calls and internet access services. This facility should **include** an appropriate notification that can be consulted again subsequently, when the limit is being approached.

Amendment 18

Proposal for a regulation Recital 59

Text proposed by the Commission

(59) Experience from Member States and from a recent study commissioned by the Executive Agency for Consumers and Health has shown that long contract periods and automatic or tacit extensions of contracts constitute significant obstacles to changing a provider. It is thus desirable that end-users should be able to terminate, without incurring any costs, a contract six months after its conclusion. In such a case, end-users may be requested to compensate their providers for the residual value of subsidised terminal equipment or for the pro rata temporis value of any other promotions. Contracts which have been tacitly extended should be subject to termination with a one-month notice period.

Amendment

deleted

Amendment 19

Proposal for a regulation Recital 63

Text proposed by the Commission

(63) In order to **support the provision of one-stop-shops and to** facilitate a seamless switching experience for end-users, **the switching process should be led by the receiving provider of electronic communications to the public.** The transferring provider of electronic communications to the public **should** not delay or hamper the switching process. **Automated processes should be used as widely** as possible and a high level of protection of personal data should **be ensured.** Availability of transparent, accurate and timely information on switching should increase the end-users' confidence in switching and make them more willing to engage actively in the competitive process.

Amendment

(63) In order to facilitate a seamless switching experience for end-users, **BEREC should be empowered to lay down guidelines setting out the respective responsibilities of the receiving and transferring provider in the switching and porting process, ensuring inter alia that** the transferring provider of electronic communications to the public **does** not delay or hamper the switching process, **that the process is automated as much** as possible and **that** a high level of protection of personal data **is ensured. Those guidelines should also address the question of how to ensure continuity in the experience of end-users, including through identifiers, such as email addresses, through, for instance, the opportunity to opt for an email forwarding facility.** Availability of transparent, accurate and timely information on switching should increase the end-users' confidence in switching and make them more willing to engage actively in the competitive process.

Amendment 20

Proposal for a regulation Recital 64

Text proposed by the Commission

(64) Contracts with transferring providers of electronic communications to the public should be cancelled automatically

Amendment

deleted

after switching without any additional steps being required from end-users. In the case of pre-paid services any credit balance which has not been spent should be refunded to the switching consumer.

Amendment 21

Proposal for a regulation Recital 65

Text proposed by the Commission

Amendment

(65) End-users need to experience continuity when changing important identifiers such as email addresses. To this end, and to ensure that email communications are not lost, end-users should be given the opportunity to opt, free of charge, for an email forwarding facility offered by the transferring internet access service provider in cases where the end-user has an email address provided by the transferring provider.

deleted

Amendment 22

Proposal for a regulation Recital 68

Text proposed by the Commission

Amendment

(68) In order to take account of market and technical developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of adapting the Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should

deleted

ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Amendment 23

Proposal for a regulation Recital 71

Text proposed by the Commission

(71) In order to ensure consistency between the objective and the measures needed to complete the single market for electronic communications pursuant to this Regulation and some specific existing legislative provisions and to reflect key elements of evolving decisional practice, Directive 2002/21/EC, the Directives 2002/20/EC and 2002/22/EC and Regulation No 531/2012 should be amended. This includes making provision for Directive 2002/21/EC and the related Directives to be read in conjunction with this Regulation, the introduction of strengthened powers of the Commission in order to ensure consistency of remedies imposed on European electronic communications providers having significant market power in the context of the European consultation mechanism, harmonisation of the criteria adopted in assessing the definition and competitiveness of relevant markets, the adaptation of the notification system under Directive 2002/20/EC in view of the single EU authorisation as well as the repeal of provisions on minimum harmonisation of end-users rights provided in Directive 2002/22/EC made redundant by the **full** harmonisation provided in this Regulation.

Amendment

(71) In order to ensure consistency between the objective and the measures needed to complete the single market for electronic communications pursuant to this Regulation and some specific existing legislative provisions and to reflect key elements of evolving decisional practice, Directive 2002/21/EC, the Directives 2002/20/EC and 2002/22/EC and Regulation No 531/2012 should be amended. This includes making provision for Directive 2002/21/EC and the related Directives to be read in conjunction with this Regulation, the introduction of strengthened powers of the Commission in order to ensure consistency of remedies imposed on European electronic communications providers having significant market power in the context of the European consultation mechanism, harmonisation of the criteria adopted in assessing the definition and competitiveness of relevant markets, the adaptation of the notification system under Directive 2002/20/EC in view of the single EU authorisation as well as the repeal of provisions on minimum harmonisation of end-users rights provided in Directive 2002/22/EC made redundant by the harmonisation provided in this Regulation.

Amendment 24

Proposal for a regulation Recital 76

Text proposed by the Commission

(76) In addition, the significant reduction in mobile termination rates throughout the Union in the recent past should now allow the elimination of additional roaming charges for incoming calls.

Amendment

(76) In order to provide clarity and legal certainty, a date should be set for the final phasing out of retail roaming surcharges which reduction began with Regulation (EC) No 717/2007. In advance of that final abolition of retail surcharges, the wholesale rates should be further decreased and mobile termination rates should be harmonised, throughout the Union, in order to allow for a genuine level playing field for telecom operators.

Justification

In a number of Member States average domestic price is below EUR 0,05. Keeping wholesale price for voice roaming at current level - EUR 0,05 after 1/07/2016, when operators will be obliged to charge roaming customers identically as domestic ones, would create serious distortions on the market. As mobile operators will compete from 2016 on a European market, mobile termination rates should be harmonised in order to level playing field for all companies.

Amendment 25

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

Text proposed by the Commission

(b) citizens and businesses have the right and the possibility to access competitive, secure and reliable electronic communications services, irrespective of where they are provided from in the Union, without being hampered by cross-border restrictions or unjustified additional costs.

Amendment

(b) citizens and businesses have the right and the possibility to access competitive, secure and reliable electronic communications services, irrespective of where they are provided from in the Union, without being hampered by cross-border restrictions or unjustified additional costs ***and penalties.***

Amendment 26

Proposal for a regulation

Article 1 – paragraph 2 – introductory part

Text proposed by the Commission

2. This Regulation establishes in particular regulatory principles pursuant to which the Commission, the Body of European Regulators for Electronic Communications (BEREC) and the national competent authorities shall act, each within its own competences, in conjunction with the provisions of Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC:

Amendment

2. This Regulation establishes in particular regulatory principles pursuant to which the Commission, the Body of European Regulators for Electronic Communications (BEREC) and the national ***and regional*** competent authorities shall act, each within its own competences, in conjunction with the provisions of Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC:

Amendment 27

Proposal for a regulation

Article 1 – paragraph 2 – point c

Text proposed by the Commission

(c) to favour investment and innovation in new and enhanced high-capacity infrastructures ***which*** reach throughout the Union and ***which*** can cater for evolving end-user demand;

Amendment

(c) to favour investment and innovation in new and enhanced high-capacity infrastructures ***and to ensure that they*** reach throughout the Union and can cater for evolving end-user demand, ***wherever they may be located in the Union;***

Amendment 28

Proposal for a regulation

Article 1 – paragraph 3 – point e

Text proposed by the Commission

(e) the harmonisation of rules related to rights of end-users and the promotion of effective competition in retail markets, thereby creating a European consumer space for electronic communications;

Amendment

deleted

Justification

With the transfer of the consumer rights contained in this proposal for a Regulation to the Universal Services Directive, there is no need for them to remain in the draft regulation.

Amendment 29

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

Text proposed by the Commission

Amendment

3a. The provisions of this Regulation shall be without prejudice to the Union acquis relating to data protection and Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.

Amendment 30

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 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;

deleted

Amendment 31

Proposal for a regulation

Article 2 – paragraph 2 – point 14

Text proposed by the Commission

(14) ‘internet access service’ means a publicly available electronic communications service that provides connectivity to the internet, and **thereby connectivity** between virtually all end points connected to the internet, irrespective of the network **technology** used;

Amendment

(14) ‘internet access service’ means a publicly available electronic communications service that provides connectivity to the internet, and between virtually all end points connected to the internet, irrespective of the network **technologies or terminal equipment** used;

Amendment 32

Proposal for a regulation

Article 2 – paragraph 2 – point 15

Text proposed by the Commission

(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**;

Amendment

(15) ‘specialised service’ means an electronic communications service, **optimised for** specific content, applications or services, or a combination thereof, **by deploying traffic management to ensure the appropriate level of network capacity and quality, provided over logically distinct capacity and relying on strict admission control, with a view to securing enhanced quality characteristics which are controlled from end-to-end** and that is not marketed or used as a substitute for internet access **services**;

Amendment 33

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

1. **A European** electronic communications provider has the right to provide electronic communications networks and services in

Amendment

1. **Any** electronic communications provider has the right to provide electronic communications networks and services in

the whole Union and to exercise the rights linked to the provision of such networks and services in each Member State where it operates pursuant to a single EU authorisation which is subject only to the notification requirements provided in Article 4.

the whole Union and to exercise the rights linked to the provision of such networks and services in each Member State where it operates pursuant to a single EU authorisation which is subject only to the notification requirements provided in Article 4.

Amendment 34

Proposal for a regulation

Article 17 – paragraph 1 – point f

Text proposed by the Commission

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

Amendment

(f) respect of the rules on protection of privacy, personal data, ***the principle of 'Data Protection by Design'***, security and integrity of networks and transparency in conformity with Union law.

Amendment 35

Proposal for a regulation

Article 19

Text proposed by the Commission

Article 19

Assured service quality (ASQ) connectivity product

(1) Any operator shall have the right to provide a European ASQ connectivity product as specified in paragraph 4.

(2) Any operator shall meet any reasonable request to provide a European ASQ connectivity product as specified in paragraph 4 submitted in writing by an authorised provider of electronic communications services. Any refusal to provide a European ASQ product shall be based on objective criteria. The operator

Amendment

deleted

shall state the reasons for any refusal within one month from the written request.

It shall be deemed to be an objective ground of refusal that the party requesting the supply of a European ASQ connectivity product is unable or unwilling to make available, whether within the Union or in third countries, a European ASQ connectivity product to the requested party on reasonable terms, if the latter so requests.

(3) Where the request is refused or agreement on specific terms and conditions, including price, has not been reached within two months from the written request, either party is entitled to refer the issue to the relevant national regulatory authority pursuant to Article 20 of Directive 2002/21/EC. In such a case, Article 3(6) of this Regulation may apply.

(4) The provision of a connectivity product shall be considered as the provision of a European ASQ connectivity product if it is supplied in accordance with the minimum parameters listed in Annex II and cumulatively meets the following substantive requirements:

(a) ability to be offered as a high quality product anywhere in the Union;

(b) enabling service providers to meet the needs of their end-users;

(c) cost-effectiveness, taking into account existing solutions that may be provided on the same networks;

(d) operational effectiveness, in particular in respect of limiting to the extent possible implementation obstacles and deployment costs for customers;

(f) and (e) ensuring that the rules on protection of privacy, personal data, security and integrity of networks and transparency in accordance with Union

law are respected.

(5) The Commission shall be empowered to adopt delegated acts in accordance with Article 32 in order to adapt Annex II in light of market and technological developments, so as to continue to meet the substantive requirements listed in paragraph 4.

Amendment 36

Proposal for a regulation Chapter IV – Title

Text proposed by the Commission

Amendment

Harmonised rights of end-users

Users' rights to open internet access

Amendment 37

Proposal for a regulation Article 21 – paragraph 3

Text proposed by the Commission

Amendment

3. Providers of electronic communications to the public shall not apply tariffs for intra-Union communications terminating in another Member State which are higher, unless objectively justified:

deleted

(a) as regards fixed communications, than tariffs for domestic long-distance communications;

(b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.

Justification

As regards the fixed communications market, regulatory intervention is unjustified as there is no clear evidence of its usefulness. As regards mobile communication, this should be dealt with through the overall approach to Roaming as defined in the Roaming III Regulation.

Amendment 38

Proposal for a regulation Article 22

Text proposed by the Commission

Amendment

Article 22

deleted

Cross-border dispute resolution

1. The out-of-court procedures set up in accordance with Article 34 (1) of Directive 2002/22/EC shall also apply to disputes related to contracts between consumers, and other end-users to the extent that such out-of-court procedures are available also for them, and providers of electronic communications to the public which are established in another Member State. For disputes within the scope of Directive 2013/11/EU³³, the provisions of that Directive shall apply.

³³ ***Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC, OJ L 165 of 18 June 2013, p.63.***

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 39

Proposal for a regulation Article 23 – title

Text proposed by the Commission

Freedom to provide and avail of open internet access, ***and reasonable*** traffic management

Amendment

Open internet access, ***specialised services, and proportionate technical*** traffic management

Amendment 40

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

1. 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.

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

1. End-users shall be free to access and distribute information and content, run applications, and use ***devices, services and software*** of their choice, ***irrespective of their origin or destination,*** via their internet access service.

Internet access service providers shall not restrict or prevent the use by end-users of any terminal equipment to access and distribute information and content via their internet access service. This is in accordance with Directive of the European Parliament and of the Council 2014/.../EU^{1a*} and without prejudice to the rights of Member States to grant individual rights of use under Article 5 of Directive 2002/20/EC.

^{1a} Directive 2014/.../EU of the European Parliament and of the Council of ... on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L ..., p. ...).

**** OJ: please insert number of the Directive (COD 2011/0283) and the number, date of adoption and publication reference of the Directive in footnote 33a.***

Amendment 41

Proposal for a regulation Article 23 – paragraph 2

Text proposed by the Commission

2. 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.**

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

2. End-users shall also be free to **enjoy specialised services delivered by** providers of electronic communications services or providers of content, applications and services.

Providers of electronic communication services or providers of content, applications and services shall be allowed to offer specialised services, provided that such offers are in addition to internet access services and are not to the material detriment of their availability or quality.

For competent authorities to be able to assess such potential detriment, providers of electronic communication services or providers of content, applications and services shall transmit to them, upon request, precise information regarding the capacities assigned to the two types of services referred to in the second subparagraph, the criteria based on which network capacity is shared and, where appropriate, justifications about the measures put in place to prevent impairment of internet access services by the specialised services.

Amendment 42

Proposal for a regulation Article 23 – paragraph 4

Text proposed by the Commission

4. The exercise of the freedoms provided for in paragraphs 1 and 2 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and (2).

Amendment

4. End-users shall be provided with complete information in accordance with Article 20(2), Article 21(3) and Article 21a of Directive 2002/22/EC, including information on any reasonable traffic management measures applied that might affect access to and distribution of information, content, applications and services as specified in paragraphs 1 and 2 of this Article.

Amendment 43

Proposal for a regulation Article 23 – paragraph 5

Text proposed by the Commission

5. 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

5. Providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by discriminating against, *restricting, or otherwise interfering with the transmission of* specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures *to prevent or minimise the effects of network congestion, provided that equivalent types of traffic are treated equally, or to implement a court order.*

Such measures shall be set by transparent procedures and they shall not be maintained longer than what is strictly necessary and provide adequate safeguards, in particular to ensure that any restrictions are limited to what is necessary, they are non-discriminatory and proportionate.

Those safeguards shall include the possibility of judicial redress.

a) implement a legislative provision or a court order, or prevent or impede serious crimes;

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

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

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

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

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

Amendment 44

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, *in cooperation with national data protection authorities and other competent authorities, where appropriate,* shall *have the power and obligation to* monitor, in compliance with Article 23(5), *the application of reasonable traffic management measures* and, *through the* availability of *affordable* non-discriminatory internet access services, *ensure the ability of end-users to benefit from the freedoms provided for in Article 23(1) and (2). They shall take the utmost account of the BEREC guidelines referred to in the fourth subparagraph of paragraph 2 of this Article and in Article 21(3a) of Directive 2002/22/EC. The criteria for defining reasonable traffic management measures shall be subject to*

periodic review. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring, findings **and measures taken.** **Those reports shall be made public.**

Amendment 45

Proposal for a regulation Article 24 – paragraph 2

Text proposed by the Commission

2. In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run applications and services of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements on providers of electronic communications to the public.

National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. ***The envisaged requirements shall not be adopted during a period of two months from the receipt of complete information by the Commission unless otherwise agreed between the Commission and the national regulatory authority, or the Commission has informed the national***

Amendment

2. In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run applications, services **and software** of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements, **and where appropriate, other quality of service parameters, as defined by the national regulatory authorities** on providers of electronic communications to the public.

National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.

regulatory authority of a shortened examination period, or the Commission has made comments or recommendations.

National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.

National regulatory authorities shall put in place appropriate complaint procedures for issues concerning the performance of internet access service provided for end-users and providers of content, applications and services.

By ... * BEREC, after consulting stakeholders and in close cooperation with the Commission, shall lay down general guidelines defining uniform conditions for the implementation of the obligations of national regulatory authorities under this Article, including in particular the application of reasonable traffic management measures.

****OJ: Please insert the date of application of this Regulation.***

Amendment 46

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).

deleted

Justification

The rapporteur is not in favour of dealing with these conditions through implementing acts. He proposes instead to delegate this task to BEREC, see amendment to Article 24(2).

Amendment 47

Proposal for a regulation

Article 25

Text proposed by the Commission

Amendment

Article 25

deleted

Transparency and publication of information

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:

a) their name, address and contact information;

b) for each tariff plan the services offered and the relevant quality of service parameters, the applicable prices (for consumers including taxes) and any applicable charges (access, usage, maintenance and any additional charges), as well as costs with respect to terminal equipment;

c) applicable tariffs regarding any number or service subject to particular pricing conditions;

d) the quality of their services, in accordance with implementing acts provided for in paragraph 2;

e) internet access services, where offered, specifying the following:

(i) actually available data speed for download and upload in the end-user's Member State of residence, including at peak-hours;

(ii) the level of applicable data volume

limitations, if any; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and the means for end-users to monitor at any moment the current level of their consumption;

(iii) a clear and comprehensible explanation as to how any data volume limitation, the actually available speed and other quality parameters, and the simultaneous use of specialised services with an enhanced quality of service, may practically impact the use of content, applications and services;

(iv) information on any procedures put in place by the provider to measure and shape traffic so as to avoid congestion of a network, and on how those procedures could affect service quality and the protection of personal data;

f) measures taken to ensure equivalence in access for disabled end-users, including regularly updated information on details of products and services designed for them;

g) their standard contract terms and conditions, including any minimum contractual period, the conditions for and any charges due on early termination of a contract, the procedures and direct charges related to switching and portability of numbers and other identifiers, and compensation arrangements for delay or abuse of switching;

h) access to emergency services and caller location information for all services offered, any limitations on the provision of emergency services under Article 26 of Directive 2002/22/EC, and any changes thereto;

i) rights as regards universal service, including, where appropriate, the

facilities and services mentioned in Annex I to Directive 2002/22/EC.

The information shall be published in a clear, comprehensive and easily accessible form in the official language(s) of the Member State where the service is offered, and be updated regularly. The information shall, on request, be supplied to the relevant national regulatory authorities in advance of its publication. Any differentiation in the conditions applied to consumers and other end-users shall be made explicit.

2. The Commission may adopt implementing acts specifying the methods for measuring the speed of internet access services, the quality of service parameters and the methods for measuring them, and the content, form and manner of the information to be published, including possible quality certification mechanisms. The Commission may take into account the parameters, definitions and measurement methods set out in Annex III of the Directive 2002/22/EC. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

3. End-users shall have access to independent evaluation tools allowing them to compare the performance of electronic communications network access and services and the cost of alternative usage patterns. To this end Member States shall establish a voluntary certification scheme for interactive websites, guides or similar tools. Certification shall be granted on the basis of objective, transparent and proportionate requirements, in particular independence from any provider of electronic communications to the public, the use of plain language, the provision of complete and up-to-date information, and the operation of an effective complaints handling procedure. Where certified comparison facilities are not available on

the market free of charge or at a reasonable price, national regulatory authorities or other competent national authorities shall make such facilities available themselves or through third parties in compliance with the certification requirements. The information published by providers of electronic communications to the public shall be accessible, free of charge, for the purposes of making available comparison facilities.

4. Upon request of the relevant public authorities, providers of electronic communications to the public shall distribute public interest information free of charge to end-users, where appropriate, by the same means as those ordinarily used by them in their communications with end-users. In such a case, that information shall be provided by the relevant public authorities to the providers of electronic communications to the public in a standardised format and may, inter alia, cover the following topics:

(a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of data protection rights, copyright and related rights, and their legal consequences; and

(b) the means of protection against risks to personal security and unlawful access to personal data when using electronic communications services.

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 48

Proposal for a regulation
Article 26

Text proposed by the Commission

Amendment

Article 26

deleted

Information requirements for contracts

1. Before a contract on the provision of connection to a public electronic communications network or publicly available electronic communications services becomes binding providers of electronic communications to the public shall provide consumers, and other end-users unless they have explicitly agreed otherwise, at least the following information:

(a) the identity, address and contact information of the provider and, if different, the address and contact information for any complaints;

(b) the main characteristics of the services provided, including in particular:

(i) for each tariff plan the types of services offered, the included volumes of communications and all relevant quality of service parameters, including the time for the initial connection;

(ii) whether and in which Member States access to emergency services and caller location information is being provided and any limitations on the provision of emergency services in accordance with Article 26 of Directive 2002/22/EC;

(iii) the types of after-sales services, maintenance services and customer support services provided, the conditions and charges for these services, and the means of contacting these services;

(iv) any restrictions imposed by the provider on the use of terminal equipment supplied, including information on unlocking the terminal equipment and any charges involved if the contract is

terminated before the end of the minimum contract period;

(c) details of prices and tariffs (for consumers including taxes and possibly due additional charges) and the means by which up-to-date information on all applicable tariffs and charges are made available;

(d) payment methods offered and any cost differences due to the payment method, and available facilities to safeguard bill transparency and monitor the level of consumption ;

(e) the duration of the contract and the conditions for renewal and termination, including:

(i) any minimum usage or duration required to benefit from promotional terms;

(ii) any charges related to switching and portability of numbers and other identifiers, including compensation arrangements for delay or abuse of switching;

(iii) any charges due on early termination of the contract, including any cost recovery with respect to terminal equipment (on the basis of customary depreciation methods) and other promotional advantages (on a pro rata temporis basis);

(f) any compensation and refund arrangements, including an explicit reference to statutory rights of the end-user, which apply if contracted service quality levels are not met;

(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;

(h) for disabled end-users, details of

products and services designed for them;

(i) the means of initiating procedures for the settlement of disputes, including cross-border disputes, in accordance with Article 34 of Directive 2002/22/EC and Article 22 of this Regulation;

(j) the type of action that might be taken by the provider in reaction to security or integrity incidents or threats and vulnerabilities.

2. In addition to paragraph 1, providers of electronic communications to the public shall provide end-users, unless otherwise agreed by an end-user who is not a consumer, at least the following information with respect to their internet access services:

(a) the level of applicable data volume limitations, if any; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and how end-users can at any moment monitor the current level of their consumption;

(b) the actually available data speed for download and upload at the main location of the end-user, including actual speed ranges, speed averages and peak-hour speed, including the potential impact of allowing access to third parties through a radio local area network ;

(c) other quality of service parameters;;

(d) information on any procedures put in place by the provider to measure and shape traffic so as to avoid congestion of a network, and information on how those procedures could impact on service quality and protection of personal data;

(e) a clear and comprehensible explanation as to how any volume limitation, the actually available speed and other quality of service parameters,

and the simultaneous use of specialised services with an enhanced quality of service, may practically impact the use of content, applications and services.

3. The information referred to in paragraphs 1 and 2 shall be provided in a clear, comprehensive and easily accessible manner and in an official language of the end-user's Member State of residence, and shall be updated regularly. It shall form an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise. The end-user shall receive a copy of the contract in writing.

4. The Commission may adopt implementing acts specifying the details of the information requirements listed in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

5. The contract shall also include, upon request by the relevant public authorities, any information provided by these authorities for this purpose on the use of electronic communications networks and services to engage in unlawful activities or to disseminate harmful content, and on the means of protection against risks to personal security and unlawful processing of personal data, referred to in Article 25(4) and relevant to the service provided.

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 49

Proposal for a regulation

Article 27

Text proposed by the Commission

Amendment

Article 27

deleted

Control of consumption

1. Providers of electronic communications to the public shall offer end-users the opportunity to opt, free of charge, for a facility which provides information on the accumulated consumption of different electronic communications services expressed in the currency in which the end-user is billed. Such a facility shall guarantee that, without the end-user's consent, the accumulated expenditure over a specified period of use does not exceed a specified financial limit set by the end-user.

2. Providers of electronic communications to the public shall ensure that an appropriate notification is sent to the end-user when the consumption of services has reached 80% of the financial limit set in accordance with paragraph 1. The notification shall indicate the procedure to be followed to continue the provision of those services, including their cost. The provider shall cease to provide the specified services and to charge the end-user for it if the financial limit would otherwise be exceeded, unless and until the end-user requests the continued or renewed provision of those services. After having reached the financial limit end-users shall continue to be able to receive calls and SMS messages and access free-phone numbers and emergency services by dialling the European emergency number 112 free of charge until the end of the agreed billing period.

3. Providers of electronic communications to the public shall, immediately prior to connecting the call, enable end-users to access easily and without incurring any costs information on applicable tariffs

regarding any number or service subject to particular pricing conditions unless the national regulatory authority has granted a prior derogation for reasons of proportionality. Any such information shall be provided in a comparable fashion for all such numbers or services.

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

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 50

**Proposal for a regulation
Article 28**

Text proposed by the Commission

Amendment

Article 28

deleted

Contract termination

1. Contracts concluded between consumers and providers of electronic communications to the public shall not provide for a minimum duration that exceeds 24 months. Providers of electronic communications to the public shall offer end-users the possibility to conclude a contract with a maximum duration of 12 months.

2. Consumers, and other end-users unless they have otherwise agreed, shall have the right to terminate a contract with a one-month notice period, where six months or more have elapsed since conclusion of the contract. No compensation shall be due other than for the residual value of subsidised equipment bundled with the contract at the moment of the contract

conclusion and a pro rata temporis reimbursement for any other promotional advantages marked as such at the moment of the contract conclusion. Any restriction on the usage of terminal equipment on other networks shall be lifted, free of charge, by the provider at the latest upon payment of such compensation.

3. Where the contracts or national law provide for contract periods to be extended tacitly, the provider of electronic communications to the public shall inform the end-user in due time so that the end-user has at least one month to oppose a tacit extension. If the end-user does not oppose, the contract shall be deemed to be a permanent contract which can be terminated by the end-user at any time with a one-month notice period and without incurring any costs.

4. End-users shall have the right to terminate their contract without incurring any costs upon notice of changes in the contractual conditions proposed by the provider of electronic communications to the public unless the proposed changes are exclusively to the benefit of the end-user. Providers shall give end-users adequate notice, not shorter than one month, of any such change, and shall inform them at the same time of their right to terminate their contract without incurring any costs if they do not accept the new conditions. Paragraph 2 shall apply mutatis mutandis.

5. Any significant and non-temporary discrepancy between the actual performance regarding speed or other quality parameters and the performance indicated by the provider of electronic communications to the public in accordance with Article 26 shall be considered as non-conformity of performance for the purpose of determining the end-user's remedies in accordance with national law.

6. A subscription to additional services provided by the same provider of electronic communications to the public shall not re-start the initial contract period unless the price of the additional service(s) significantly exceeds that of the initial services or the additional services are offered at a special promotional price linked to the renewal of the existing contract.

7. Providers of electronic communications to the public shall apply conditions and procedures for contract termination which do not raise obstacles to or disincentives against changing service provider.

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 51

**Proposal for a regulation
Article 29**

Text proposed by the Commission

Amendment

Article 29

deleted

Bundled offers

If a bundle of services offered to consumers comprises at least a connection to an electronic communications network or one electronic communications service, Articles 28 and 30 of this Regulation shall apply to all elements of the bundle.

Justification

The rapporteur proposes a full deletion of this article. Although it is desirable to ensure that consumers are appropriately protected in relation to all elements in a bundle, the rapporteur believes that this is not the best way of achieving this, as the scope of the Telecoms Framework remains limited to electronic communication services and networks. A selective

extension of scope (as suggested in Art 29) creates a legally blurry situation, the resolution of which would require a long list of consequential amendments across the rest of the Framework (none of which are being proposed).

Amendment 52

Proposal for a regulation Article 30

Text proposed by the Commission

Amendment

Article 30

deleted

Switching and portability of numbers

1. All end-users with numbers from a national telephone numbering plan who so request shall have the right to retain their number(s) independently of the provider of electronic communications to the public providing the service in accordance with Part C of Annex I to Directive 2002/22/EC, provided the provider is an electronic communications provider in the Member State to which the national numbering plan relates or is a European electronic communications provider which has notified to the competent regulatory authority of the home Member State the fact that it provides or intends to provide such services in the Member State to which the national numbering plan relates.

2. Pricing between providers of electronic communications to the public related to the provision of number portability shall be cost-oriented, and direct charges to end-users, if any, shall not act as a disincentive for end-users against changing provider.

3. Porting of numbers and their activation shall be carried out within the shortest possible time. For end-users who have concluded an agreement to port a number to a new provider that number shall be activated within one working day from the conclusion of such agreement. Loss of

service during the process of porting, if any, shall not exceed one working day.

4. The receiving provider of electronic communications to the public shall lead the switching and porting process. End-users shall receive adequate information on switching before and during the switching process, and also immediately after it is concluded. End-users shall not be switched to another provider against their will.

5. The end-users' contracts with transferring providers of electronic communications to the public shall be terminated automatically after conclusion of the switch. Transferring providers of electronic communications to the public shall refund any remaining credit to the consumers using pre-paid services.

6. Providers of electronic communications to the public which delay or abuse switching, including by not making available information necessary for porting in a timely manner, shall be obliged to compensate end-users who are exposed to such delay or abuse.

7. In the event that an end-user switching to a new provider of internet access services has an email address provided by the transferring provider, the latter shall, upon request by the end-user, forward to any email address indicated by the end-user, free of charge, all email communications addressed to the end-user's previous email address for a period of 12 months. This email forwarding service shall include an automatic response message to all email senders alerting them about the end-user's new email address. The end-user shall have the option of requesting that the new email address should not be disclosed in the automatic response message.

Following the initial 12-month period, the transferring provider of electronic communications to the public shall give

the end-user an option to extend the period for email forwarding, at a charge if required. The transferring provider of electronic communications to the public shall not allocate the end-users' initial email address to another end-user before a period of two years following contract termination, and in any case during the period for which the email forwarding has been extended.

8. The competent national authorities may establish the global processes of switching and porting, including provision of appropriate sanctions on providers and compensations for end-users. They shall take into account necessary end-user protection throughout the switching process and the need to ensure efficiency of such process.

Justification

The rapporteur proposes a deletion of this article as part of his overall approach of amending Directive 2002/22/EC instead of the provisions foreseen in the draft Regulation. See amendments to Article 36 for details.

Amendment 53

Proposal for a regulation

Article 36 – paragraph 1 – point 1 a (new)

Directive 2002/22/EC

Article 2 – point f a (new)

Text proposed by the Commission

Amendment

(1a) In the second subparagraph of Article 2, the following point is inserted:

'(fa) receiving provider of electronic communications to the public" means the provider of electronic communications to the public to which the telephone number or service is transferred.'

Justification

This provision inserts a new definition of "receiving provider of electronic communication to

the public" as a new definition in article 2 of the USD Directive.

Amendment 54

Proposal for a regulation

Article 36 – paragraph 1 – point 1 b (new)

Directive 2002/22/EC

Article 20 – title

Present text

‘Contracts’

Amendment

***(1b) The title of Article 20 is replaced by:
‘Information requirements for contracts’;***

Amendment 55

Article 36 – paragraph 1 – point 1 c (new)

Directive 2002/22/EC

Article 20 – paragraph –1 a (new)

Text proposed by the Commission

Amendment

(1c) In Article 20, the following paragraph is inserted:

‘-1a. Member States shall ensure that the information referred to in paragraphs 1 and 1a is provided prior to contract conclusion in a clear, comprehensive and easily accessible manner and without prejudice to the requirements set out in the Consumer Rights Directive* regarding off-premises/ distance contracts. The consumer and other end-user so requesting shall have access to a copy of the contract on a durable medium.

Member States may maintain or introduce in their national law language requirements regarding the contractual information, so as to ensure that such information is easily understood by the consumer or other end-user so requesting.

**** Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights,***

amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).'

Amendment 56

Proposal for a regulation

Article 36 – paragraph 1 – point 1 d (new)

Directive 2002/22/EC

Article 20 – paragraph 1

Present text

‘1. Member States shall ensure that, when subscribing to services providing connection to a public communications network and/or publicly available electronic communications services, consumers, and other end-users so requesting, have a right to a contract with an undertaking or undertakings providing such connection and/or services. The contract shall specify ***in a clear, comprehensive and easily accessible form*** at least:

(a) the identity and address of the undertaking;

(b) the services provided, including in particular,

— ***whether or not*** access to emergency services and caller location ***information is being provided, and*** any limitations on the

Amendment

(1d) Article 20(1) is replaced by the following:

‘1. Member States shall ensure that, when subscribing to services providing connection to a public communications network and/or publicly available electronic communications services, consumers, and other end-users so requesting, have a right to a contract with an undertaking or undertakings providing such connection and/or services. The contract shall specify at least ***the following information:***

(a) the identity, address ***and contact information*** of the undertaking ***and, if different, the address and contact information for any complaints;***

(b) the ***main characteristics of the*** services provided, including in particular,

(i) the specific tariff plan or tariff plans to which the contract applies and, for each such tariff plan, the types of services offered, including the volumes of communications;

(ii) access to information on emergency services and caller location ***for all relevant services offered, and*** any limitations on the

provision of emergency services under Article 26,

— **information on any other conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law in accordance with Community law,**

— the minimum service quality levels offered, namely the time for the initial connection and, where appropriate, other quality of service parameters, as defined by the national regulatory authorities,

— **information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link, and information on how those procedures could impact on service quality,**

— the types **of maintenance service offered** and customer support services provided, **as well as** the means of contacting **these** services,

— any restrictions imposed by the provider on the use of terminal equipment supplied;

(c) where an obligation exists under Article 25, the subscriber's options as to whether or not to include his or her personal data in a directory, **and the data concerned;**

(d) details of prices and tariffs, the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained, **payment methods offered and any differences in costs due to payment method;**

provision of emergency services under Article 26,

(iii) the minimum service quality levels offered, namely the time for the initial connection and, where appropriate, other quality of service parameters, as defined by the national regulatory authorities,

(iv) the types **of after-sales services, maintenance services** and customer support services provided, **including, where feasible, technical information for the proper functioning of the end-user's chosen terminal equipment, the conditions and charges for those services, and** the means of contacting **those** services,

(v) any restrictions imposed by the provider on the use of terminal equipment supplied, **including information on unlocking the terminal equipment and any charges involved if the contract is terminated before the end of the minimum contract period;**

(c) where an obligation exists under Article 25, the subscriber's options as to whether or not to include his or her personal data in a directory, **and their ability to verify, correct or withdraw their entry;**

(d) details of prices and tariffs **including taxes and additional charges that may possibly be levied, and** the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;

(e) the duration of the contract and the conditions for renewal and termination of services and of the contract, including:

— any minimum usage or duration required to benefit from promotional terms,

— any charges related to portability of numbers and other identifiers,

— any charges due on termination of the contract, including any cost recovery with respect to terminal equipment,

(f) any compensation and the refund arrangements which apply if contracted service quality levels are not met;

(g) the means of initiating procedures for the settlement of disputes in accordance with Article 34;

(h) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.

Member States may also require that the contract include any information which may be provided by the relevant public authorities for this purpose on the use of electronic communications networks and services to engage in unlawful activities or

(da) payment methods offered and any differences in costs due to the payment method chosen, and available facilities to safeguard bill transparency and monitor the level of consumption;

(e) the duration of the contract and the conditions for renewal and termination of services and of the contract, including:

(i) any minimum usage or duration required to benefit from promotional terms,

(ii) any charges related to ***switching and*** portability of numbers and other identifiers, ***including compensation and refund arrangements for delay or abuse of switching;***

(iii) any charges due on ***early*** termination of the contract, including any cost recovery with respect to terminal equipment, ***on the basis of customary depreciation methods, and other promotional advantages, on a pro rata temporis basis,***

(f) any compensation and the refund arrangements, ***including, where applicable, an explicit reference to statutory rights of the consumer*** which apply if contracted service quality levels are not met;

(g) the means of initiating procedures for the settlement of disputes, ***including cross-border disputes,*** in accordance with Article 34;

(ga) details on how disabled end-users can obtain information on products and services designed for them;

(h) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.

Member States may also require that the contract include any information which may be provided by the relevant public authorities for this purpose on the use of electronic communications networks and services to engage in unlawful activities or

to disseminate harmful content, and on the means of protection against risks to personal security, privacy and personal data, referred to in Article 21(4) and relevant to the service provided.'

to disseminate harmful content, and on the means of protection against risks to personal security, privacy and personal data, referred to in Article 21(4) and relevant to the service provided.'

Amendment 57

Article 36 – paragraph 1 – point 1 e (new)

Directive 2002/22/EC

Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1e) In Article 20, the following paragraph is inserted:

'1a. In addition to the information referred to in paragraph 1, if the contract includes the provision of internet access services, that contract shall also include the following information:

(a) details of unit data pricing plans, pricing plans for bulk data and any applicable thresholds related to the specific tariff plan or tariff plans to which the contract applies. For data volumes above thresholds, unit or bulk pricing on an ad hoc or lasting basis and any data speed limitations that may be applied to the specific tariff plan or tariff plans to which the contract applies;

(b) how end-users can monitor the current level of their consumption, whether and how any voluntary limits can be set;

(c) for fixed data links, the normally available and minimum download and upload speed at the main location of the end-user;

(d) for mobile data links, the estimated and minimum download and upload speed when connected through the provider's wireless network in the end-user's Member State of residence;

(e) other quality of service parameters, as

*set out in accordance with Article 24 (2) of Regulation (EU) .../... *;*

(f) information on any procedures put in place by the provider to measure and shape traffic including an indication of the underlying communication inspection methods used for reasonable traffic management measures and information on how those procedures could impact on service quality, end-users' privacy and the protection of personal data; and

(g) a clear and comprehensible explanation as to how any volume limitation, the speed and other quality of service parameters may in practice have an impact on internet access services, in particular the use of content, applications and services.

** OL: Please insert the number of this Regulation.'*

Amendment 58

Proposal for a regulation

Article 36 – paragraph 1 – point 1 f (new)

Directive 2002/22/EC

Article 20 – paragraph 2

Present text

Amendment

(1f) Article 20 (2) is deleted

2. Member States shall ensure that subscribers have a right to withdraw from their contract without penalty upon notice of modification to the contractual conditions proposed by the undertakings providing electronic communications networks and/or services. Subscribers shall be given adequate notice, not shorter than one month, of any such modification, and shall be informed at the same time of their right to withdraw, without penalty, from their contract if they do not accept the new conditions.

Member States shall ensure that national regulatory authorities are able to specify the format of such notifications.

Justification

The Rapporteur proposes a new article 20a on contract duration and termination. This provision is included there.

Amendment 59

Proposal for a regulation

Article 36 – paragraph 1 – point 1 g (new)

Directive 2002/22/EC

Article 20 – paragraph 2 a (new)

Present text

Amendment

(1g) In Article 20, the following paragraph is added:

‘2a. Member States may maintain or introduce additional contractual information requirements in relation to contracts to which this Article applies.’;

Amendment 60

Proposal for a regulation

Article 36 – paragraph – point 1 h (new)

Directive 2002/22/EC

Article 20 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(1h) In Article 20, the following paragraph is added:

‘2b. BEREC shall issue guidelines for the establishment of standard contractual information templates containing the information required under paragraphs 1 and 1a of this Article.

National regulatory authorities may specify additional requirements on the content, form and manner of the contractual information to be published,

including in particular data delivery speeds, taking utmost account of the BEREC guidelines for the methods of measuring the speed and for the content, form and manner of the information to be published, as set out in Article 21(3a).’;

Amendment 61

Proposal for a regulation

Article 36 – paragraph 1 – point 1 i (new)

Directive 2002/22/EC

Article 20 a (new)

Text proposed by the Commission

Amendment

(1i) The following Article is inserted:

‘Article 20a

Contract duration and termination

1. Member States shall ensure that the maximum duration of contracts concluded between consumers and providers of electronic communications to the public is 24 months. Providers of electronic communications to the public shall offer end-users the possibility of 12 month contracts.

2. The consumer shall have the right to withdraw from a distance or off premises contract within 14 days after its conclusion in accordance with Directive 2011/83/EU.

3. Where a contract or national law provides for contract periods with a fixed term (as opposed to a minimum term) to be automatically rolled over, the provider of electronic communications to the public shall inform the consumer in due time thereof so that the consumer has at least one month to oppose such automatic roll-over. If the consumer does not oppose such automatic roll-over, the contract shall be deemed to be a permanent rolling contract which can be terminated by the consumer, at any time with a one-month

notice period and without incurring any costs except the cost of providing service during the notice period.

4. Member States shall ensure that consumers have the right to terminate their contract without incurring any costs upon receiving notice of changes in the contractual conditions proposed by the provider of electronic communications to the public unless the proposed changes are exclusively to the benefit of the end-user. Providers shall give consumers adequate notice, not less than one month, of any such change, and shall inform them at the same time of their right to terminate their contract without incurring any costs if they do not accept the new contractual conditions. Paragraph 2 shall apply mutatis mutandis.

5. Any significant discrepancy, continuous or regularly recurring, between the actual performance regarding speed or other quality of service parameters and the performance indicated by the provider of electronic communications to the public in accordance with Article 20 shall be deemed to constitute non-conformity of performance for the purposes of determining the remedies available to the consumer in accordance with national law.

6. Member States shall ensure that a subscription to additional services provided by the same provider of electronic communications to the public shall not re-start the initial contract period unless the additional services are offered at a special promotional price available only on the condition that the existing contract period is re-started.

7. Member States shall ensure that providers of electronic communications to the public apply conditions and procedures for contract termination which do not raise obstacles to or

disincentives against changing service providers.

8. If a bundle of services offered to consumers comprises at least a connection to an electronic communications network or an electronic communications service, the provisions of this Article shall apply to all elements of the bundle.

9. Member States may maintain or introduce additional requirements to ensure a higher level of consumer protection in relation to contracts to which this Article applies.’;

Amendment 62

Proposal for a regulation

Article 36 – paragraph 1 – point 1 j (new)

Directive 2002/22/EC

Article 21

Present text

‘Article 21

‘1. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on termination of a contract and on standard terms and conditions in respect of access to, and use of, services provided by them to end-users *and consumers* in accordance with Annex II. Such information shall be published in a clear, comprehensive and easily accessible form. National regulatory authorities may specify additional requirements regarding the form in which

Amendment

(1j) Article 21 is replaced by the following:

‘Article 21

‘1. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on *early* termination of a contract and on standard terms and conditions in respect of access to, and use of, services provided by them to end-users in accordance with Annex II. Such information shall be published in a clear, comprehensive and easily accessible form *and shall be updated regularly. Any differentiation in the conditions applied to consumers and other end-users so*

such information is to be published.

2. National regulatory authorities shall ***encourage the provision of comparable information to enable end-users and consumers to make an independent evaluation of*** the cost of alternative usage patterns, ***for instance by means of interactive guides or similar techniques.*** Where such facilities are not available on the market free of charge or at a reasonable price, Member States shall ensure that national regulatory authorities are able to make such guides or techniques available themselves or through third party procurement. Third parties shall have a right to use, free of charge, the information published by undertakings providing electronic communications networks and/or publicly available electronic communications services for the purposes of selling or making available such interactive guides or similar techniques.

requesting shall be made explicit. National regulatory authorities may specify additional requirements regarding the form in which such information is to be published, ***which may in particular include the introduction of language requirements so as to ensure that such information is easily understood by consumers and other end-users so requesting. Member States shall ensure that providers of electronic communications to the public are obliged upon request to supply the information, to the relevant national regulatory authorities, in advance of its publication.***

2. National regulatory authorities shall ***ensure that consumers and other end-users so requesting have access to independent evaluation tools to enable them to compare the performance of electronic communications network access and services and*** the cost of alternative usage patterns. Where such facilities are not available on the market free of charge or at a reasonable price, Member States shall ensure that national regulatory authorities are able to make such guides or techniques available themselves or through third party procurement. Third parties shall have a right to use, free of charge, the information published by undertakings providing electronic communications networks and/or publicly available electronic communications services for the purposes of selling or making available ***such independent evaluation tools.***

2a. Member States shall ensure that national regulatory authorities, under guidance from BEREC and following consultation with relevant stakeholders, establish a voluntary certification scheme for interactive comparison websites, guides or similar tools, based on objective, transparent and proportionate requirements, including in particular independence from any provider of

3. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to inter alia:

(a) provide applicable tariff information **to subscribers** regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, national regulatory authorities may require such information to be provided immediately prior to connecting the call;

(b) inform subscribers of any change to access to emergency services or caller location information in the service to which they have subscribed;

(c) inform subscribers of any change to conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law in accordance with Community law;

(d) provide information on any procedures put in place by the provider to measure and shape traffic so as to avoid filling or overfilling a network link, and on how those procedures could impact on service quality;

electronic communications to the public.

3. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to inter alia:

(a) provide **end-users with** applicable tariff information regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, national regulatory authorities may require such information to be provided immediately prior to connecting the call;

(b) provide end-users with information on access to emergency services and caller location for all relevant services offered, and any limitations on the provision of emergency services under Article 26, and to ensure that any changes are notified without delay;

(da) provide information on internet access services, where offered, specifying the following:

(i) for fixed data links, the normally available and minimum download and upload speed in the end-user's Member State of residence; for mobile data links, the estimated and minimum download and upload speed when connected through the provider's wireless network in the end-user's Member State of residence;

(ii) details of unit data pricing plans, pricing plans for bulk data and any applicable thresholds. For data volumes above thresholds: unit or bulk pricing on an ad hoc or lasting basis and any data speed limitations that may be applied;

(iii) how end-users can monitor the current level of their consumption, whether and how any voluntary limitations can be set;

(iv) a clear and comprehensible explanation as to how any data volume limitation, the speed and other quality of service parameters may in practice have an impact on the use of internet access services, in particular the use of content, applications and services;

*(v) information on any procedures put in place by the provider to measure and shape traffic as defined in Article 23(5) of Regulation (EU) .../... * including an indication of the underlying communication inspection methods used for reasonable traffic management measures and information on how those procedures could impact on service quality, end-users' privacy and the protection of personal data;*

(e) inform *subscribers* of their right to determine whether or not to include their personal data in a directory, and of the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC (*Directive on privacy and electronic communications*); and

(f) regularly inform disabled *subscribers* of details of products and services designed for them.

If deemed appropriate, national regulatory authorities may promote self or co-regulatory measures prior to imposing any obligation.

(e) inform consumers, *and other end-users where applicable*, of their right to determine whether or not to include their personal data in a directory, and of the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC; and

(f) regularly inform disabled *consumers, and other end-users, where applicable*, of details of products and services designed for them and *the measures taken to ensure equivalence of access*;

If deemed appropriate, national regulatory authorities may promote self- or co-regulatory measures prior to imposing any obligation. *Member States may specify additional requirements on the content,*

form and manner of the information to be published, taking utmost account of the BEREC guidelines referred to in paragraph 3a of this Article.

*3a. By ... *, BEREC, after consulting stakeholders and in close cooperation with the Commission, shall lay down general guidelines for the methods of measuring the speed, the quality of service parameters to be measured (inter alia average versus advertised speeds; quality as perceived by users), and the methods for measuring them over time, as well as the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information. Where appropriate, the parameters, definitions and measurement methods set out in Annex III may be used.*

4. Member States may require that the undertakings referred to in paragraph 3 distribute public interest information free of charge *to existing and new subscribers*, where appropriate, by the same means as those ordinarily used by them in their communications *with subscribers*. In such a case, that information shall be provided by the relevant public authorities in a standardised format and *shall*, inter alia, cover the following topics:

(a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related rights, and their legal consequences; and

(b) the means of protection against risks to personal security, privacy and personal

4. Member States may require that the undertakings referred to in paragraph 3 distribute public interest information free of charge *to end-users, where appropriate*, by the same means as those ordinarily used by them in their communications *with end-users*. In such a case, that information shall be provided by the relevant public authorities *to the providers of electronic communications to the public* in a standardised format and *may*, inter alia, cover the following topics:

(a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of *data protection rights*, copyright and related rights, and their legal consequences; and

(b) the means of protection against risks to personal security, privacy and personal

data when using electronic communications services.’

data when using electronic communications services.

** OJ: Please insert the number of this Regulation.*

*** OJ: Please insert the date of application of this Regulation.’*

Amendment 63
Proposal for a regulation
Article 36 – paragraph 1 – point 1 k (new)
Directive 2002/22/EC
Article 21 a (new)

Text proposed by the Commission

Amendment

(1k) The following Article is inserted:

‘Article 21a

Control of consumption

1. Member States shall ensure that providers of electronic communications offer consumers and end-users the facility to monitor and control their usage of electronic communications services billed on time or volume consumption. This facility must include:

(a) for pre-paid and post-paid services, access to timely information on their service consumption free of charge;

(b) for post-paid services, the ability to set free of charge a predefined financial cap on their usage, to request notification when a predefined proportion of the cap and the cap itself has been reached, the procedure to be followed to continue usage if the cap is exceeded, and the applicable pricing plans;

(c) itemised bills on a durable medium.

2. BEREC shall lay down guidelines for the implementation of paragraph 1.

After having reached the financial limit end-users shall continue to be able to

receive calls and SMS messages and access free-phone numbers and emergency services by dialling the European emergency call number "112" free of charge until the end of the agreed billing period.'

Amendment 64

Proposal for a regulation

Article 36 – paragraph 1 – point 2

Text proposed by the Commission

Amendment

(2) *Articles 20, 21, 22 and 30 are deleted.*

(2) *Article 22 is deleted.*

Justification

Deletion necessary to maintain / amend the concerned articles.

Amendment 65

Proposal for a regulation

Article 36 – paragraph 1 – point 2 a (new)

Directive 2002/22EC

Article 26

Present text

Amendment

‘1. Member States shall ensure that all end-users of the service referred to in paragraph 2, including users of public pay telephones, are able to call the emergency services free of charge and without having to use any means of payment, by using the single European emergency call number "112" and any national emergency call number specified by Member States.

(2a) Article 26 is replaced by the following:

‘1. Member States shall ensure that all end-users of the service referred to in paragraph 2, including users of public pay telephones are able to call the emergency services free of charge and without having to use any means of payment, by using the single European emergency call number "112" and any national emergency call number specified by Member States.

1a. Member States shall ensure that all users of private electronic communication networks are able to call the emergency services, or, where applicable, the internal

2. Member States, in consultation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national calls to a number or numbers in a national telephone numbering plan provide access to emergency services.

3. Member States shall ensure that calls to the single European emergency call number "112" are appropriately answered and handled in the manner best suited to the national organisation of emergency systems. Such calls shall be answered and handled at least as expeditiously and effectively as calls to the national emergency number or numbers, where these continue to be in use.

4. Member States shall ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users. Measures taken to ensure that disabled end-users are able to access emergency services whilst travelling in other Member States shall be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework

emergency services, free of charge, by using the single European emergency call number "112" and any national emergency call number specified by the Member States.

2. Member States, in consultation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national calls to a number or numbers in a national telephone numbering plan provide access to emergency services.

3. Member States shall ensure that calls to the single European emergency call number "112" are appropriately answered and handled in the manner best suited to the national organisation of emergency systems. Such calls shall be answered and handled at least as expeditiously and effectively as calls to the national emergency number or numbers, where these continue to be in use.

The Commission, in consultation with the relevant competent authorities, shall adopt a recommendation on performance indicators for Member States. The Commission shall submit to the European Parliament and the Council a report on the effectiveness of the implementation of the European emergency call number "112" and on the functioning of the performance indicators by the 31 December 2015 and every two years thereafter.

4. Member States shall ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users. Measures taken to ensure that disabled end-users are able to access emergency services whilst travelling in other Member States shall be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework

Directive), and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.

5. Member States shall ensure that undertakings concerned make caller location information available free of charge to the authority handling emergency calls as soon as the call reaches that authority. This shall apply to all calls to the single European emergency call number "112". Member States may extend this obligation to cover calls to national emergency numbers. Competent regulatory authorities shall lay down criteria for the accuracy and reliability of the location information provided.

6. Member States shall ensure that citizens are adequately informed about the existence and use of the single European emergency call number "112", in particular through initiatives specifically targeting persons travelling between Member States.

7. In order to ensure the effective access to "112" services in the Member States, the Commission, having consulted BEREC,

Directive), and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.

5. Member States shall ensure that undertakings concerned make caller location information available free of charge to the authority handling emergency calls as soon as the call reaches that authority. This shall apply to all calls to the single European emergency call number "112". Member States may extend this obligation to cover calls to national emergency numbers. ***The Commission shall ensure that*** competent regulatory authorities shall lay down criteria for the accuracy and reliability of the location information provided ***in accordance with paragraph 7 and taking utmost account of the BEREC guidelines.***

By (6 months after the DATE OF APPLICATION DEADLINE) BEREC, after consulting relevant stakeholders and in close cooperation with the Commission, shall lay down guidelines for the criteria for the accuracy and reliability of the caller location information provided to emergency services. Those guidelines shall take into account the feasibility of using a mobile terminal equipped with a GNSS devices of mobile terminals in order to improve the accuracy and reliability of the caller location information of a "112" call.

6. Member States ***and the Commission*** shall ensure that citizens are adequately informed about the existence and use of the single European emergency call number "112", in particular through initiatives specifically targeting persons travelling between Member States. ***The Commission shall support and complement Member States' action.***

7. In order to ensure the effective access to "112" services in the Member States, the Commission, having consulted BEREC,

may adopt technical implementing measures. However, these *technical implementing* measures shall be adopted without prejudice to, and shall have no impact on, the organisation of emergency services, which remains of the exclusive competence of Member States.’

shall be empowered to adopt delegated acts in accordance with Article 37a concerning caller location criteria and key performance indicators on access to “112”. However, these measures shall be adopted without prejudice to, and shall have no impact on, the organisation of emergency services, which remains of the exclusive competence of Member States.

7a. The Commission shall maintain a database of E.164 numbers of European emergency services to ensure that they are able to contact each other from one Member State to another.’;

Amendment 66
Proposal for a regulation
Article 36 – paragraph 1 – point 2 b (new)
Directive 2002/22/EC
Article 26 a (new)

Text proposed by the Commission

Amendment

(2b)The following Article is inserted:

‘Article 26 a

Reverse EU “112” communication system

No later than [1 year after the transposition deadline] the Commission shall submit a report to the European Parliament and the Council on the feasibility for setting up a Reverse EU “112” communication system using existing electronic communication networks, that covers the whole Union, is universal, multilingual, accessible, straightforward and effective in order to alert the public in the event of an imminent or developing disaster or major state of emergency.

The Commission shall consult BEREC and civil defence services, and examine the standards and specifications necessary for the setting up of the system referred to in paragraph 1. While preparing that

report the Commission shall take into account existing national and regional “112” systems and shall comply with the Union law on the protection of private data. Where appropriate, that report shall be accompanied by a legislative proposal.’;

Amendment 67

Proposal for a regulation

Article 36 – paragraph 1 – point 2 c (new)

Directive 2002/22/EC

Article 30

Present text

‘1. Member States shall ensure that all subscribers with numbers from the national telephone numbering plan who so request can retain their number(s) independently of the **undertaking** providing the service in accordance with the provisions of Part C of Annex I.

2. National regulatory authorities shall ensure that pricing between operators and/or service providers related to the provision of number portability is cost-oriented, and that direct charges to subscribers, if any, do not act as a disincentive for subscribers against changing service provider.

3. National regulatory authorities shall not impose retail tariffs for the porting of numbers in a manner that would distort competition, such as by setting specific or common retail tariffs.

"4. Porting of numbers and their subsequent activation shall be carried out within the shortest possible time. **In any case, subscribers** who have concluded an agreement to port a number to a new **undertaking shall have** that number

Amendment

(2c) Article 30 is replaced by the following:

‘1. Member States shall ensure that all subscribers with numbers from the national telephone numbering plan who so request can retain their number(s) independently of the **provider of electronic communications to the public** providing the service in accordance with the provisions of Part C of Annex I.’

2. National regulatory authorities shall ensure that pricing between operators and/or service providers related to the provision of number portability is cost-oriented, and that direct charges to subscribers, if any, do not act as a disincentive for subscribers against changing service provider.

3. National regulatory authorities shall not impose retail tariffs for the porting of numbers in a manner that would distort competition, such as by setting specific or common retail tariffs.

4. Porting of numbers and their subsequent activation shall be carried out within the shortest possible time. **For end-users** who have concluded an agreement to port a number to a new **provider** that number

activated within one working day.

Without prejudice to the first subparagraph, competent national authorities may establish the global process of porting of numbers, **taking into account national provisions on contracts, technical feasibility** and the need to maintain continuity of service to the **subscriber**. In any event, loss of service during the process of porting shall not exceed one working day. **Competent national authorities shall also take into account, where necessary, measures ensuring that subscribers are protected throughout the switching process and are not switched to another provider against their will.**

Member States shall ensure that appropriate sanctions on undertakings are provided for, including an obligation to compensate subscribers in case of delay in porting or abuse of porting by them or on their behalf.

shall be activated within one working day.

Without prejudice to the first subparagraph, competent national authorities may establish the global process of **switching and** porting of numbers **taking into account the BEREC guidelines referred to in paragraph 4b. They shall take into account necessary end-user protection throughout the switching process, the need to ensure the efficiency of such a process for the end-user, the need to maintain continuity of service to the end-user and the need to ensure that switching processes are not harmful to competition.** In any event, loss of service during the process of porting shall not exceed one working day. **End-users shall not be** switched to another provider against their will.

Member States shall ensure that appropriate sanctions on undertakings are provided for, including an obligation to compensate subscribers in case of delay in porting, **of not making available information necessary for porting in a timely manner**, or abuse of porting by them or on their behalf.

4a. The receiving provider of electronic communications to the public shall lead the switching and porting process. End-users shall receive adequate information on switching before and during the switching process, and also immediately after it is concluded.

4b. BEREC shall lay down guidelines on all the modalities and procedures of the switching and porting process, in particular the respective responsibilities of the receiving and transferring provider in the process of switching and porting, information to be provided to consumers during that process, timely termination of an existing contract the refund of any pre-payments and effective e-mail forwarding services.

4c. If a bundle of services offered to consumers comprises at least a connection to an electronic communications network or an electronic communications service, the provisions of this Article shall apply to all elements of the bundle.’;

5. Member States shall ensure that contracts concluded between consumers and undertakings providing electronic communications services do not mandate an initial commitment period that exceeds 24 months. Member States shall also ensure that undertakings offer users the possibility to subscribe to a contract with a maximum duration of 12 months.

6. Without prejudice to any minimum contractual period, Member States shall ensure that conditions and procedures for contract termination do not act as a disincentive against changing service provider.’

Amendment 68

Proposal for a regulation

Article 36 – paragraph 1 – point 2 d (new)

Directive 2002/22/EC

Article 34 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(2d) In Article 34 the following paragraph is added:

‘1a. The out-of-court procedures set up in accordance with paragraph 1 shall also apply to disputes related to contracts between consumers, and other end-users to the extent that such out-of-court procedures are available also for them, and providers of electronic communications to the public which are established in another Member State. In the case of disputes falling within the scope of Directive 2013/11/EU, the*

provisions of that Directive shall apply.

** Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18 6 2013, p.63).'*

Amendment 69

Proposal for a regulation

Article 36 – paragraph 1 – point 2 e (new)

Directive 2002/22/EC

Article 37a (new)

Text proposed by the Commission

Amendment

(2e) The following Article 37a is inserted:

‘Article 37a

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 26 shall be conferred on the Commission for an indeterminate period of time from ... *.*
- 3. The delegation of power referred to in Article 26 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the*

Council.

* *OJ: Please insert the date of entry into force of this Regulation*

Amendment 70

Proposal for a regulation

Article 36 – paragraph 1 – point 2 f (new)

Directive 2002/22/EC

Annex II – point 1

Present text

‘1. Name(s) **and** address(es) of undertaking(s)

i.e. names and head office addresses of undertakings providing public communications networks and/or publicly available telephone services.’

Amendment

(2f) In Annex II, point 1 is replaced by the following:

‘1. Name(s), address(es) **and contact information** of undertaking(s)

i.e. names and head office addresses of undertakings providing public communications networks and/or publicly available telephone services.’;

Amendment 71

Proposal for a regulation

Article 36 – paragraph 1 – point 2g (new)

Directive 2002/22/EC

Annex II – point 2.2

Present text

‘2.2. **Standard tariffs indicating** the services provided **and the content of each tariff element (e.g. charges for access, all types of usage charges, maintenance charges), and including details of standard discounts applied and special and targeted tariff schemes** and any additional charges, as well as costs with respect to terminal equipment.’

Amendment

(2g) In Annex II, point 2.2 is replaced by the following:

‘2.2. **For each tariff plan**, the services provided **and the relevant quality of service parameters, the applicable tariff plan(s) and, for each such tariff plan, the types of services offered, including the volumes of communications, and any applicable charges (access, usage, maintenance** and any additional charges), as well as costs with respect to terminal

equipment.’;

Amendment 72

Proposal for a regulation

Article 36 – paragraph 1 – point 2 h (new)

Directive 2002/22/EC

Annex II – point 2.2 a (new)

Text proposed by the Commission

Amendment

(2h) In Annex II, the following point is inserted:

‘2.2.a. Additional information on internet access services, where offered, including in particular details on data pricing, download and upload data speeds and any applicable speed limitations, on possibilities to monitor consumption levels, on any applicable traffic management procedures and their impact on service quality, on end-user privacy and on the protection of personal data.’;

Amendment 73

Proposal for a regulation

Article 36 – paragraph 1 – point 2 i (new)

Directive 2002/22/EC

Annex II – point 2.5

Present text

Amendment

‘2.5. Standard contract conditions, including any minimum contractual period, termination of the contract **and** procedures and direct charges related to the portability of numbers and other identifiers, if relevant.’

(2i) In Annex II, Point 2.5 is replaced by the following:

‘2.5. Standard contract **terms and** conditions, including any minimum contractual period, **the conditions for and any charges due on early** termination of the contract, **the** procedures and direct charges related to the **switching and** portability of numbers and other identifiers, if relevant, **and compensation arrangements for delay or abuse of**

switching.'

Amendment 74

Proposal for a regulation

Article 37 – point 4

Regulation 531/2012

Article 4 a – paragraph 3

Text proposed by the Commission

Amendment

3. Individual end-users served by a roaming provider availing of this Article may, upon their own request, make a deliberate and explicit choice to renounce the benefit of the application to regulated roaming services of the applicable domestic service rate under a given retail package in return for other advantages offered by that provider. The roaming provider shall remind those end users of the nature of the roaming advantages which would thereby be lost. National regulatory authorities shall monitor in particular whether roaming providers availing of this Article engage in business practices which would amount to circumvention of the default regime.

deleted

Amendment 75

Proposal for a regulation

Article 37 – point 4 a (new)

Regulation (EU) No 531/2012

Article 7 – paragraphs 1 and 2

Present text

Amendment

'1. The average wholesale charge that the visited network operator may levy on the customer's roaming provider for the

(4a) 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 EUR **0,14** per minute as of 1 July **2012**.

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.

provision of a regulated roaming call originating on that visited network, inclusive, inter alia, of origination, transit and termination costs, shall not exceed EUR **0,05** per minute as of 1 July **2014**.

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 **0,01 on 1 July 2016** and shall remain until 30 June 2022.

2a. Mobile termination rates for roaming voice calls shall not exceed EUR 0,005 from 1 July 2016 and shall remain until 30 June 2022.'

Justification

In a number of Member States average domestic price is below EUR 0,05. Keeping wholesale price for voice roaming at current level - EUR 0,05 after 1/07/2016, when operators will be obliged to charge roaming customers identically as domestic ones, would create serious distortions on the market. Therefore the wholesale prices for voice should be further decreased in order to allow for a greater competition.

Amendment 76

Proposal for a regulation

Article 37 – point 4 b (new)

Regulation (EU) No 531/2012

Article 7 a (new)

Text proposed by the Commission

Amendment

(4b) The following Article is inserted:

'Article 7a

Abolition of retail roaming charges

With effect from 1 July 2016, roaming

providers shall not levy any surcharge in comparison to the charges for mobile communications services at national level on roaming customers for any regulated roaming call made or received, for any regulated roaming SMS message sent or for any regulated data roaming services used, without prejudice to measures taken to prevent anomalous or fraudulent usage.'

Justification

Surcharges for voice, SMS and data roaming should be abolished. After, gradually, decreasing caps telecom operator can charge consumers for roaming services, it is time to allow consumers to roam like at home. This obligation on operators should not come into force before the 1st of July 2016 in order not hinder the principle of legal certainty. Before 1st of July 2016 the wholesale prices should be further decreased and mobile termination rates harmonised in order to allow for a level playing field for all telecom operators in the EU

Amendment 77

Proposal for a regulation

Article 37 – point 5 a (new)

Regulation (EU) No 531/2012

Article 12 – paragraph 1

Present text

‘1. With effect from 1 July **2012**, the average wholesale charge that the visited network operator may levy on the roaming customer's home provider for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR **0,25** per megabyte of data transmitted. The safeguard limit shall decrease to EUR **0,15** per megabyte of data transmitted on 1 July **2013** and to EUR **0,05** per megabyte of data transmitted on 1 July **2014** and shall, **without prejudice to Article 19**, remain at EUR **0,05** per megabyte of data transmitted

Amendment

(5a) Article 12(1) is replaced by the following:

‘1. With effect from 1 July **2013**, the average wholesale charge that the visited network operator may levy on the roaming customer's home provider for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR **0,15** per megabyte of data transmitted. The safeguard limit shall decrease to EUR **0,05** per megabyte of data transmitted on 1 July **2014** and to EUR **0,0050** per megabyte of data transmitted on 1 July **2015** and shall remain at EUR **0,0050** per megabyte of data transmitted until 30 June 2022.’

until 30 June 2022.’

Amendment 78

Proposal for a regulation

Article 37 – point 8

Regulation (EU) No 531/2012

Article 19

Text proposed by the Commission

Amendment

(8) Article 19 is amended as follows: *deleted*

(a) Paragraph 1 is amended as follows:

(i) the first sentence is replaced by the following:

The Commission shall review the functioning of this regulation and, after a public consultation, shall report to the European Parliament and the Council by 31 December 2016 at the latest.

(ii) point (g) is replaced by the following:

(g) the extent to which the implementation of the structural measures provided for in Articles 3 and 4 and of the alternative regime provided for in Article 4a has produced results in developing competition in the internal market for roaming services to the extent that there is no effective difference between roaming and domestic tariffs;

(iii) the following point (i) is inserted:

'(i) the extent, if any, to which the evolution of domestic retail prices is observably affected by the application by roaming providers of the domestic service rate to both domestic services and regulated roaming services throughout the Union.

(b) Paragraph 2 is amended as follows:

(i) The first sentence is replaced by the following:

If the report shows that tariff options, in which the domestic service rate applies both to domestic and regulated roaming services, are not provided in all retail packages for reasonable use by at least one roaming provider in each Member State, or that the offers by alternative roaming providers have not made substantially equivalent retail roaming tariffs easily available to consumers throughout the Union, the Commission shall by the same date make appropriate proposals to the European Parliament and the Council to address the situation and ensure that there is no difference between national and roaming tariffs within the internal market.

(ii) Point (d) is replaced by the following:

(d) to change the duration or reduce the level of maximum wholesale charges provided for in Articles 7, 9 and 12 with a view to reinforcing the ability of all roaming providers to make available in their respective retail packages for reasonable use tariff options in which the applicable domestic service rate applies to both domestic services and regulated roaming services, as if the latter were consumed on the home network.

Amendment 79

Proposal for a regulation

Article 37 – point 8 a (new)

Regulation (EU) No 531/2012

Article 19

Present text

‘Article 19

Review

1. The Commission shall review the

PE522.762v02-00

Amendment

(8a) Article 19 is replaced by the following:

‘Article 19

Review

1. The Commission shall review the

244/392

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functioning of this Regulation and, *after a public consultation, shall report to the European Parliament and the Council by 30 June 2016. The Commission shall evaluate in particular whether the objectives of this Regulation have been achieved. In so doing, the Commission shall review, inter alia:*

- (a) whether competition has sufficiently developed in order to justify the expiry of maximum retail charges;
- (b) whether competition will be sufficient for the removal of maximum wholesale charges;
- (c) the developments and expected future trends in wholesale and retail charges for the provision to roaming customers of voice, SMS and data communication services, in comparison to the charges for mobile communications services at domestic level in the Member States, both for pre-paid and post-paid customers separately, and in the quality and speed of these services;
- (d) the availability and quality of services including those which are an alternative to voice, SMS and data roaming services, in particular in the light of technological developments;

functioning of this Regulation and *shall report to the European Parliament and the Council in accordance with paragraphs 2 to 6.*

1a. The Commission shall, by 31 September 2015, after a public consultation, report to the European Parliament and the Council on whether to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12. The Commission shall also, after consulting BEREC, make appropriate legislative proposal in order to harmonise mobile termination rates throughout the Union by 31 December 2015.

1b. The Commission shall, by 30 June 2016, after a public consultation, report to the European Parliament and the Council on, inter alia:

- (a) whether competition has sufficiently developed in order to justify the expiry of maximum retail charges;
- (b) whether competition will be sufficient for the removal of maximum wholesale charges;
- (c) the developments and expected future trends in wholesale and retail charges for the provision to roaming customers of voice, SMS and data communication services, in comparison to the charges for mobile communications services at domestic level in the Member States, both for pre-paid and post-paid customers separately, and in the quality and speed of these services;
- (d) the availability and quality of services including those which are an alternative to voice, SMS and data roaming services, in particular in the light of technological developments;

(e) the extent to which consumers have benefited through real reductions in the price of roaming services, the variety of tariffs and products which are available to consumers with different calling patterns, and the difference between roaming and national tariffs, including the availability of offers providing a single tariff for national and roaming services;

(f) the degree of competition in both the retail and wholesale markets, in particular the competitive situation of smaller, independent or newly started operators, including the competition effects of commercial agreements and the degree of interconnection between operators;

(g) the extent to which the implementation of the structural measures provided for in Articles 3 and 4 has produced results in developing competition in the internal market for roaming services to the extent that the difference between roaming and national tariffs has approached zero;

(h) the extent to which the level of wholesale and retail maximum charges has provided adequate safeguards against excessive prices for consumers while allowing the development of competition in the internal market for roaming services.

2. If the report *shows that the structural measures provided for by this Regulation have not been sufficient to promote competition in the internal market for roaming services for the benefit of all European consumers or that the differences between roaming tariffs and national tariffs have not approached zero, the Commission shall* make appropriate *proposals* to the European Parliament and the Council to address this situation *and thus achieve an internal market for mobile communication services, ultimately with there being no difference between national and roaming tariffs. The Commission shall examine, in particular, whether it is necessary:*

(e) the extent to which consumers have benefited through real reductions in the price of roaming services, the variety of tariffs and products which are available to consumers with different calling patterns, and the difference between roaming and national tariffs, including the availability of offers providing a single tariff for national and roaming services;

(f) the degree of competition in both the retail and wholesale markets, in particular the competitive situation of smaller, independent or newly started operators, including the competition effects of commercial agreements and the degree of interconnection between operators;

(g) the extent to which the implementation of the structural measures provided for in Articles 3 and 4 has produced results in developing competition in the internal market for roaming services to the extent that the difference between roaming and national tariffs has approached zero;

(h) the extent to which the level of wholesale and retail maximum charges has provided adequate safeguards against excessive prices for consumers while allowing the development of competition in the internal market for roaming services.

2. If the report *referred to in paragraph 2 shows that there is a need to change the duration or revise the level of maximum wholesale charges, the Commission shall, by 31 December 2015, and after consulting BEREC, make appropriate proposal* to the European Parliament and the Council to address this situation.

(a) to lay down additional technical and structural measures;

If the report, referred to in paragraph 3, shows that the structural measures provided for by this Regulation have not been sufficient to promote competition in the internal market for roaming services for the benefit of all European consumers or that the differences between roaming tariffs and national tariffs have not approached zero, the Commission shall, by 31 December 2015, make appropriate proposals to the European Parliament and the Council to address this situation and thus achieve an internal market for mobile communication services, ultimately with there being no difference between national and roaming tariffs.

(b) to modify the structural measures;

(c) to extend the duration and possibly revise the level of the maximum retail charges provided for in Articles 8, 10 and 13;

(d) to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12;

(e) to introduce any other necessary requirements, including non-differentiation of roaming and national tariffs.

3. In addition, the Commission shall submit a report to the European Parliament and the Council every two years after the report referred to in paragraph 1. Each report shall include a summary of the monitoring of the provision of roaming services in the Union and an assessment of the progress towards achieving the objectives of this Regulation, including by reference to the matters referred to in paragraphs *1 and 2*.

4. In order to assess the competitive developments in the Union-wide roaming markets, BEREC shall regularly collect data from national regulatory authorities on the development of retail and wholesale charges for voice, SMS and data roaming

3. In addition, the Commission shall submit a report to the European Parliament and the Council every two years after the report referred to in paragraph 1. Each report shall include a summary of the monitoring of the provision of roaming services in the Union and an assessment of the progress towards achieving the objectives of this Regulation, including by reference to the matters referred to in paragraphs *2 and 3*.

4. In order to assess the competitive developments in the Union-wide roaming markets, BEREC shall regularly collect data from national regulatory authorities on the development of retail and wholesale charges for voice, SMS and data roaming

services. Those data shall be notified to the Commission at least twice a year. The Commission shall make them public.

BEREC shall also annually collect information from national regulatory authorities on transparency and comparability of different tariffs offered by operators to their customers. The Commission shall make those data and findings public.’

services. Those data shall be notified to the Commission at least twice a year. The Commission shall make them public.

BEREC shall also annually collect information from national regulatory authorities on transparency and comparability of different tariffs offered by operators to their customers. The Commission shall make those data and findings public.’

Amendment 80

Proposal for a regulation

Article 40 – paragraph 2 – subparagraph 2

Text proposed by the Commission

However, Articles 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 shall apply from 1 July 2016.

Amendment

deleted

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	IMCO 12.9.2013			
Associated committee(s) - date announced in plenary	21.11.2013			
Rapporteur Date appointed	Malcolm Harbour 25.9.2013			
Discussed in committee	17.10.2013	4.11.2013	27.11.2013	9.1.2014
	22.1.2014			
Date adopted	23.1.2014			
Result of final vote	+: -: 0:	35 1 0		
Members present for the final vote	Claudette Abela Baldacchino, Pablo Arias Echeverría, Adam Bielan, Preslav Borissov, Sergio Gaetano Cofferati, Lara Comi, Anna Maria Corazza Bildt, Christian Engström, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Małgorzata Handzlik, Eduard-Raul Hellvig, Sandra Kalniete, Edvard Kožušník, Toine Manders, Hans-Peter Mayer, Franz Obermayr, Sirpa Pietikäinen, Zuzana Roithová, Heide Rühle, Andreas Schwab, Róza Gräfin von Thun und Hohenstein, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler			
Substitute(s) present for the final vote	Regina Bastos, María Irigoyen Pérez, Morten Løkkegaard, Emma McClarkin, Tadeusz Ross, Marc Tarabella, Patricia van der Kammen, Sabine Verheyen, Josef Weidenholzer			
Substitute(s) under Rule 187(2) present for the final vote	Vital Moreira, Oreste Rossi			

23.1.2014

OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT

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: François Alfonsi

SHORT JUSTIFICATION

The proposal for a regulation on a European single market in electronic communications is the culmination of a decade of EU legislative initiatives seeking to enable individuals and businesses to access electronic communication services without restrictions and at a lower cost. The European Union is fragmented into 28 distinct national markets which differ in terms of permits, regulatory conditions, spectrum allocation and consumer protection. This fragmentation has undesirable effects. In particular it hampers the development of border services, and leads to high prices for calls between Member States and to under-use of existing network capacities. The current situation is also bad for competitiveness and employment, particularly in sectors where improving competitiveness rests on connectivity and the supply of integrated services such as logistics, banking services, transport, energy, retail sales, health, etc.

The Committee on Regional Development thinks this proposal will have a beneficial effect on the development of border regions and on enhancing cross-border territorial cooperation.

The Committee on Regional Development stresses that the European structural funds already play a major role in funding the European Digital Agenda. With that in mind, it feels this proposal for a regulation will help boost public investment in the digital sector.

The Commission is preparing to adopt, alongside this proposal for a regulation, a recommendation seeking in particular to enhance broadband investment. The Committee on Regional Development calls for the subject matter of this recommendation to be extended to enhance the development of full digital coverage throughout the European Union, including

remote and island regions.

AMENDMENTS

The Committee on Regional Development calls on the Committee on Transport and Tourism, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) As the European Parliament's Directorate-General for Internal Policies (Policy Department B – Structural and Cohesion Policies) stresses in its 2013 study entitled 'Internet, Digital Agenda and Economic Development of European Regions' ("the study"), a favourable regional context in terms of acceptance and receptiveness of ICT and information society development is an important or even decisive factor as this is the privileged place where demand for ICT development can emerge.

Amendment 2

Proposal for a regulation Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) If a European single market for electronic communications is to be established and territorial and social cohesion are to be strengthened, investment priority (2)(a) laid down in Article 5 of Regulation (EU) No 1301/2013 of the European Parliament and of the Council^{1a} should be implemented with a view to improving broadband access and high-speed networks and supporting the use of new

technologies and networks in the digital economy and all European regions should be put in a position to make investments in this area, as specified in Article 4 of that Regulation.

^{1a} Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289).

Amendment 3

Proposal for a regulation Recital 4 c (new)

Text proposed by the Commission

Amendment

(4c) Investment in the latest infrastructure, which is essential if people in the Union are to be in a position to take advantage of new, innovative services must not be restricted to central or densely populated areas where it is certain to yield a return. Such investment must also be made at the same time in outlying and outermost regions, which are less densely populated and less developed, so that these regions do not fall even further behind.

Amendment 4

Proposal for a regulation Recital 4 d (new)

Text proposed by the Commission

Amendment

(4d) As the study notes, the regional level is pertinent for identifying the

opportunities offered by the Information Society and for carrying out plans and programmes in support of it. The study also points out that the interplay between the different levels of governance yields great potential for growth. Top-down initiatives and bottom-up projects should be combined, or at least developed in parallel, in order to attain the objective of creating a common digital market.

Amendment 5

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) Radio spectrum is a public good and an essential resource for the internal market for mobile, wireless broadband and satellite communications in the Union. Development of wireless broadband communications contributes to the implementation of the Digital Agenda for Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens and of providing the Union with the highest possible broadband speed and capacity. However, the Union has fallen behind other major global regions - North America, Africa and parts of Asia - in terms of the roll-out and penetration of the latest generation of wireless broadband technologies that are necessary to achieve those policy goals. The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States seeking a derogation or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council, testifies to the urgency of action even

Amendment

(17) Radio spectrum is a public good and an essential resource for the internal market for mobile, wireless broadband and satellite communications in the Union. Development of wireless broadband communications contributes to the implementation of the Digital Agenda for Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens, ***wherever their place of residence***, and of providing the Union with the highest possible broadband speed and capacity. However, the Union has fallen behind other major global regions - North America, Africa and parts of Asia - in terms of the roll-out and penetration of the latest generation of wireless broadband technologies that are necessary to achieve those policy goals. The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States seeking a derogation or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council,

within the term of the current RSPP. Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council have not been sufficient to address this problem.

testifies to the urgency of action even within the term of the current RSPP. Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council have not been sufficient to address this problem.

Amendment 6

Proposal for a regulation Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) Steps should also be taken to improve data security for final users who use WLAN access points, in order to enhance consumer confidence and foster the development of wireless broadband infrastructure.

Amendment 7

Proposal for a regulation Recital 43

Text proposed by the Commission

Amendment

(43) The completion of the single market for electronic communications also requires the removal of barriers for end-users to have access to electronic communications services across the Union. Public authorities ***should*** therefore not raise or maintain obstacles to the cross-border purchase of such services. Providers of electronic communications to the public ***should*** not deny or restrict access or discriminate against end-users on the basis of their nationality or Member State of residence. Differentiation should, however,

(43) The completion of the single market for electronic communications also requires the removal of barriers for end-users to have access to electronic communications services across the Union. Public authorities ***must*** therefore not raise or maintain obstacles to the cross-border purchase of such services. Providers of electronic communications to the public ***must*** not deny or restrict access or discriminate against end-users on the basis of their nationality or Member State of residence. Differentiation should, however,

be possible on the basis of objectively justifiable differences in costs, risks and market conditions such as demand variations and pricing by competitors.

be possible on the basis of objectively justifiable differences in costs, risks and market conditions such as demand variations and pricing by competitors, ***while ensuring coverage throughout the Union, including in less densely populated, remote and less developed regions.***

Amendment 8

Proposal for a regulation Recital 44 a (new)

Text proposed by the Commission

Amendment

(44a) Remoteness, island status, low population density, low demand for services and the existence of national roaming zones which are features common to various parts of Europe, in particular the outermost regions, cannot be regarded as objective criteria justifying the charging of higher tariffs by suppliers of fixed or mobile electronic communication services.

Justification

The European electronic communications market which the regulation seeks to establish should guarantee all consumers in the EU identical tariffs and non-discriminatory access to electronic communication services. This is why remoteness, island status, low population density, low demand for services and the existence of roaming zones within individual countries do not justify the charging of higher tariffs.

Amendment 9

Proposal for a regulation Recital 49

Text proposed by the Commission

Amendment

(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic

(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic

communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services.

communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services. ***The provision of such specialised services should not impair the general quality of internet access. Furthermore, traffic management measures should not be applied in such a way as to discriminate against specialised services competing with those offered by the provider of internet access either directly or in partnership with other undertakings unless there is an objective justification.***

Amendment 10

Proposal for a regulation Recital 73

Text proposed by the Commission

(73) ***Bilateral or multilateral*** roaming agreements can allow a mobile operator to treat roaming by its domestic customers on the networks of partners as being to a significant degree equivalent to providing services to such customers on its own networks, with consequential effects on its retail pricing for such virtual on-net coverage across the Union. Such an arrangement at the wholesale level could allow the development of new roaming products and therefore increase choice and competition at retail level.

Amendment

(73) ***Commercial or technical*** roaming agreements can allow a mobile operator to treat roaming by its domestic customers on the networks of partners as being to a significant degree equivalent to providing services to such customers on its own networks, with consequential effects on its retail pricing for such virtual on-net coverage across the Union. Such an arrangement at the wholesale level could allow the development of new roaming products and therefore increase choice and competition at retail level.

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) Member States and public authorities shall take steps to guarantee non-discrimination in the application of tariffs, the use of public electronic communication networks and public access to electronic communication services throughout the Union.

Amendment 12

Proposal for a regulation

Article 1 – paragraph 2 – point c

Text proposed by the Commission

Amendment

c) to favour investment and innovation in new and enhanced high-capacity infrastructures which reach throughout the Union and which can cater for evolving end-user demand;

c) to favour investment and innovation in new and enhanced high-capacity infrastructures which reach throughout the Union and which can cater for evolving end-user demand, ***in particular in less densely populated, outlying and outermost regions***;

Amendment 13

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. ***A European*** electronic communications provider has the right to provide electronic communications networks and services in the whole Union and to exercise the rights linked to the provision of such networks and services in each Member State where it operates ***pursuant to a single EU authorisation which is subject only to the notification requirements provided in***

1. ***Any*** electronic communications provider ***established in the Union*** has the right to provide electronic communications networks and services in the whole Union and to exercise the rights linked to the provision of such networks and services in each Member State where it operates.

Article 4.

Amendment 14

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

1. Without prejudice to their obligations under relevant international agreements including ITU Radio Regulations, the national competent authorities shall ensure that the use of radio spectrum is organised on their territory, and shall in particular take all necessary radio spectrum allocation or assignment measures, in order that no other Member State is impeded from allowing on its territory the use of a specific harmonised band in accordance with Union legislation.

Amendment

1. Without prejudice to their obligations under relevant international agreements including ITU Radio Regulations, the national competent authorities shall ensure, ***with a view in particular to securing the implementation of Article 12***, that the use of radio spectrum is organised on their territory, and shall in particular take all necessary radio spectrum allocation or assignment measures, in order that no other Member State is impeded from allowing on its territory the use of a specific harmonised band ***for wireless broadband communications*** in accordance with Union legislation.

Amendment 15

Proposal for a regulation

Article 16 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Any concerned Member State may invite the Radio Spectrum Policy Group to use its good offices to assist it and any other Member State in complying with this Article.

Amendment

Any concerned Member State may invite the Radio Spectrum Policy Group to use its good offices to assist it and any other Member State in complying with ***paragraphs 1 and 2 of this Article***.

Amendment 16

Proposal for a regulation

Article 21 – paragraph 2

Text proposed by the Commission

Amendment

2. Providers of electronic communications to the public shall not apply any discriminatory requirements or conditions of access or use to end-users based on the end-user's nationality or place of residence ***unless such differences are objectively justified.***

2. Providers of electronic communications to the public shall not apply any discriminatory requirements or conditions of access or use to end-users based on the end-user's nationality or place of residence.

Justification

The rapporteur feels that the vagueness of the term 'objectively justified' opens the way to the very thing this article is trying to prevent, namely enabling electronic communications providers to apply discriminatory requirements or conditions of access.

Amendment 17

Proposal for a regulation

Article 21 – paragraph 3 – introductory wording

Text proposed by the Commission

Amendment

3. Providers of electronic communications to the public shall not apply tariffs for intra-Union communications terminating in another Member State which are higher, ***unless objectively justified:***

3. Providers of electronic communications to the public shall not apply tariffs for intra-Union communications terminating in another Member State which are higher:

Justification

The rapporteur feels that the vagueness of the term 'objectively justified' opens the way to the very thing this article is trying to prevent, namely enabling electronic communications providers to apply discriminatory requirements or conditions of access.

Amendment 18

Proposal for a regulation

Article 23 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

In order to enable the provision of specialised services to end-users, providers

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.

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 ***any way*** the general quality of internet access services, ***particularly in remote areas where bandwidths are more limited.***

Justification

The rapporteur feels that this proposal for a regulation should prevent, in a uniform manner throughout the EU, the overloading of bandwidths by the provision of specialised services.

Amendment 19

Proposal for a regulation

Article 23 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The provision of specialised services shall not in any way lead to a decreased quality of internet access, especially in the outermost and northern sparsely populated areas where internet access and quality is often limited.

Justification

Market forces often fail to take responsibility for the provision of high capacity Internet access in remote and sparsely populated areas. Internet access is particularly important in these areas due to a need to bridge large geographical distances. High capacity internet access is vital in the northernmost regions where tourism increases the population twentyfold during parts of the year.

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	REGI 12.9.2013
Rapporteur Date appointed	François Alfonsi 24.9.2013
Date adopted	22.1.2014
Result of final vote	+ : 38 - : 1 0 : 0
Members present for the final vote	François Alfonsi, Luís Paulo Alves, Charalampos Angourakis, Francesca Barracciu, Catherine Bearder, Victor Boştinaru, Nikos Chrysogelos, Tamás Deutsch, Rosa Estaràs Ferragut, Danuta Maria Hübner, Filiz Hakaeva Hyusmenova, Iñaki Irazabalbeitia Fernández, María Irigoyen Pérez, Seán Kelly, Constanze Angela Krehl, Vladimír Maňka, Iosif Matula, Erminia Mazzoni, Miroslav Mikolášik, Jens Nilsson, Younous Omarjee, Markus Pieper, Ovidiu Ioan Silaghi, Monika Smolková, Georgios Stavrakakis, Nuno Teixeira, Lambert van Nistelrooij, Justina Vitkauskaitė Bernard, Kerstin Westphal, Hermann Winkler, Joachim Zeller, Elżbieta Katarzyna Łukacijewska
Substitute(s) present for the final vote	Maurice Ponga, Vilja Savisaar-Toomast, Elisabeth Schroedter, Richard Seeber, Peter Simon, Evžen Tošenovský, Derek Vaughan

23.1.2014

OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION

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: Petra Kammerevert

SHORT JUSTIFICATION

In the fields of radio spectrum, network infrastructure and net neutrality, this proposal has a significant impact on access to content, the freedom of expression, the freedom of information, media freedom, and media and cultural pluralism in general.

With respect to implementing the latest telecoms package in the Member States, it is premature and ignores the results still to be delivered by the expert group on radio spectrum set up by the Commission itself.

The basic problem of tackling insufficient investment incentives to build a reliable network infrastructure is not solved by the proposal. It is not acceptable to seek to resolve this by intervening again in radio spectrum to the detriment of broadcasting and wireless means of production, thereby shifting powers from the Member States to EU level.

Radio spectrum is a public good and is vital for the achievement of societal, cultural, social and economic objectives. The 2009 telecoms review specified that the Commission must take equal and appropriate account of this in the context of spectrum management. The requirements set out in the telecoms package thus form the basis for any radio spectrum policy in the European Union. This proposal does not take that principle into account in any way.

Radio spectrum serves the public interest in a wide range of areas in the Member States. In that connection, due account has to be taken of a host of specific national and regional characteristics. Member States should therefore retain the right to organise their radio spectrum. This also includes the cultural and creative sectors alongside terrestrial

broadcasting.

The discussions engaged by the various users of radio spectrum on efficiency improvements and the development of common concepts on spectrum use and new, less fragile terminal devices must not be hindered by new legal regulations.

The Internet offers enormous potential for social and economic development. The key factors here are the free and open nature of the medium, a fully functioning and highly efficient system, and an inclusive network architecture that gives all sectors of the population and market operators non-discriminatory access to all content and opportunities for active involvement. The legal protection of net neutrality is a prerequisite for exploiting this potential and a precondition for ensuring diversity and pluralism. The open and non-discriminatory nature of the Internet has made it an engine of innovation for social and economic development. Net neutrality is a prerequisite for equal opportunities in the field of communications, for ensuring the freedom of communication and information, as well as for cultural diversity, the pluralism of expression and media pluralism. For this reason, the neutrality and openness of the internet is a public good which must be protected and preserved and should not be left solely to market forces.

To this end, it is a basic requirement that the fundamental principle of equal treatment be applied to all data packages which may not be discriminated against on grounds of content, service, application, origin or destination. The delay, impairment or blocking of content, services or applications must be prevented and content control by network operators should be ruled out. Net neutrality 'lite', as proposed by the Commission, effectively undermines this basic principle, would be the end of net neutrality and would establish a two-tier Internet.

Specialised or managed services can co-exist with the Internet, as long as they are completely separate from it, do not limit its openness and everyone has the opportunity to connect to the Internet through a state-of-the-art quality of service. Specialised services may not be established at the expense of the further development of open networks, so strict conditions should be imposed on their creation and existence.

The blocking of content on the open network must be comprehensively rejected. The 'notice-and-takedown' procedure has also proven its worth in connection with serious crimes.

The Commission's proposals allow for content discrimination and the prioritisation of data traffic, contrary to what is generally understood by net neutrality. This leads to fears that competition in electronic communications markets will tend to decline, which will inevitably have a negative impact on media pluralism and the diversity of opinion in Europe.

With respect to choosing a regulation as the legal form, there is a lack of sufficient legal clarity in many areas.

It would be particularly welcome if the Commission were to withdraw its proposal and provide an opportunity for proper discussion in the context of a normal consultation process, and then on this basis submit a new, balanced proposal to create a telecoms single market.

AMENDMENTS

The Committee on Culture and Education 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 3

Text proposed by the Commission

(3) In a seamless single market in electronic communications, the ***freedom to provide*** electronic communications networks and services ***to every customer*** in the Union and the right of each end-user to choose the best offer available on the market ***should*** be ensured and ***should not*** be hindered by the fragmentation of markets along national borders. ***The current regulatory framework for electronic communications does not fully address such fragmentation, with national, rather than Union-wide general authorisation regimes, national spectrum assignment schemes, differences of access products available for electronic communications providers in different Member States, and different sets of sector-specific consumer rules applicable. The Union rules in many cases merely define a baseline, and are often implemented in diverging ways by the Member States.***

Amendment

(3) In a seamless single market in electronic communications, the ***opportunity for each individual to access*** electronic communications networks and services in the Union, ***the freedom to provide these*** and the right of each end-user to choose the best offer available on the market ***must*** be ensured ***by fair competition*** and ***must*** not be hindered by the fragmentation of markets along national borders.

Amendment 2

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) This Regulation aims at the completion of the single electronic communications

Amendment

(6) This Regulation aims at the completion of the single electronic communications

market through action on three broad, inter-related axes. First, it should secure the freedom to provide electronic communications services across borders and networks in different Member States, building on the concept of a single EU authorisation which puts in place the conditions for ensuring greater consistency and predictability in the content and implementation of sector-specific regulation throughout the Union. Second, it is necessary to enable access on much more convergent terms and conditions to essential inputs for the cross-border provision of electronic communications networks and services, not only for wireless broadband communications, for which both licensed and unlicensed spectrum is key, but also for fixed line connectivity. Third, in the interests of aligning business conditions and building the digital confidence of citizens, this Regulation should harmonise rules on the protection of end-users, especially consumers. This includes rules on non-discrimination, contractual information, termination of contracts and switching, in addition to rules on access to online content, applications and services and on traffic management which not only protect end-users but simultaneously guarantee the continued functioning of the Internet ecosystem as an engine of innovation. In addition, further reforms in the field of roaming should give end-users the confidence to stay connected when they travel in the Union, and should become over time a driver of convergent pricing and other conditions in the Union.

market through action on three broad, inter-related axes. First, it should secure the freedom to provide electronic communications services across borders and networks in different Member States, building on the concept of a single EU authorisation which puts in place the conditions for ensuring greater consistency and predictability in the content and implementation of sector-specific regulation throughout the Union. Second, it is necessary to enable access on much more convergent terms and conditions to essential inputs for the cross-border provision of electronic communications networks and services, not only for wireless broadband communications, for which both licensed and unlicensed spectrum is key, but also for fixed line connectivity. Third, in the interests of aligning business conditions and building the digital confidence of citizens, this Regulation should harmonise rules on the protection of end-users, especially consumers. This includes rules on non-discrimination, contractual information, termination of contracts and switching, in addition to rules on *net neutrality, safeguarding non-discriminatory* access to online content, applications and services and on traffic management which not only protect end-users but simultaneously guarantee the continued functioning of the Internet ecosystem as an engine of innovation. In addition, further reforms in the field of roaming should give end-users the confidence to stay connected when they travel in the Union, and should become over time a driver of convergent pricing and other conditions in the Union.

Amendment 3

Proposal for a regulation Recital 17

(17) Radio spectrum is a public good and an **essential** resource **for the internal market for mobile, wireless broadband and satellite communications in the Union. Development of wireless broadband communications contributes to the implementation of the Digital Agenda for Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens and of providing the Union with the highest possible broadband speed and capacity. However, the Union has fallen behind other major global regions - North America, Africa and parts of Asia - in terms of the roll-out and penetration of the latest generation of wireless broadband technologies that are necessary to achieve those policy goals. The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States seeking a derogation or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council, testifies to the urgency of action even within the term of the current RSPP. Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council have not been sufficient to address this problem.**

(17) Radio spectrum is a public good and an **extremely scarce and limited** resource. **It is vital for the achievement of a variety of societal, cultural, social and economic objectives, for public access to information, the right of freedom of expression and media pluralism, and should reflect those objectives. The 2009 telecoms review specified that the Commission must take equal and appropriate account of all these aspects in the context of spectrum management. The requirements set out in the telecoms package thus form the basis for any radio spectrum policy in the European Union. For that reason, it is also vital that future radio spectrum policy should be consistent with that legal framework and with the principles laid down therein. Under Article 6(5) of the RSPP Decision, the Commission is to report to the European Parliament and the Council by 1 January 2015 on whether there is a need for action to harmonise additional frequency bands.**

Amendment 4

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) *The application of various national policies creates inconsistencies and fragmentation of the internal market which hamper the roll-out of Union-wide services and the completion of the internal market for wireless broadband communications. It could in particular create unequal conditions for access to such services, hamper competition between undertakings established in different Member States and stifle investments in more advanced networks and technologies and the emergence of innovative services, thereby depriving citizens and businesses of ubiquitous integrated high-quality services and wireless broadband operators of increased efficiency gains from large-scale more integrated operations. Therefore, action at Union level regarding certain aspects of radio spectrum assignment should accompany the development of wide integrated coverage of advanced wireless broadband communications services throughout the Union. At the same time, Member States should retain the right to adopt measures to organise their radio spectrum for public order, public security purposes and defence.*

Amendment

(18) *The EU Telecom Package as revised in 2009 establishes the principles for spectrum management. Radio spectrum serves the public interest in a wide range of areas in the Member States. In that connection, due account has to be taken of a host of specific national and regional characteristics. Member States should therefore also retain the right to adopt measures to organise and manage their radio spectrum which are necessary to carry out specific cultural, social and audiovisual tasks. Alongside terrestrial broadcasting and the cultural and creative sectors, this also includes public order, public security and defence. Therefore, action at Union level regarding certain aspects of radio spectrum assignment should continue to endorse a dynamic approach to spectrum management, which recognises Member States' competence in this field and respects the cultural, audiovisual and media policies of each Member State. In the event of disputes between Member States regarding the use of spectrum, the Commission has a supplementary coordinating role to play in support of the Member States.*

Amendment 5

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Coordination and consistency of rights of use for radio spectrum should be improved, *at least* for the bands which have been harmonised for wireless fixed, nomadic and mobile broadband communications. This includes the bands

Amendment

(20) Coordination and consistency of rights of use for radio spectrum should be improved for the bands which have been harmonised for wireless fixed, nomadic and mobile broadband communications. This includes the bands identified at ITU

identified at ITU level for International Mobile Telecommunications (IMT) Advanced systems, as well as bands used for radio local area networks (RLAN) such as 2.4 GHz and 5 GHz. It should also extend to bands that may be harmonised in the future for wireless broadband communications, *as envisaged in Article 3(b) of the RSPP and in the RSPG Opinion on "Strategic challenges facing Europe in addressing the growing radio spectrum demand for wireless broadband" adopted on 13 June 2013, such as, in the near future, the 700 MHz, 1.5 GHz and 3.8-4.2 GHz bands.*

level for International Mobile Telecommunications (IMT) Advanced systems, as well as bands used for radio local area networks (RLAN) such as 2.4 GHz and 5 GHz. It should also extend to bands that may be harmonised in the future for wireless broadband communications *under Directive 2002/21/EC.*

Justification

The further specification could be misunderstood to mean that there would therefore be no need for the co-decision procedure provided in Directive 2002/21/EC (Framework Directive). Determining which bands are to be incorporated into a 'coordinated radio spectrum', is a key political decision and not a technical implementation measure.

Amendment 6

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) As regards the other main substantive conditions which may be attached to rights of use of radio spectrum for wireless broadband, the convergent application by individual Member States of the regulatory principles and criteria set down in this Regulation would be favoured by a coordination mechanism whereby the Commission and the competent authorities of the other Member States have an opportunity to comment in advance of the granting of rights of use by a given Member State *and whereby the Commission has an opportunity, taking into account the views of the Member*

Amendment

(24) As regards the other main substantive conditions which may be attached to rights of use of radio spectrum for wireless broadband, the convergent application by individual Member States of the regulatory principles and criteria set down in this Regulation would be favoured by a coordination mechanism whereby the Commission and the competent authorities of the other Member States have an opportunity to comment in advance of the granting of rights of use by a given Member State.

States, to forestall implementation of any proposal which appears to be non-compliant with Union law.

Amendment 7

Proposal for a regulation Recital 36

Text proposed by the Commission

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 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.

deleted

Amendment 8

Proposal for a regulation Recital 42

Text proposed by the Commission

(42) Where the provisions in Chapters 4 and 5 of this Regulation refer to end-users, such provisions should apply not only to consumers but also to other categories of end-users, primarily micro enterprises. At their individual request, end-users other than consumers should be able to agree, by individual contract, to deviate from certain provisions.

Amendment

deleted

Justification

'End user' and 'consumer' are inherently different terms. Further legal uncertainty is created by making it possible to deviate from unspecified provisions of this Regulation.

Amendment 9

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

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. ***Fundamentally equal treatment and non-discrimination in forwarding data packages, irrespective of content, service, application, origin or destination, must be safeguarded by law throughout the EU, to provide a lasting guarantee that all internet users can in principle openly access or provide any kind of online content, services or applications in accordance with the principle of net neutrality. Access network operators are subject to a general obligation to forward data packages by providing transfer***

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.

services of an appropriate level of quality that reflects advances in technological progress to users, regardless of origin and destination or the content, services and applications to be transferred. The openness and non-discriminatory nature of the internet is the key driver for innovation, for safeguarding media freedom and pluralism and cultural diversity, and for economic efficiency. These essential characteristics help ensure freedom and diversity of expression in the media and in the cultural sector. 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 *content, services or* 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. *An open internet which works on the best effort principle should not be undermined by the development of other products and services.*

Amendment 10

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 right of end-users to access and distribute information and content, run applications and use services of their choice is subject to the respect of Union and compatible national law.

Justification

The reference to Union law and Member State law is sufficient. The further specification could be misinterpreted.

Amendment 11

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***

Amendment

(47) In an open internet, providers of electronic communications to the public ***must not delete,*** block, slow down, degrade or ***give preferential treatment to*** specific content, applications or services or specific classes thereof except for a number of reasonable traffic management measures ***that are clearly defined in this Regulation and individually justified. Traffic management measures must be transparent, necessary and proportionate. They should only be considered proportionate where equivalent types of traffic are treated equally. Any discrimination against specific content, applications or services as regards price***

pornography. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.

or any discriminatory conditions regarding speed and data volumes should be prohibited.

Amendment 12

Proposal for a regulation Recital 47 a (new)

Text proposed by the Commission

Amendment

(47a) This Regulation is without prejudice to 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 (Directive on privacy and electronic communications).

Amendment 13

Proposal for a regulation Recital 48

Text proposed by the Commission

Amendment

(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow end-users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of electronic communications to the public to better adapt network capacities to expected data volumes. It is essential that end-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously

(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow end-users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of electronic communications to the public to better adapt network capacities to expected data volumes. It is essential that end-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously

monitor their consumption and easily acquire extensions of the available data volumes if desired.

monitor their consumption and easily acquire extensions of the available data volumes if desired ***and that volume limits on internet traffic are applied in a non-discriminatory manner, independent of the sender, receiver, type, content, device, service or application in accordance with the principle of net neutrality.***

Amendment 14

Proposal for a regulation Recital 49

Text proposed by the Commission

(49) There is also end-user demand for services and applications requiring an enhanced ***level of assured*** service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services.

Amendment

(49) There is also end-user demand for services and applications requiring an enhanced service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing, ***gaming*** and certain health applications. End-users should therefore also be free to conclude ***voluntary*** agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services. ***Where such agreements are concluded with a provider of internet access services, that provider shall ensure that the enhanced quality is not to the detriment of the performance, affordability or quality of internet access services and does not restrict net neutrality. However, specialised services should remain the exception and should not be marketed or widely used as a substitute for internet access services;***

Amendment 15

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) 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.***

Amendment

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on quality parameters. ***For the provision of specialised services in closed networks, it is necessary that content, applications and service providers are able to negotiate such a specific quality of service levels with providers of electronic communications to the public for a limited group of users. This might in future help*** the development of new services such as machine-to-machine (M2M). ***Special services must neither impair open internet access service quality nor to be marketed or used as an internet substitute. They are admissible only if there is a manifest technical and de facto need, over and above economic self-interest, to be able to supply real-time critical applications meeting particular quality standards. If specialised services are offered or marketed by access network providers, they are also under the obligation to provide an open internet access service in accordance with the principle of net neutrality and within the meaning of recital 45, and must not impair its quality. All open internet services are subject to the best effort principle.***

Amendment 16

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 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

(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise **the option** 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 who have experienced discrimination, restriction or interference in respect 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 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 17

Proposal for a regulation Recital 68

Text proposed by the Commission

Amendment

(68) In order to take account of market and technical developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of adapting the Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

deleted

Amendment 18

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 19

Proposal for a regulation Article 2 – point 8

Text proposed by the Commission

(8) ‘harmonised radio spectrum for wireless broadband communications’ means radio spectrum for which the conditions of availability and efficient use are harmonised at Union level, ***in particular*** pursuant to Decision 676/2002/EC of the European Parliament and the Council,²⁷ and which serves for electronic communications services other than broadcasting;

²⁷ Decision 676/2002/EC of the European Parliament and the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002, p. 1).

Amendment

(8) ‘harmonised radio spectrum for wireless broadband communications’ means radio spectrum for which the conditions of availability and efficient use are harmonised at Union level, ***according to the provisions and procedures as laid down in Directive 2002/21/EC and*** pursuant to Decision 676/2002/EC of the European Parliament and the Council,²⁷ and which serves for electronic communications services other than broadcasting;

²⁷ Decision 676/2002/EC of the European Parliament and the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002, p. 1).

Amendment 20

**Proposal for a regulation
Article 2 – point 11 a (new)**

Text proposed by the Commission

Amendment

(11a) ‘Best effort principle’ means the assurance that requests for forwarding of data will be dealt with in chronological order of receipt as quickly as possible and irrespective of content, service, use, origin or destination;

Amendment 21

**Proposal for a regulation
Article 2 – point 12**

Text proposed by the Commission

Amendment

(12) "assured service quality (ASQ)

deleted

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 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 22

Proposal for a regulation Article 2 – point 12 a (new)

Text proposed by the Commission

Amendment

(12a) ‘justified traffic management’ means traffic management which, derogating from the best effort principle, is permissible where it is dictated by technical constraints and is in line with the general principles of necessity, reasonability, efficiency assurance, non-discrimination and transparency as well as the other conditions of this regulation;

Amendment 23

Proposal for a regulation Article 2 – point 12 b (new)

Text proposed by the Commission

Amendment

(12b) "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 24

Proposal for a regulation Article 2 – point 14

Text proposed by the Commission

14) "internet access service" means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used;

Amendment

14) "**open** internet access service" means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used; ***the Member States shall lay down appropriate minimum requirements for the quality of open internet access services, which shall be constantly upgraded in line with technological developments; an open internet access service enables end-users to run any internet-based application in accordance with the best effort principle; the only permissible derogation from this principle is proportionate, justified data traffic management, in cases where the conditions for its use are clearly defined;***

Amendment 25

Proposal for a regulation Article 2 – point 15

Text proposed by the Commission

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***

Amendment

15) "specialised service" means an electronic, ***particularly IP-based,*** communications service or any other service that ***is provided and operated only within closed electronic communications networks, access to which is strictly controlled, and is not marketed or used as an internet substitute or functionally identical to the*** content, applications or services ***of the open internet. A special service shall only be only admissible if***

access service;

there is a manifest technical and de facto need for it, over and above economic self-interest, in order to be able to provide real-time-critical applications or applications requiring special safeguards and meeting particular, guaranteed quality standards. It is characterised by clearly defined and guaranteed customised quality-of-service parameters which are subject to continuous end-to-end management up to the 'last mile' by the special service provider. A special service may not be limited to an endpoint controlled by the service provider.

Amendment 26

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

(1) This section shall apply to harmonised radio spectrum for wireless broadband communications.

Amendment

(1) This section shall apply to harmonised radio spectrum for wireless broadband communications *in line with Directive 2009/140/EC and Decision No 676/2002/EC of the European Parliament and of the Council, and taking particular account of the requirements of Article 8a and 9 of Directive 2002/21/EC.*

Amendment 27

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

(2) This section shall be without prejudice to the right of the Member States to benefit from fees imposed to ensure the optimal use of radio spectrum resources in accordance with Article 13 of Directive 2002/20/EC and to organise and use their

Amendment

(2) This section shall be without prejudice to the right of the Member States to benefit from fees imposed to ensure the optimal use of radio spectrum resources in accordance with Article 13 of Directive 2002/20/EC and to organise and use their

radio spectrum for public order, public security *and* defence.

radio spectrum for public order, public security, defence *and general interest purposes, such as promoting cultural and linguistic diversity and media diversity both online and offline, as well as the interests of all radio spectrum users.*

Amendment 28

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

(1) The national competent authorities for radio spectrum shall contribute to the development of a wireless space where investment and competitive conditions for high-speed wireless broadband communications converge and which enables planning and provision of integrated multi-territorial networks and services and economies of scale, thereby fostering innovation, economic growth and the long-term benefit of end users.

Amendment

(1) ***Without prejudice to the protection of the common interest in accordance with Article 9(4) of Directive 2002/21/EC,*** the national competent authorities for radio spectrum shall contribute to the development of a wireless space where investment and competitive conditions for high-speed wireless broadband communications converge and which enables planning and provision of integrated multi-territorial networks and services and economies of scale, thereby fostering innovation, economic growth and the long-term benefit of end users. ***Due account shall be taken of the possibility of establishing multi-functional networks that combine broadcasting and mobile telephone technology on a single platform.***

Amendment 29

Proposal for a regulation Article 9 – paragraph 4 – point e

Text proposed by the Commission

e) ensuring ***wide territorial coverage of*** high-speed wireless broadband networks ***and a high level of penetration and***

Amendment

e) ensuring ***efficient use of spectrum to meet the increasing demand for*** high-speed wireless broadband networks, ***at the same time taking account of the public***

consumption of related services.

interest and the social, cultural and economic value of spectrum as a whole.

Amendment 30

Proposal for a regulation

Article 9 – paragraph 4 – point e a (new)

Text proposed by the Commission

Amendment

(ea) preventing harmful interference, including the possibility of imposing obligations to resolve interference problems with other users and to assume the costs thereby incurred.

Justification

Preventing interference is an essential regulatory objective. Accordingly this should be taken into account when establishing authorisation procedures and conditions.

Amendment 31

Proposal for a regulation

Article 9 – paragraph 4 – point e a (new)

Text proposed by the Commission

Amendment

ea) ensuring that any change in policy with regard to the efficient use of spectrum takes account of its impact on the public interest in terms of interference and costs.

Amendment 32

Proposal for a regulation

Article 10 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the technical characteristics of different available radio spectrum bands,

(a) the technical characteristics *and the current and planned use* of different

available radio spectrum bands;

Amendment 33

Proposal for a regulation

Article 10 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the efficient use of radio spectrum bands already allocated for use by mobile broadband;

Amendment 34

Proposal for a regulation

Article 10 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) the most efficient use of the radio spectrum in accordance with Article 9(4)(b), taking into account the characteristics of the band or bands concerned;

(a) the most efficient use of the radio spectrum in accordance with Article 9(4)(b), taking into account the characteristics of the band or bands concerned ***and their current and planned use;***

Amendment 35

Proposal for a regulation

Article 10 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) that the costs incurred by the existing user in clearing the spectrum range are taken into consideration;

Amendment 36

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

(1) Where the technical conditions for the availability and efficient use of harmonised radio spectrum for wireless broadband communications make it possible to use the relevant radio spectrum under a general authorisation regime, national competent authorities shall avoid imposing any additional condition and shall prevent any alternative use from impeding the effective application of such harmonised regime.

Amendment

(1) Where the technical conditions for the availability and efficient use of harmonised radio spectrum for wireless broadband communications make it possible to use the relevant radio spectrum under a general authorisation regime, national competent authorities shall avoid imposing any additional condition and shall prevent any alternative use from impeding the effective application of such harmonised regime.

This shall be without prejudice to the provisions of Article 2(8).

Justification

Without this reference to Article 2(8) (as amended by Amendment 14) it might be harder to realise some potential or envisaged shared-use scenarios.

Amendment 37

Proposal for a regulation Article 12 – paragraph 2 – point d

Text proposed by the Commission

(d) define the date of expiry of any existing rights of use of harmonised bands other than for wireless broadband communications, or, in the case of rights of indefinite duration, the date by which the right of use shall be amended, in order to allow the provision of wireless broadband communications.

Amendment

deleted

Justification

This rule undermines the necessary legal certainty for all current right owners who have made long-term investments in good faith on the basis of existing law.

Amendment 38

Proposal for a regulation

Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) Paragraph 2 shall not affect the provisions of Article 9(3) and (4) of Directive 2002/21/EC.

Amendment 39

Proposal for a regulation

Article 13 – paragraph 1

Text proposed by the Commission

Amendment

(1) Where a national competent authority intends to subject the use of radio spectrum to a general authorisation or to grant individual rights of use of radio spectrum, or to amend rights and obligations in relation to the use of radio spectrum in accordance with Article 14 of Directive 2002/20/EC, it shall make accessible its draft measure, together with the reasoning thereof, simultaneously to the Commission and the competent authorities for radio spectrum of the other Member States, upon completion of the public consultation referred to in Article 6 of Directive 2002/21/EC, if applicable, and in any event only at a stage in its preparation which allows it to provide to the Commission and the competent authorities of the other Member States sufficient and stable information on all relevant matters.

(1) Where a national competent authority intends to subject the use of radio spectrum to a general authorisation or to grant individual rights of use of radio spectrum, or to amend rights and obligations in relation to the use of radio spectrum ***for wireless broadband services*** in accordance with Article 14 of Directive 2002/20/EC, it shall make accessible its draft measure, together with the reasoning thereof, simultaneously to the Commission and the competent authorities for radio spectrum of the other Member States, upon completion of the public consultation referred to in Article 6 of Directive 2002/21/EC, if applicable, and in any event only at a stage in its preparation which allows it to provide to the Commission and the competent authorities of the other Member States sufficient and stable information on all relevant matters.

Amendment 40

Proposal for a regulation Article 19

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 41

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

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 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).

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 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 42

Proposal for a regulation Article 23 – title

Text proposed by the Commission

Amendment

Freedom to provide and avail of open internet access, and reasonable traffic management

Open internet access, ***specialised services and*** reasonable, ***justified data*** traffic management

Amendment 43

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

(1) 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.

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

(1) **Open internet access shall be fully guaranteed in accordance with Article 2(14), so as to enable** end-users to access and distribute **any** information and content **they choose**, run applications and use services **and terminal devices** of their choice via their **open** internet access service, **irrespective of the source or destination of such information, content, applications or services.**

Access network managers shall be subject to a general forwarding obligation in accordance with the best effort principle. Internet access service providers shall not restrict or prevent the use by end-users of any terminal equipment to access and distribute information and content via their internet access service. This is without prejudice to the rights of Member States to grant individual rights of use under Article 5 of Directive 2002/20/EC.

End-users shall be free, **with due regard to the principle of net neutrality**, to enter into agreements on data volumes and speeds with providers of internet access services. **Providers of Internet access services shall advertise with the minimum guaranteed data volume and speed they can provide for, not the maximum speed.**

Under agreements concerning data volumes and speeds, selected content, services or applications may not be deducted from consumption volumes or exempted from ‘throttling’ when the agreed data volume limit is reached.

Justification

Access to an open, non-discriminatory internet must be made a right and not a freedom, and the open best effort internet with access to all services, information, content and applications

should be laid down as the rule.

Amendment 44

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

Providers of electronic communications to the public or providers of content, applications and services **may provide specialised services to a limited user group, access to which is controlled, through a closed electronic communications network. Specialised services may not be marketed or used as an internet substitute or provide content, applications or services functionally identical to those of the open internet.**

Where such agreements are concluded with the provider of internet access services, that provider shall ensure, in accordance with the principle of net neutrality, that the performance, affordability or quality of open internet access services is not restricted.

Amendment 45

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

Amendment

The provision of specialised services shall not impair the quality of internet access services. **Neither shall these services impair existing, generally recognised technical standards and their development or lower the general performance, affordability, or quality of open internet access services. Specialised services shall only be offered if the network capacity is**

capacity. The provision of specialised services shall not impair *in a recurring or continuous manner* the *general* quality of internet access services.

sufficient to provide such services in addition to the open internet access.

Specialised services shall only be admissible where there is a manifest technical and de facto need for them, over and above economic self-interest, in order to be able to provide real-time-critical applications or applications requiring special safeguards and meeting particular quality standards.

Take-up by end-users or by content and application providers of commercial offers to support specialised services should be on a voluntary and non-discriminatory basis Where network capacity is shared between internet access services and specialised services, the provider of these services shall publish clear and unambiguous criteria for the sharing of network capacity.

Amendment 46

Proposal for a regulation

Article 23 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Access network providers who simultaneously offer or market specialised services shall be subject to the same provision obligation as an open internet access service under Article 2(14). They may not discriminate against other content providers who are reliant on the network operator's forwarding services, and shall be required to charge transparent and fair market rates for this service.

Amendment 47

Proposal for a regulation

Article 23 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

For national authorities to be able to assess such potential material detriment, providers of electronic communications services or providers of content, applications and services shall transmit to the national authorities, upon request, precise information regarding the capacities assigned to the two types of services.

Amendment 48

Proposal for a regulation

Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Providers of vertically integrated public electronic communications shall not discriminate in any way against traffic generated by providers of content, services or applications competing with their own services or those provided by them under exclusive agreements.

Amendment 49

Proposal for a regulation

Article 23 – paragraph 4

Text proposed by the Commission

Amendment

(4) The exercise of the freedoms provided for in paragraphs 1 and 2 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and

(4) End-users as well as content, application, and service providers, including the media and cultural industries and governments at all levels, shall be provided with complete

(2).

information in accordance with *Article 20 (2), Article 21 (3) and Article 21a of Directive 2002/22/EC* and Article 25(1), Article 26 (2), and Article 27 (1) and (2) *of this Regulation, including information on any reasonable traffic management measures applied that might affect access to and distribution of information, content, applications and services as specified in paragraphs 1 and 2.*

Amendment 50

Proposal for a regulation Article 23 – paragraph 5

Text proposed by the Commission

(5) *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

(5) Providers of internet access services shall *specifically* not restrict the *provisions of paragraph 1* by:

- *deleting*, blocking, slowing down, degrading or discriminating against specific content, applications, services *or terminal devices*, or specific classes thereof,
- *prioritising specific content, applications, services or terminal devices, or specific classes thereof, or*
- *concluding special pricing agreements with the end-user which make accessing particular content, applications, services or terminal devices or specific classes thereof seem less economically attractive,*

a) implement a legislative provision or a court order, or prevent or impede serious crimes;

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

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

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

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

except in cases where it is necessary to apply justified and reasonable data traffic management measures.

Data traffic management measures shall be regarded as justified and reasonable where they:

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

- minimise the effects of proven temporary and exceptional network congestion and manage traffic in the event of such acute network congestion,

provided that all content, applications and services are treated in accordance with the best effort principle.

They must not be maintained any longer than is strictly necessary.

Data traffic management measures shall be transparent, non-discriminatory, proportionate, necessary, and subject to clear, comprehensible and accessible redress mechanisms.

Amendment 51

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 *Article*; *therefore all techniques to inspect or analyse data shall*

be in accordance with privacy and data protection legislation. Such techniques should only examine the headers of data packages. No packet inspection going beyond such checking of headers shall take place.

Amendment 52

Proposal for a regulation

Article 23 – paragraph 5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall be empowered to adopt delegated acts under Article 32 in order to define as closely as possible the technical criteria referred to in Article 23(5) for establishing the existence of an exceptional situation. The highest possible criteria shall be applied in establishing the existence of an exceptional situation.

Amendment 53

Proposal for a regulation

Article 23 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The provisions in Article 23.5.a (new) shall be without prejudice to judicial review and subject to clear, comprehensible and accessible redress mechanisms in order to prevent privatisation of law enforcement.

Amendment 54

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 ***provisions of Article 23 (1) and (2) and the continued availability of open internet access services in accordance with Article 2(2)(14)*** 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 ***ensure that*** the effects of specialised services ***do not impair freedom of opinion and information, linguistic and cultural diversity, media freedom and diversity*** and innovation. ***National regulatory authorities shall also closely monitor and ensure the application of reasonable traffic management measures in compliance with Article 23 (5) and the principle of net neutrality, taking the utmost account of the BEREC guidelines specified in paragraph 2 of this Article and in Article 21(3a) of Directive 2002/22/EC. Reasonable traffic management measures shall be subject to periodic review to reflect advances in technology.*** National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.

Amendment 55

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

Text proposed by the Commission

Amendment

1a. Public electronic communications providers shall be required to document and report immediately to the national regulatory authorities any exceptional

situation arising under Article 23(5) and all individual traffic management measures adopted accordingly.

Amendment 56

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

Text proposed by the Commission

Amendment

1b. 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 57

Proposal for a regulation Article 24 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

In order to prevent the **general** impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run applications and services of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements on providers of electronic communications to the public.

In order to prevent the impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run applications and services of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements **and other regulatory measures** on providers of electronic communications to the public.

Amendment 58

Proposal for a regulation Article 24 – paragraph 2 – subparagraph 2

Text proposed by the Commission

National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. ***The envisaged requirements shall not be adopted during a period of two months from the receipt of complete information by the Commission unless otherwise agreed between the Commission and the national regulatory authority, or the Commission has informed the national regulatory authority of a shortened examination period, or the Commission has made comments or recommendations. National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.***

Amendment 59

**Proposal for a regulation
Article 24 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. ***National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC. BEREC shall lay down and develop general guidelines for the application of reasonable traffic management in close cooperation with the Commission and all stakeholders on the basis of Article 23 and this Article.***

2a. National regulatory authorities shall put in place appropriate complaint procedures for issues regarding the performance of internet access service for end-users and providers of content, applications and services.

Amendment 60

Proposal for a regulation

Article 25 – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

d) the quality of their services, ***in accordance with implementing acts provided for in paragraph 2;***

Amendment

d) the quality of their services;

Amendment 61

Proposal for a regulation

Article 25 – paragraph 1 – point e – subpoint i

Text proposed by the Commission

(i) actually available data speed for download and upload in the end-user's Member State of residence, including at peak-hours;

Amendment

(i) actually available data speed for download and upload in the end-user's Member State of residence, including ***minimum guaranteed data speed for download and upload*** at peak-hours, ***and the tools available at any time to end-users in a generally recognised manner to monitor for themselves in real time, for the duration of the contract, the upload and download speeds available to them;***

Amendment 62

Proposal for a regulation

Article 25 – paragraph 1 – point e – subpoint iv

Text proposed by the Commission

(iv) information on any procedures put in place by the provider to measure and shape traffic so as to avoid congestion of a network, and on how those procedures could affect service quality and the protection of personal data;

Amendment

(iv) information on any procedures put in place by the provider to measure and shape traffic so as to avoid congestion of a network, and on how those procedures could affect service quality and the protection of personal data, ***and all measures pursuant to Article 23(5); the***

tools available at any time for end-users to ascertain, in a generally recognised and comprehensible manner, the procedures and measures put in place to measure and shape traffic under Article 23(5), must also be shown;

Amendment 63

Proposal for a regulation Article 25 – paragraph 4

Text proposed by the Commission

Amendment

(4) Upon request of the relevant public authorities, providers of electronic communications to the public shall distribute public interest information free of charge to end-users, where appropriate, by the same means as those ordinarily used by them in their communications with end-users. In such a case, that information shall be provided by the relevant public authorities to the providers of electronic communications to the public in a standardised format and may, inter alia, cover the following topics:

deleted

a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of data protection rights, copyright and related rights, and their legal consequences; and

b) the means of protection against risks to personal security and unlawful access to personal data when using electronic communications services.

Amendment 64

Proposal for a regulation

Article 26 – paragraph 2 – point b

Text proposed by the Commission

(b) the actually available data speed for download and upload at the main location of the end-user, including **actual** speed ranges, speed averages and peak-hour speed, including the potential impact of allowing access to third parties through a radio local area network;

Amendment

(b) the actually available data speed for download and upload at the main location of the end-user, including **minimum guaranteed** speed ranges, speed averages and peak-hour speed, including the potential impact of allowing access to third parties through a radio local area network;

Amendment 65

Proposal for a regulation

Article 32 – paragraph 2

Text proposed by the Commission

(2) The power to adopt delegated acts referred to in Articles 17(2) **and** 19(5) shall be conferred on the Commission for an indeterminate period of time from the [date entry into force of the Regulation]

Amendment

(2) The power to adopt delegated acts referred to in Articles 17(2), 19(5) **and Article 23(5)** shall be conferred on the Commission for an indeterminate period of time from the [date entry into force of the Regulation].

Amendment 66

Proposal for a regulation

Article 32 – paragraph 3

Text proposed by the Commission

(3) The delegation of power referred to in Articles 17(2) **and** 19(5) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the

Amendment

(3) The power to adopt delegated acts referred to in Articles 17(2), 19(5) **and Article 23(5)** may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of

European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment 67

Proposal for a regulation Article 32 – paragraph 5

Text proposed by the Commission

(5) A delegated act adopted pursuant to Articles 17(2) **and** 19(5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Amendment

(5) A delegated act adopted pursuant to Articles 17(2), 19(5) **and Article 23(5)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Amendment 68

Proposal for a regulation Annex II

Text proposed by the Commission

ANNEX II

MINIMUM PARAMETERS OF EUROPEAN ASQ CONNECTIVITY 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.

Amendment

deleted

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	CULT 12.9.2013
Rapporteur Date appointed	Petra Kammerevert 9.10.2013
Discussed in committee	27.11.2013
Date adopted	21.1.2014
Result of final vote	+: 26 -: 0 0: 0
Members present for the final vote	Zoltán Bagó, Malika Benarab-Attou, Piotr Borys, Jean-Marie Cavada, Silvia Costa, Mary Honeyball, Petra Kammerevert, Morten Løkkegaard, Emma McClarkin, Emilio Menéndez del Valle, Martina Michels, Marek Henryk Migalski, Katarína Neveďalová, Doris Pack, Chrysoula Paliadeli, Monika Panayotova, Marietje Schaake, Marco Scurria, Hannu Takkula, László Tókéš, Helga Trüpel, Gianni Vattimo, Marie-Christine Vergiat, Sabine Verheyen, Milan Zver
Substitute(s) present for the final vote	Ivo Belet, Nadja Hirsch, Seán Kelly, Georgios Papanikolaou, Joanna Katarzyna Skrzydlewska

22.1.2014

OPINION OF THE COMMITTEE ON LEGAL 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: Marielle Gallo

SHORT JUSTIFICATION

The rapporteur regrets the timing of the proposed Regulation for a Connected Continent that comes up very late in the European Parliament's term. The telecommunications sector and services provided through electronic communication networks are fundamental for the competitiveness of the European Union in the long term. The timetable set for the examination of a piece of legislation that might have such a fundamental impact on the mobile economy, and therefore on our economy as a whole, is unrealistic.

The European Parliament should have been able to request a thorough impact assessment of the proposed Regulation from its own services and dispose of sufficient time to proceed to a broad public consultation. The Rapporteur notes also the critical stance of BEREC towards the EU Commission's proposal.

As a last preliminary remark, the Rapporteur wishes to highlight that economic operators need a supportive environment and legal certainty. For this reason, the Rapporteur is surprised from the new proposal of the European Commission on international roaming, only one year after the adoption of the Roaming III Regulation.

When it comes to the Legal Affairs committee opinion, the Rapporteur focused on three areas:

First of all, on the EU single authorization: It creates an additional layer of regulation, without being sufficiently demonstrated that there is a need for such scheme. The rapporteur believes that the elimination of unreasonable obstacles to the provision of cross-border services, can be achieved through better coordination among NRAs and within the BEREC by putting in place, for instance, a harmonized notification template. Therefore, the Rapporteur proposes

the deletion of Chapter 2 of the proposed Regulation and the introduction of amendments to Directive 2002/20 (authorization).

Secondly, on net neutrality: The Rapporteur proposes to acknowledge the possibility for operators to offer, and for end-users to benefit from specialized services as long as they don't impair the general quality of internet access services. Reasonable traffic management measures should also be allowed taking into account the different legal systems of Member States subject to the condition that consumers benefit from an open Internet.

Thirdly, on the rights of end-users: The Rapporteur proposes the deletion of articles 25-30 as full harmonization wouldn't be in favor of consumers. The course of action proposed is to amend Directive 2002/22 (Universal Service) and update some of the rights enshrined in it.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(11) Irrespective of how the provider chooses to operate electronic communications networks or provide electronic communications services across borders, the regulatory regime applicable to a European electronic communications provider should be neutral vis-à-vis the commercial choices which underlie the organisation of functions and activities across Member States. Therefore, regardless of the corporate structure of the undertaking, the home Member State of a European electronic communications provider should be considered to be the Member State where the strategic decisions concerning the provision of electronic communications networks or services are taken. ***deleted***

Amendment 2

Proposal for a regulation Recital 12

Text proposed by the Commission

Amendment

(12) The single EU authorisation should be based on the general authorisation in the home Member State. It should not be made subject to conditions which are already applicable by virtue of other existing national law which is not specific to the electronic communications sector. In addition, the provisions of this Regulation and Regulation (EU) No. 531/2012 should also apply to European electronic communications providers. ***deleted***

Amendment 3

Proposal for a regulation Recital 13

Text proposed by the Commission

Amendment

(13) Most sector-specific conditions, for example concerning access to or security and integrity of networks or access to emergency services, are strongly linked to the place where such network is located or the service is provided. Consequently a European electronic communications provider may be subject to conditions applicable in the Member States where it operates, to the extent that this Regulation does not provide otherwise. ***deleted***

Amendment 4

Proposal for a regulation Recital 14

Text proposed by the Commission

Amendment

(14) Where Member States require ***deleted***

contribution from the sector in order to finance universal service obligations and to the administrative costs of the national regulatory authorities, the criteria and procedures for apportioning contributions should be proportionate and non-discriminatory with regard to European electronic communications providers, so as not to hinder cross-border market entry, in particular of new entrants and smaller operators; individual undertakings' contributions should therefore take into account the contributor's market share in terms of turnover realised in the relevant Member State and should be subject to the application of a de minimis threshold.

Amendment 5

Proposal for a regulation

Recital 15

Text proposed by the Commission

Amendment

(15) It is necessary to ensure that in similar circumstances there is no discrimination in the treatment of any European electronic communications provider by different Member States and that consistent regulatory practices are applied in the single market, in particular as regards measures falling within the scope of Articles 15 or 16 of Directive 2002/21/EC, or Articles 5 or 8 of Directive 2002/19/EC. European electronic communications providers should therefore have a right to equal treatment by the different Member States in objectively equivalent situations in order to enable more integrated multi-territorial operations. Furthermore, there should be specific procedures at Union level for the review of draft decisions on remedies within the meaning of Article 7a of Directive 2002/21/EC in such cases, in order to avoid unjustified divergences in

deleted

obligations applicable to European electronic communications providers in different Member States.

Amendment 6

Proposal for a regulation Recital 16

Text proposed by the Commission

Amendment

(16) An allocation of regulatory and supervisory competences should be established between the home and any host Member State of European electronic communications providers with a view to reducing the barriers to entry while ensuring that the applicable conditions for the provision of electronic communications services and networks by these providers are properly enforced. Therefore, while each national regulatory authority should supervise compliance with the conditions applicable in its territory in accordance with Union legislation, including by means of sanctions and interim measures, only the national regulatory authority in the home Member State should be entitled to suspend or withdraw the rights of a European electronic communications provider to provide electronic communications networks and services in the whole Union or part thereof.

deleted

Amendment 7

Proposal for a regulation Recital 17

Text proposed by the Commission

Amendment

(17) Radio spectrum is a public good and an essential resource for the internal market for mobile, wireless broadband and satellite communications in the

deleted

Union. Development of wireless broadband communications contributes to the implementation of the Digital Agenda for Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens and of providing the Union with the highest possible broadband speed and capacity. However, the Union has fallen behind other major global regions - North America, Africa and parts of Asia - in terms of the roll-out and penetration of the latest generation of wireless broadband technologies that are necessary to achieve those policy goals. The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States seeking a derogation or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council,²³ testifies to the urgency of action even within the term of the current RSPP. Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council²⁴ have not been sufficient to address this problem.

²³ *Decision 243/2012/EU of the European Parliament and the Council of 14 March 2012, establishing a multiannual radio spectrum policy programme, OJ L 81 of 21.3.2012*

²⁴ *Decision 676/2002/EC of the European Parliament and the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002, p. 1).*

Amendment 8

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 9

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

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

(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.

innovation with low access barriers for end-users, content and application providers and internet service providers. ***Fundamentally equal treatment and non-discrimination in forwarding data packages, irrespective of content, service, application, origin or destination, must be safeguarded by law throughout the EU, to provide a lasting guarantee that all internet users can in principle access or provide all online content, services or applications. Access network operators are under a general obligation to forward data packages while providing users with transfer services of suitable quality and constantly adapted to technological progress, regardless of the origin, destination or nature of the content, services and applications to be transferred. The open and non-discriminatory nature of the internet is the key to stimulating innovation and economic efficiency. These essential characteristics help ensure freedom and diversity of expression in the media and in the cultural sector.*** 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. ***An open internet operating***

exclusively on the best-effort principle should not be impaired or restricted by the development of other products and services.

Amendment 10

Proposal for a regulation Recital 47 a (new)

Text proposed by the Commission

Amendment

(47a) This Regulation is without prejudice to 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 (Directive on privacy and electronic communications).

Amendment 11

Proposal for a regulation Recital 50

Text proposed by the Commission

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 ***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) communications. ***At the same time such***

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on quality parameters . ***For the provision of specialised services in closed networks, it is necessary that*** content, applications and service providers ***have the opportunity*** to negotiate such ***a specific*** quality of service levels with providers of electronic communications to the public ***for a limited group of users. This*** is expected to play an important role in the development of new services such as machine-to-machine (M2M) communications. ***Special services must neither impair open internet access***

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.

service quality nor be marketed or used as an internet substitute. They are admissible only if there is a manifest technical and de facto need, over and above economic self-interest, to be able to supply real-time critical applications of a particular quality. If special services are offered or marketed by access network providers, they are also under the obligation to provide an open internet access service as referred to in recital (45). All open internet services are subject to the best-effort principle.

Amendment 12

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 empowered to impose minimum quality of service requirements on all or individual

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 congestion in the network, actual versus advertised speeds, performance of internet

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.

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 13

Proposal for a regulation

Article 1 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) providers of electronic communication services and networks are able to invest and innovate in new and enhanced high-capacity infrastructures, contributing to the global competitiveness of the Union.

Amendment 14

Proposal for a regulation

Article 1 – paragraph 2 – point b

Text proposed by the Commission

Amendment

b) to promote sustainable competition within the single market and the global competitiveness of the Union, and to reduce sector-specific market regulation accordingly as and when these objectives are achieved;

deleted

Amendment 15

Proposal for a regulation Article 1 – paragraph 2 – point c

Text proposed by the Commission

Amendment

c) to favour investment and innovation in new and enhanced high-capacity infrastructures which reach throughout the Union and which can cater for evolving end-user demand; ***deleted***

Amendment 16

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

Text proposed by the Commission

Amendment

(a) a single EU authorisation for European electronic communications providers; ***deleted***

Amendment 17

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

Text proposed by the Commission

Amendment

(b) further convergence of regulatory conditions as regards the necessity and proportionality of remedies imposed by national regulatory authorities on European electronic communications providers; ***deleted***

Amendment 18

Proposal for a regulation

Article 1 – paragraph 3 – point e

Text proposed by the Commission

(e) the harmonisation of rules related to rights of end-users and the promotion of effective competition in retail markets, thereby creating a European consumer space for electronic communications;

Amendment

(e) **additional** rights **to those included in Directive 2002/22/EC for** end-users and the promotion of effective competition in retail markets, thereby creating a European consumer space for electronic communications;

Amendment 19

Proposal for a regulation

Article 2 – paragraph 2 – point 4

Text proposed by the Commission

(4) "single EU authorisation" means the legal framework applicable to a European electronic communications provider in the whole Union based on the general authorisation in the home Member State and in accordance with this Regulation;

Amendment

deleted

Amendment 20

Proposal for a regulation

Article 2 – paragraph 2 – point 5

Text proposed by the Commission

(5) "home Member State" means the Member State where the European electronic communications provider has its main establishment;

Amendment

deleted

Amendment 21

Proposal for a regulation

Article 2 – paragraph 2 – point 6

Text proposed by the Commission

Amendment

(6) "main establishment" means the place of establishment in the Member State where the main decisions are taken as to the investments in and conduct of the provision of electronic communications services or networks in the Union; *deleted*

Amendment 22

Proposal for a regulation

Article 2 – paragraph 2 – point 7

Text proposed by the Commission

Amendment

(7) "host Member State" means any Member State different from the home Member State where a European electronic communications provider provides electronic communications networks or services; *deleted*

Amendment 23

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 termination points, and enables defined levels of end to end network performance for the provision of specific services to *deleted*

end users on the basis of the delivery of a specified guaranteed quality of service, based on specified parameters;

Amendment 24

Proposal for a regulation Article 2 – paragraph 2 – point 14

Text proposed by the Commission

(14) 'internet access service' means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used;

Amendment

(14) 'internet access service' means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used; ***the Member States shall impose reasonable minimum requirements in respect of internet access service quality, which must be constantly adapted to technological progress; an internet access service enables end-users to use any internet-based application in accordance with the best effort principle; the only permissible derogation from this principle is proportional and justified traffic management where the conditions for its use are clearly defined;***

Amendment 25

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

Text proposed by the Commission

(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

Amendment

(15) "specialised service" means an electronic communications service or any other service that ***are provided using the Internet Protocol and operated within closed electronic communications networks relying on admission control that*** provide the capability to access

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;

specific content, applications or services, or a combination thereof, ***based on extensive use of traffic management in order to ensure adequate service characteristics***; and that is not marketed or widely used as a substitute for internet access service;

Justification

The definition draws on the BEREC Guidelines for Quality of Service in the scope of Net Neutrality.

Amendment 26

Proposal for a regulation

Article 3

Text proposed by the Commission

Amendment

Article 3 – Freedom to provide electronic communications across the Union

deleted

1. A European electronic communications provider has the right to provide electronic communications networks and services in the whole Union and to exercise the rights linked to the provision of such networks and services in each Member State where it operates pursuant to a single EU authorisation which is subject only to the notification requirements provided in Article 4.

2. The European electronic communications provider is subject to the rules and conditions applied in each Member State concerned in compliance with Union law unless otherwise provided in this Regulation and without prejudice to Regulation (EU) No 531/2012.

3. By way of derogation from Article 12 of Directive 2002/20/EC, a European electronic communications provider may be subject to administrative charges applicable in the host Member State only if it has an annual turnover for electronic communications services in that Member

State above 0,5% of the total national electronic communications turnover. In levying these charges only the turnover for electronic communications services in the Member State concerned shall be taken into account.

4. By way of derogation from Article 13(1)(b) of Directive 2002/22/EC a European electronic communications provider may be subject to the contributions imposed to share the net cost of universal service obligations in the host Member State only if it has an annual turnover for electronic communications services in that Member State above 3% of the total national electronic communications turnover. In levying any such contribution only the turnover in the Member State concerned shall be taken into account.

5. A European electronic communications provider shall be entitled to equal treatment by the national regulatory authorities of different Member States in objectively equivalent situations.

6. In the event of a dispute between undertakings involving a European electronic communications provider regarding obligations applicable in accordance with Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC, this Regulation or Regulation (EU) No 531/2012 in a host Member State, the European electronic communications provider may consult the national regulatory authority in the home Member State, which may deliver an opinion with a view to ensuring the development of consistent regulatory practices. The national regulatory authority in the host Member State shall take utmost account of the opinion issued by the national regulatory authority of the home Member State when deciding the dispute.

7. European electronic communications providers who, at the date of entry into

force of this Regulation, have the right to provide electronic communications networks and services in more than one Member State shall submit the notification provided for in Article 4 at the latest by 1 July 2016.

Amendment 27

Proposal for a regulation Article 4

Text proposed by the Commission

Amendment

Article 4 - Notification procedure for European electronic communications providers

deleted

1. A European electronic communications provider shall submit a single notification in accordance with this Regulation to the national regulatory authority of the home Member State, before beginning activity in at least one Member State.

2. The notification shall contain a declaration of the provision or the intention to commence the provision of electronic communications networks and services and shall be accompanied by the following information only:

(a) the name of the provider, his legal status and form, registration number, where the provider is registered in trade or other similar public register, the geographical address of the main establishment, a contact person, a short description of the networks or services provided or intended to be provided, including identification of the home Member State;

(b) the host Member State(s) where the services and the networks are provided or intended to be provided directly or by subsidiaries and, in the latter case, the name, his legal status and form, geographical address, registration

number, where the provider is registered in trade or other similar public register in the host Member State, and contact point of any subsidiary concerned and the respective operating areas. Where a subsidiary is controlled jointly by two or more electronic communications providers with their main establishments in different Member States the subsidiary shall indicate the relevant home Member State among those of the parent companies for the purpose of this Regulation and shall be notified by the parent company of that home Member State accordingly.

The notification shall be submitted in the language or languages applicable in the home Member State and in any host Member State.

3. Any change to the information submitted in accordance with paragraph 2 shall be made available to the national regulatory authority of the home Member State within one month following the change. In the event that the change to be notified concerns the intention to provide electronic communications networks or services in a host Member State that is not covered by a previous notification, the European electronic communications provider may begin activity in that host Member State upon notification.

4. Non-compliance with the notification requirement laid down in this Article shall constitute a breach of the common conditions applicable to the European electronic communications provider in the home Member State.

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.

6. At the request of a European electronic communications provider, the national regulatory authority of the home Member State shall issue a declaration in accordance with Article 9 of Directive 2002/20/EC, specifying that the undertaking in question is subject to the single EU authorisation.

7. In the event that one or more national regulatory authorities in different Member States consider that the identification of the home Member State in a notification made in accordance with paragraph 2 or any change to the provided information made available in accordance with paragraph 3 does not correspond or no longer corresponds to the main establishment of the undertaking pursuant to this Regulation, it shall refer the issue to the Commission, substantiating the grounds on which it bases its assessment. A copy of the referral shall be communicated to the BEREC Office for information. The Commission, having given the relevant European electronic communications provider and the national regulatory authority of the disputed home Member State the opportunity to express their views, shall issue a decision determining the home Member State of the undertaking in question pursuant to this Regulation within three months following the referral of the issue.

Amendment 28

Proposal for a regulation Article 5

Text proposed by the Commission

Amendment

Article 5 – Compliance with the single EU authorisation ***deleted***

1. The national regulatory authority of each concerned Member State shall monitor and ensure, in accordance with its national legislation implementing the procedures provided for in Article 10 of Directive 2002/20/EC, that European electronic communications providers comply with the rules and conditions applicable in its territory in accordance with Article 3.

2. The national regulatory authority of a host Member State shall transmit to the national regulatory authority of the home Member State any relevant information concerning individual measures adopted in relation to a European electronic communications provider with a view to ensuring compliance with the rules and conditions applicable in its territory in accordance with Article 3.

Amendment 29

Proposal for a regulation Article 6

Text proposed by the Commission

Amendment

Article 6 – Suspension and withdrawal of the rights to provide electronic communications of European electronic communications providers ***deleted***

1. Without prejudice to measures concerning suspension or withdrawal of rights of use for spectrum or numbers granted by any concerned Member State and interim measures adopted in

accordance with paragraph 3, only the national regulatory authority of the home Member State may suspend or withdraw the rights of a European electronic communications provider to provide electronic communications networks and services in the whole Union or part thereof in accordance with national legislation implementing Article 10(5) of Directive 2002/20/EC.

2. In cases of serious or repeated breaches of the rules and conditions applicable in a host Member State in accordance with Article 3, where measures aimed at ensuring compliance taken by the national regulatory authority in the host Member State in accordance with Article 5 have failed, it shall inform the national regulatory authority in the home Member State and request that it adopts the measures provided for in paragraph 1.

3. Until a final decision on a request submitted in accordance with paragraph 2 is adopted by the national regulatory authority of the home Member State, the national regulatory authority of the host Member State may take urgent interim measures in accordance with national legislation implementing Article 10(6) of Directive 2002/20/EC where it has evidence of a breach of the rules and conditions applicable in its territory in accordance with Article 3. By way of derogation from the three months time-limit provided for in Article 10(6) of Directive 2002/20/EC, such interim measures may be valid until the national regulatory authority of the home Member State adopts a final decision.

The Commission, BEREC and the national regulatory authorities of the home Member State and other host Member States shall be informed of the interim measure adopted in due time.

4. Where the national regulatory authority of the home Member State

considers taking a decision to suspend or withdraw rights of a European electronic communications provider in accordance with paragraph 1 either on its own initiative or at the request of the national regulatory authority of a host Member State, it shall notify its intention to the national regulatory authorities of any host Member State affected by such a decision. The national regulatory authority of a host Member State may deliver an opinion within one month.

5. Taking utmost account of any opinion of the national regulatory authority of the host Member States concerned, the national regulatory authority of the home Member State shall adopt a final decision and shall communicate it to the Commission, BEREC and the national regulatory authorities of the host Member States affected by such a decision within one week after its adoption.

6. Where the national regulatory authority of the home Member State has decided to suspend or withdraw rights of a European electronic communications provider in accordance with paragraph 1, the national regulatory authority of any host Member State concerned shall take appropriate measures to prevent the European electronic communications provider from further providing services or networks concerned by this decision within its territory.

Amendment 30

Proposal for a regulation Article 7

Text proposed by the Commission

Amendment

Article 7 – Coordination of enforcement measures

deleted

1. When applying Article 6, the national

regulatory authority of the home Member State shall take supervisory or enforcement measures related to an electronic communications service or network provided in another Member State or which has caused damage in another Member State with the same diligence as if the electronic communications service or network concerned was provided in the home Member State.

2. The Member States shall ensure that within their territories it is possible to serve the legal documents relating to measures taken in accordance with Articles 5 and 6.

Amendment 31

Proposal for a regulation Article 19

Text proposed by the Commission

Amendment

Article 19 – Assured service quality (ASQ) connectivity product *deleted*

1. Any operator shall have the right to provide a European ASQ connectivity product as specified in paragraph 4.

2. Any operator shall meet any reasonable request to provide a European ASQ connectivity product as specified in paragraph 4 submitted in writing by an authorised provider of electronic communications services. Any refusal to provide a European ASQ product shall be based on objective criteria. The operator shall state the reasons for any refusal within one month from the written request.

It shall be deemed to be an objective ground of refusal that the party requesting the supply of a European ASQ connectivity product is unable or

unwilling to make available, whether within the Union or in third countries, a European ASQ connectivity product to the requested party on reasonable terms, if the latter so requests.

3. Where the request is refused or agreement on specific terms and conditions, including price, has not been reached within two months from the written request, either party is entitled to refer the issue to the relevant national regulatory authority pursuant to Article 20 of Directive 2002/21/EC. In such a case, Article 3(6) of this Regulation may apply.

4. The provision of a connectivity product shall be considered as the provision of a European ASQ connectivity product if it is supplied in accordance with the minimum parameters listed in Annex II and cumulatively meets the following substantive requirements:

(a) ability to be offered as a high quality product anywhere in the Union;

(b) enabling service providers to meet the needs of their end-users;

(c) cost-effectiveness, taking into account existing solutions that may be provided on the same networks;

(d) operational effectiveness, in particular in respect of limiting to the extent possible implementation obstacles and deployment costs for customers; and

(e) ensuring that the rules on protection of privacy, personal data, security and integrity of networks and transparency in accordance with Union law are respected.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 32 in order to adapt Annex II in light of market and technological developments, so as to continue to meet the substantive requirements listed in paragraph 4.

Amendment 32

Proposal for a regulation Article 21 – paragraph 3

Text proposed by the Commission

Amendment

3. Providers of electronic communications to the public shall not apply tariffs for intra-Union communications terminating in another Member State which are higher, unless objectively justified: *deleted*

a) as regards fixed communications, than tariffs for domestic long-distance communications;

b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.

Justification

These are competitive and deregulated markets.

Amendment 33

Proposal for a regulation Article 23 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

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.

With due account to the principle of net neutrality, end-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services, **provided they freely and explicitly give their informed consent**, and to avail of any offers by providers of internet content, applications and services.

Amendment 34

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

Providers of electronic communications to the public or providers of content, applications and services ***may offer specialized services to a limited number of users granted restricted access, through a closed electronic communications network. Special services may not be marketed or used as an internet substitute or offer content, applications or services functionally identical to those of the open internet.***

Amendment 35

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 shall be free to 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 36

Proposal for a regulation

Article 23 – paragraph 5 – subparagraph 1 – point a

Text proposed by the Commission

a) implement a legislative provision or a court order, *or prevent or impede serious crimes*;

Amendment

a) implement a legislative provision or a court order;

Amendment 37

Proposal for a regulation

Article 23 – paragraph 5 – subparagraph 1 – 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) *prevent or* minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.

Amendment 38

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 be set in a transparent way, *be limited to the time period necessary and entail processing of data that is necessary* and proportionate to achieve the purposes set out in this paragraph.

Amendment 39

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) and from an open Internet**, compliance with **reasonable traffic management measures as referred to in** 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 40

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 41

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). *deleted*

Amendment 42

Proposal for a regulation Article 25

Text proposed by the Commission

Amendment

Article 25 - Transparency and publication of information *deleted*

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:

a) their name, address and contact information;

b) for each tariff plan the services offered and the relevant quality of service parameters, the applicable prices (for consumers including taxes) and any applicable charges (access, usage, maintenance and any additional charges), as well as costs with respect to terminal equipment;

c) applicable tariffs regarding any number or service subject to particular pricing conditions;

d) the quality of their services, in accordance with implementing acts

provided for in paragraph 2;

e) internet access services, where offered, specifying the following:

(i) actually available data speed for download and upload in the end-user's Member State of residence, including at peak-hours;

(ii) the level of applicable data volume limitations, if any; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and the means for end-users to monitor at any moment the current level of their consumption;

(iii) a clear and comprehensible explanation as to how any data volume limitation, the actually available speed and other quality parameters, and the simultaneous use of specialised services with an enhanced quality of service, may practically impact the use of content, applications and services;

(iv) information on any procedures put in place by the provider to measure and shape traffic so as to avoid congestion of a network, and on how those procedures could affect service quality and the protection of personal data;

f) measures taken to ensure equivalence in access for disabled end-users, including regularly updated information on details of products and services designed for them;

g) their standard contract terms and conditions, including any minimum contractual period, the conditions for and any charges due on early termination of a contract, the procedures and direct charges related to switching and portability of numbers and other identifiers, and compensation arrangements for delay or abuse of

switching;

h) access to emergency services and caller location information for all services offered, any limitations on the provision of emergency services under Article 26 of Directive 2002/22/EC, and any changes thereto;

i) rights as regards universal service, including, where appropriate, the facilities and services mentioned in Annex I to Directive 2002/22/EC.

The information shall be published in a clear, comprehensive and easily accessible form in the official language(s) of the Member State where the service is offered, and be updated regularly. The information shall, on request, be supplied to the relevant national regulatory authorities in advance of its publication. Any differentiation in the conditions applied to consumers and other end-users shall be made explicit.

2. The Commission may adopt implementing acts specifying the methods for measuring the speed of internet access services, the quality of service parameters and the methods for measuring them, and the content, form and manner of the information to be published, including possible quality certification mechanisms. The Commission may take into account the parameters, definitions and measurement methods set out in Annex III of the Directive 2002/22/EC. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

3. End-users shall have access to independent evaluation tools allowing them to compare the performance of electronic communications network access and services and the cost of alternative usage patterns. To this end Member States shall establish a voluntary certification scheme for interactive websites, guides or similar tools.

Certification shall be granted on the basis of objective, transparent and proportionate requirements, in particular independence from any provider of electronic communications to the public, the use of plain language, the provision of complete and up-to-date information, and the operation of an effective complaints handling procedure. Where certified comparison facilities are not available on the market free of charge or at a reasonable price, national regulatory authorities or other competent national authorities shall make such facilities available themselves or through third parties in compliance with the certification requirements. The information published by providers of electronic communications to the public shall be accessible, free of charge, for the purposes of making available comparison facilities.

4. Upon request of the relevant public authorities, providers of electronic communications to the public shall distribute public interest information free of charge to end-users, where appropriate, by the same means as those ordinarily used by them in their communications with end-users. In such a case, that information shall be provided by the relevant public authorities to the providers of electronic communications to the public in a standardised format and may, inter alia, cover the following topics:

(a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of data protection rights, copyright and related rights, and their legal consequences; and

(b) the means of protection against risks to personal security and unlawful access to personal data when using electronic

communications services.

Amendment 43

Proposal for a regulation

Article 26

Text proposed by the Commission

Amendment

Article 26 - Information requirements for contracts **deleted**

1. Before a contract on the provision of connection to a public electronic communications network or publicly available electronic communications services becomes binding providers of electronic communications to the public shall provide consumers, and other end-users unless they have explicitly agreed otherwise, at least the following information:

(a) the identity, address and contact information of the provider and, if different, the address and contact information for any complaints;

(b) the main characteristics of the services provided, including in particular:

(i) for each tariff plan the types of services offered, the included volumes of communications and all relevant quality of service parameters, including the time for the initial connection;

(ii) whether and in which Member States access to emergency services and caller location information is being provided and any limitations on the provision of emergency services in accordance with Article 26 of Directive 2002/22/EC;

(iii) the types of after-sales services, maintenance services and customer support services provided, the conditions and charges for these services, and the means of contacting these services;

(iv) any restrictions imposed by the provider on the use of terminal equipment supplied, including information on unlocking the terminal equipment and any charges involved if the contract is terminated before the end of the minimum contract period;

(c) details of prices and tariffs (for consumers including taxes and possibly due additional charges) and the means by which up-to-date information on all applicable tariffs and charges are made available;

(d) payment methods offered and any cost differences due to the payment method, and available facilities to safeguard bill transparency and monitor the level of consumption ;

(e) the duration of the contract and the conditions for renewal and termination, including:

(i) any minimum usage or duration required to benefit from promotional terms;

(ii) any charges related to switching and portability of numbers and other identifiers, including compensation arrangements for delay or abuse of switching;

(iii) any charges due on early termination of the contract, including any cost recovery with respect to terminal equipment (on the basis of customary depreciation methods) and other promotional advantages (on a pro rata temporis basis);

(f) any compensation and refund arrangements, including an explicit reference to statutory rights of the end-user, which apply if contracted service quality levels are not met;

(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;

(h) for disabled end-users, details of products and services designed for them;

(i) the means of initiating procedures for the settlement of disputes, including cross-border disputes, in accordance with Article 34 of Directive 2002/22/EC and Article 22 of this Regulation;

(j) the type of action that might be taken by the provider in reaction to security or integrity incidents or threats and vulnerabilities.

2. In addition to paragraph 1, providers of electronic communications to the public shall provide end-users, unless otherwise agreed by an end-user who is not a consumer, at least the following information with respect to their internet access services:

(a) the level of applicable data volume limitations, if any; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and how end-users can at any moment monitor the current level of their consumption;

(b) the actually available data speed for download and upload at the main location of the end-user, including actual speed ranges, speed averages and peak-hour speed, including the potential impact of allowing access to third parties through a radio local area network ;

(c) other quality of service parameters;

(d) information on any procedures put in place by the provider to measure and shape traffic so as to avoid congestion of a network, and information on how those procedures could impact on service quality and protection of personal data;

(e) a clear and comprehensible explanation as to how any volume limitation, the actually available speed and other quality of service parameters, and the simultaneous use of specialised services with an enhanced quality of service, may practically impact the use of content, applications and services.

3. The information referred to in paragraphs 1 and 2 shall be provided in a clear, comprehensive and easily accessible manner and in an official language of the end-user's Member State of residence, and shall be updated regularly. It shall form an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise. The end-user shall receive a copy of the contract in writing.

4. The Commission may adopt implementing acts specifying the details of the information requirements listed in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

5. The contract shall also include, upon request by the relevant public authorities, any information provided by these authorities for this purpose on the use of electronic communications networks and services to engage in unlawful activities or to disseminate harmful content, and on the means of protection against risks to personal security and unlawful processing of personal data, referred to in Article 25(4) and relevant to the service provided.

Amendment 44

Proposal for a regulation Article 27

Text proposed by the Commission

Amendment

Article 27 – Control of consumption *deleted*

1. Providers of electronic communications to the public shall offer end-users the opportunity to opt, free of charge, for a facility which provides information on the accumulated consumption of different electronic communications services expressed in the currency in which the end-user is billed. Such a facility shall guarantee that, without the end-user's consent, the accumulated expenditure over a specified period of use does not exceed a specified financial limit set by the end-user.

2. Providers of electronic communications to the public shall ensure that an appropriate notification is sent to the end-user when the consumption of services has reached 80% of the financial limit set in accordance with paragraph 1. The notification shall indicate the procedure to be followed to continue the provision of those services, including their cost. The provider shall cease to provide the specified services and to charge the end-user for it if the financial limit would otherwise be exceeded, unless and until the end-user requests the continued or renewed provision of those services. After having reached the financial limit end-users shall continue to be able to receive calls and SMS messages and access free-phone numbers and emergency services by dialling the European emergency number 112 free of charge until the end of the agreed billing period.

3. Providers of electronic communications to the public shall, immediately prior to connecting the call, enable end-users to access easily and without incurring any

costs information on applicable tariffs regarding any number or service subject to particular pricing conditions unless the national regulatory authority has granted a prior derogation for reasons of proportionality. Any such information shall be provided in a comparable fashion for all such numbers or services.

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

Amendment 45

Proposal for a regulation Article 28

Text proposed by the Commission

Amendment

Article 28 - Contract termination

deleted

1. Contracts concluded between consumers and providers of electronic communications to the public shall not provide for a minimum duration that exceeds 24 months. Providers of electronic communications to the public shall offer end-users the possibility to conclude a contract with a maximum duration of 12 months.

2. Consumers, and other end-users unless they have otherwise agreed, shall have the right to terminate a contract with a one-month notice period, where six months or more have elapsed since conclusion of the contract. No compensation shall be due other than for the residual value of subsidised equipment bundled with the contract at the moment of the contract conclusion and a pro rata temporis reimbursement for any other promotional advantages marked as such at the moment of the contract conclusion. Any restriction on the usage of terminal equipment on other networks shall be lifted, free of

charge, by the provider at the latest upon payment of such compensation.

3. Where the contracts or national law provide for contract periods to be extended tacitly, the provider of electronic communications to the public shall inform the end-user in due time so that the end-user has at least one month to oppose a tacit extension. If the end-user does not oppose, the contract shall be deemed to be a permanent contract which can be terminated by the end-user at any time with a one-month notice period and without incurring any costs.

4. End-users shall have the right to terminate their contract without incurring any costs upon notice of changes in the contractual conditions proposed by the provider of electronic communications to the public unless the proposed changes are exclusively to the benefit of the end-user. Providers shall give end-users adequate notice, not shorter than one month, of any such change, and shall inform them at the same time of their right to terminate their contract without incurring any costs if they do not accept the new conditions. Paragraph 2 shall apply mutatis mutandis.

5. Any significant and non-temporary discrepancy between the actual performance regarding speed or other quality parameters and the performance indicated by the provider of electronic communications to the public in accordance with Article 26 shall be considered as non-conformity of performance for the purpose of determining the end-user's remedies in accordance with national law.

6. A subscription to additional services provided by the same provider of electronic communications to the public shall not re-start the initial contract period unless the price of the additional service(s) significantly exceeds that of the

initial services or the additional services are offered at a special promotional price linked to the renewal of the existing contract.

7. Providers of electronic communications to the public shall apply conditions and procedures for contract termination which do not raise obstacles to or disincentives against changing service provider.

Amendment 46

Proposal for a regulation Article 29

Text proposed by the Commission

Amendment

Article 29 - Bundled offers

deleted

If a bundle of services offered to consumers comprises at least a connection to an electronic communications network or one electronic communications service, Articles 28 and 30 of this Regulation shall apply to all elements of the bundle.

Amendment 47

Proposal for a regulation Article 30

Text proposed by the Commission

Amendment

Article 30 - Switching and portability of numbers

deleted

1. All end-users with numbers from a national telephone numbering plan who so request shall have the right to retain their number(s) independently of the provider of electronic communications to the public providing the service in accordance with Part C of Annex I to Directive 2002/22/EC, provided the

provider is an electronic communications provider in the Member State to which the national numbering plan relates or is a European electronic communications provider which has notified to the competent regulatory authority of the home Member State the fact that it provides or intends to provide such services in the Member State to which the national numbering plan relates.

2. Pricing between providers of electronic communications to the public related to the provision of number portability shall be cost-oriented, and direct charges to end-users, if any, shall not act as a disincentive for end-users against changing provider.

3. Porting of numbers and their activation shall be carried out within the shortest possible time. For end-users who have concluded an agreement to port a number to a new provider that number shall be activated within one working day from the conclusion of such agreement. Loss of service during the process of porting, if any, shall not exceed one working day.

4. The receiving provider of electronic communications to the public shall lead the switching and porting process. End-users shall receive adequate information on switching before and during the switching process, and also immediately after it is concluded. End-users shall not be switched to another provider against their will.

5. The end-users' contracts with transferring providers of electronic communications to the public shall be terminated automatically after conclusion of the switch. Transferring providers of electronic communications to the public shall refund any remaining credit to the consumers using pre-paid services.

6. Providers of electronic communications to the public which delay or abuse switching, including by not making

available information necessary for porting in a timely manner, shall be obliged to compensate end-users who are exposed to such delay or abuse.

7. In the event that an end-user switching to a new provider of internet access services has an email address provided by the transferring provider, the latter shall, upon request by the end-user, forward to any email address indicated by the end-user, free of charge, all email communications addressed to the end-user's previous email address for a period of 12 months. This email forwarding service shall include an automatic response message to all email senders alerting them about the end-user's new email address. The end-user shall have the option of requesting that the new email address should not be disclosed in the automatic response message.

Following the initial 12-month period, the transferring provider of electronic communications to the public shall give the end-user an option to extend the period for email forwarding, at a charge if required. The transferring provider of electronic communications to the public shall not allocate the end-users' initial email address to another end-user before a period of two years following contract termination, and in any case during the period for which the email forwarding has been extended.

8. The competent national authorities may establish the global processes of switching and porting, including provision of appropriate sanctions on providers and compensations for end-users. They shall take into account necessary end-user protection throughout the switching process and the need to ensure efficiency of such process.

Amendment 48

Proposal for a regulation

Article 34 – point 1 a (new)

Directive 2002/20/EC

Article 12 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(1a) In Article 12(1), the following point is inserted:

(aa) Administrative charges shall not be applied in case of an electronic communication provider offering services in another Member State that has an annual turnover for electronic communication services below 0,5% of the total national electronic communications turnover.

Amendment 49

Proposal for a regulation

Article 36 – paragraph 1 – point 1 a (new)

Directive 2002/22/EC

Article 13 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(1a) In Article 13(1), the following point is added:

(bb) Contributions to share the net costs of universal services obligations shall be imposed to electronic communications providers offering services to another Member State that have an annual turnover for electronic communication services below 2% of the total national electronic communications turnover.

Justification

The single EU authorization is burdensome, hasn't been thoroughly assessed and is criticized both by national regulators and electronic communication providers. The same objectives may be reached through a streamlined cooperation scheme among NRAs and amendments to directives 2002/20 and 2002/22.

Amendment 50

Proposal for a regulation

Article 36 – paragraph 1 – point 1 b (new)

Directive 2002/22/EC

Article 20 – paragraph 1 – point b

Present text

(b) the services provided, including in particular,

- whether or not access to emergency services and caller location information is being provided, and any limitations on the provision of emergency services under Article 26,

- information on any other conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law in accordance with Community law,

- the minimum service quality levels offered, namely the time for the initial connection and, where appropriate, other quality of service parameters, as defined by the national regulatory authorities,

- information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link, and information on how those procedures could impact on service quality,

- the types of maintenance service offered and customer support services provided, as well as the means of contacting these services,

Amendment

(1b) In Article 20(1), point b is replaced by the following:

b) the services provided, including in particular,

- for each tariff plan the services offered and the relevant quality of service parameters;

- for internet access services, where offered, specifying the following:

(i) actually available data speed for download and upload in the end-user's Member State of residence, including at peak-hours;

(ii) the level of applicable data volume limitations, if any; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and the means for end-users to monitor at any moment the current level of their consumption;

(iii) a clear and comprehensible explanation as to how any data volume limitation, the actually available speed and other quality parameters, and the simultaneous use of specialised services with an enhanced quality of service, may practically impact the use of content,

applications and services;

(iv) information on any procedures put in place by the provider to measure and shape traffic so as to avoid congestion of a network, and on how those procedures could affect service quality and the protection of personal data;

Amendment 51

Proposal for a regulation

Article 36 – paragraph 1 – point 1 c (new)

Directive 2002/22/EC

Article 21 – paragraph 1

Present text

1. Member States shall ensure that national regulatory authorities *are able to* oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on termination of a contract and on standard terms and conditions in respect of access to, and use of, services provided by them to end-users and consumers in accordance with Annex II. Such information shall be published in a clear, comprehensive and easily accessible form. National regulatory authorities may specify additional requirements regarding the form in which such information is to be published.

Amendment

(1c) Article 21(1) is replaced by the following:

"1. Member States shall ensure that national regulatory authorities oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on termination of a contract and on standard terms and conditions in respect of access to, and use of, services provided by them to end-users and consumers in accordance with Annex II. Such information shall be published in a clear, comprehensive and easily accessible form. National regulatory authorities may specify additional requirements regarding the form in which such information is to be published."

Amendment 52

Proposal for a regulation

Article 36 – paragraph 1 – point 1 d (new)

Directive 2002/22/EC

Article 21 – paragraph 2

Present text

2. National regulatory authorities shall **encourage** the provision of comparable information to enable end-users and consumers to make an independent evaluation of the cost of alternative usage patterns, for instance by means of interactive guides or similar techniques. Where such facilities are not available on the market free of charge or at a reasonable price, Member States shall ensure that national regulatory authorities are able to make such guides or techniques available themselves or through third party procurement. Third parties shall have a right to use, free of charge, the information published by undertakings providing electronic communications networks and/or publicly available electronic communications services for the purposes of selling or making available such interactive guides or similar techniques.

Amendment 53

Proposal for a regulation

Article 36 – paragraph 1 – point 1 e (new)

Directive 2002/22/EC

Article 21 – paragraph 3 – introductory part

Present text

3. Member States shall ensure that national regulatory authorities **are able to** oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to inter alia:

Amendment

(1d) Article 21(2) is replaced by the following:

2. National regulatory authorities shall **ensure** the provision of comparable information to enable end-users and consumers to make an independent evaluation of the cost of alternative usage patterns, for instance by means of interactive guides or similar techniques.

Amendment

(1e) In Article 21(3), the introductory part is replaced by the following:

3. Member States shall ensure that national regulatory authorities oblige undertakings providing public electronic communications networks and/or publicly available electronic communications services to inter alia:

Amendment 54

Proposal for a regulation

Article 36 – paragraph 1 – point 1 f (new)

Directive 2002/22/EC

Article 21 a (new)

Text proposed by the Commission

Amendment

(1f) The following Article is inserted:

Article 21a

Control of consumption

1. Providers of electronic communications to the public shall offer end-users the opportunity to opt, free of charge, for a facility which provides information on the accumulated consumption of different electronic communications services. Such a facility shall guarantee that, without the end-user's consent, the accumulated expenditure over a specified period of use does not exceed a specified financial limit set by the end-user.

2. Providers of electronic communications to the public shall ensure that an appropriate notification is sent to the end-user when the consumption of services has reached 80% of the financial limit set in accordance with paragraph 1. After having reached the financial limit end-users shall continue to be able to receive calls and SMS messages and access free-phone numbers and emergency services by dialling the European emergency number 112 free of charge until the end of the agreed billing period.

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

Amendment 55

Proposal for a regulation

Article 36 – paragraph 1 – point 1 g (new)

Directive 2002/22/EC

Article 21 b (new)

Text proposed by the Commission

Amendment

(1g) The following Article is inserted:

Article 21 b

Contract termination

1. Contracts concluded between consumers and providers of electronic communications to the public shall not provide for a minimum duration that exceeds 24 months. Providers of electronic communications to the public shall offer end-users the possibility to conclude a contract with a maximum duration of 12 months.

2. Consumers, and other end-users unless they have otherwise agreed, shall have the right to terminate a contract with a one-month notice period, where six months or more have elapsed since conclusion of the contract. No compensation shall be due other than for the residual value of subsidised equipment bundled with the contract at the moment of the contract conclusion and a pro rata temporis reimbursement for any other promotional advantages marked as such at the moment of the contract conclusion. Any restriction on the usage of terminal equipment on other networks shall be lifted, free of charge, by the provider at the latest upon payment of such compensation.

3. End-users shall have the right to terminate their contract without incurring any costs upon notice of changes in the contractual conditions proposed by the provider of electronic communications to the public unless the proposed changes are exclusively to the benefit of the end-

user.

4. Any significant and non-temporary discrepancy between the average performance regarding speed or other quality parameters and the performance indicated by the provider of electronic communications to the public shall be considered as non-conformity of performance for the purpose of determining the end-user's remedies in accordance with national law.

Amendment 56

Proposal for a regulation

Article 36 – paragraph 1 – point 2

Directive 2002/22/EC

Articles 22 and 30

Text proposed by the Commission

(2) Articles **20**, **21**, **22** and **30** are deleted.

Amendment

(2) Articles 22 and 30 are deleted.

Amendment 57

Proposal for a regulation

Article 37

Text proposed by the Commission

Article 37 – Amendments to Regulation (EU) No 531/2012

Regulation (EU) No 531/2012 is amended as follows:

(1) In Article 1(1), the following third subparagraph is inserted:

‘This Regulation shall apply to roaming services provided in the Union to end users whose domestic provider is a provider of electronic communications to the public in a Member State.’

(2) In Article 2 (2), the following point (r)

Amendment

deleted

is inserted:

‘(r) "bilateral or multilateral roaming agreement" means one or more commercial or technical agreements among roaming providers that allow the virtual extension of the home network coverage and the sustainable provision by each roaming provider of regulated retail roaming services at the same price level as their respective domestic mobile communications services.’

(3) In Article 4, the following paragraph 7 is added:

‘7. This Article shall not apply to roaming providers that provide regulated retail roaming services in accordance with Article 4a.’

(4) The following Article 4a is inserted:

‘Article 4a

1. This Article shall apply to roaming providers which:

(a) apply, by default and in all their respective retail packages that include regulated roaming services, the applicable domestic service rate to both domestic services and regulated roaming services throughout the Union, as if the regulated roaming services were consumed on the home network; and

(b) ensure, whether through their own networks or by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the provisions of point (a) are complied with by at least one roaming provider in all Member States.

2. Paragraphs 1, 6 and 7 shall not preclude the limitation by a roaming provider of consumption of regulated retail roaming services at the applicable domestic service rate by reference to a reasonable use criterion. Any reasonable use criterion shall be applied in such a way that consumers availing of the

roaming provider's various domestic retail packages are in a position to confidently replicate the typical domestic consumption pattern associated with their respective domestic retail packages while periodically travelling within the Union. A roaming provider availing of this possibility shall publish, in accordance with Article 25(1)(b) of Regulation XXX/2014, and include in its contracts, in accordance with Article 26(1)(b) and (c) of that Regulation, detailed quantified information on how the reasonable use criterion is applied, by reference to the main pricing, volume or other parameters of the retail package in question.

By 31 December 2014, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down general guidelines for the application of reasonable use criteria in the retail contracts provided by roaming providers availing of this Article. BEREC shall develop such guidelines by reference to the overall objective set out in the first subparagraph, and shall have regard in particular to the evolution of pricing and consumption patterns in the Member States, to the degree of convergence of domestic price levels across the Union, to any observable effect of roaming at domestic service rates on the evolution of such rates, and to the evolution of wholesale roaming rates for unbalanced traffic between roaming providers.

The competent national regulatory authority shall monitor and supervise the application of reasonable use criteria, taking utmost account of the BEREC general guidelines once they are adopted, and shall ensure that unreasonable terms are not applied.

3. Individual end-users served by a roaming provider availing of this Article may, upon their own request, make a deliberate and explicit choice to renounce the benefit of the application to regulated

roaming services of the applicable domestic service rate under a given retail package in return for other advantages offered by that provider. The roaming provider shall remind those end users of the nature of the roaming advantages which would thereby be lost. National regulatory authorities shall monitor in particular whether roaming providers availing of this Article engage in business practices which would amount to circumvention of the default regime.

4. Regulated retail roaming charges laid down in Articles 8, 10 and 13 shall not apply to roaming services offered by a roaming provider availing of this Article to the extent that these are charged at the level of the applicable domestic service rate.

Where a roaming provider availing of this Article applies charges which are different from the applicable domestic service rate for consumption of regulated roaming services going beyond reasonable use of such services in accordance with paragraph 2, or where an individual end user explicitly renounces the benefit of domestic service rates for regulated roaming services in accordance with paragraph 3, the charges for those regulated roaming services shall not exceed the retail roaming charges laid down in Articles 8, 10 and 13.

5. A roaming provider wishing to avail of this Article shall notify its own declaration and any bilateral or multilateral agreements by virtue of which it fulfills the conditions of paragraph 1, and any changes thereto, to the BEREC Office. The notifying roaming provider shall include in its notification proof of agreement to such notification by any contractual partners to notified bilateral or multilateral roaming agreements.

6. In the period from 1 July 2014 until 30 June 2016, this Article shall apply to

roaming providers which do not fulfill the conditions set out in paragraph 1, when they respect the following conditions:

(a) the roaming provider notifies its own declarataion and any relevant bilateral or multilateral roaming agreements to the BEREC Office in accordance with paragraph 5, making specific reference to this paragraph;

(b) the roaming provider ensures, whether through its own networks or by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the conditions of points (c),(d) and (e) are complied with in at least 17 Member States representing 70% of the population of the Union;

(c) the roaming provider and any contractual partners within the meaning of point (b) each undertakes to make available and actively offer, at the latest as from 1 July 2014, or as from the date of notification, whichever is the later, at least one retail package with a tariff option according to which the applicable domestic service rate applies to both domestic services and regulated roaming services throughout the Union, as if those regulated roaming services were consumed on the home network;

(d) the roaming provider and any contractual partners within the meaning of point (b) each undertakes to make available and actively offer, at the latest as from 1 July 2015, or as from the date of notification, whichever is the later, such tariff options in retail packages which, on 1 January of that year, were used by at least 50% of their respective customer base;

(e) the roaming provider and any contractual partners within the meaning of point (b) each undertakes to comply, at the latest as from 1 July 2016, with paragraph 1(b) in all of their respective

retail packages.

The roaming provider availing of this Article and any contractual partners within the meaning of point (b) may, as an alternative to the undertaking referred to in point (d), undertake, as from 1 July 2015, or as from the date of notification, whichever is the later, that any roaming surcharges applied in addition to the applicable domestic service rate in its various retail packages are, in aggregate, no more than 50% of those applicable in those packages on 1 January 2015, irrespective of whether such surcharges are calculated on the basis of units such as voice minutes or megabytes, of periods such as days or weeks of roaming, or by any other means or combination thereof. Roaming providers invoking this point shall demonstrate compliance with the requirement of a 50% reduction to the national regulatory authority and shall supply all necessary supporting evidence requested of them.

Where the roaming provider availing of this Article notifies its own declaration and any relevant bilateral or multilateral roaming agreements to the BEREC Office pursuant to point (a) of the first subparagraph and thereby falls under this paragraph, the notifying roaming provider and any contractual partners within the meaning of point (b) shall each be bound to comply with their respective undertakings in accordance with points (c), (d) and (e) of the first subparagraph, including any alternative undertaking to that provided for in point (d) of that subparagraph, until at least 1 July 2018.

7. In the period from 1 July 2014 until 30 June 2016, this Article shall apply to roaming providers which do not fulfill the conditions set out in paragraph 1, when they respect the following conditions:

(a) the roaming provider notifies its own declarataion and any relevant bilateral or

multilateral roaming agreements to the BEREC Office in accordance with paragraph 5, making specific reference to this paragraph;

(b) the roaming provider ensures, whether through its own networks or by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the conditions of paragraph 1(a) are complied with in at least 10 Member States representing 30% of the population of the Union, at the latest as from 1 July 2014, or as from the date of notification, whichever is the later;

(c) the roaming provider ensures, whether through its own networks or by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the conditions of paragraph 1(a) are complied with in at least 14 Member States representing 50% of the population of the Union, at the latest as from 1 July 2015, or as from the date of notification, whichever is the later;

(d) the roaming provider ensures, whether through its own networks or by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the conditions of paragraph 1(a) are complied with in at least 17 Member States representing 70% of the population of the Union, at the latest as from 1 July 2016.

Where a roaming provider availing of this Article notifies its own declaration and any relevant bilateral or multilateral roaming agreements to the BEREC Office pursuant to point (a) of the first subparagraph and thereby falls under this paragraph, the notifying roaming provider and any contractual partners within the meaning of point (b) shall each be bound to comply with their respective undertakings to comply with the conditions of paragraph 1(a), until at least 1 July 2018.

8. Roaming providers shall negotiate in good faith the arrangements towards establishing bilateral or multilateral roaming agreements, on fair and reasonable terms having regard to the objective that such agreements with other roaming providers should allow the virtual extension of the home network coverage and the sustainable provision by each of the roaming providers availing of this Article of regulated retail roaming services at the same price level as their respective domestic mobile communications services.

9. By way of exception to paragraph 1, after 1 July 2016, this Article shall apply to roaming providers availing of this Article when those roaming providers demonstrate that they have sought in good faith to establish or extend a bilateral or multilateral roaming agreements on the basis of fair and reasonable terms in all Member States where they do not yet fulfill the requirements of 1 and have been unable to secure any bilateral or multilateral roaming agreement with a roaming provider in one or more Member States, provided they comply with the minimum coverage referred to in paragraph 6(b) and with all other relevant provisions of this Article. In those cases, roaming providers availing of this Article shall continue to seek to establish reasonable terms for conclusion of a roaming agreement with a roaming provider from any unrepresented Member State.

10. Where an alternative roaming provider has already been granted access to a domestic provider's customers pursuant to Article 4(1) and has already made the necessary investments to serve those customers, Article 4(7) shall not apply to such a domestic provider during a transitional period of three years. The transitional period is without prejudice to the need to respect any longer contractual

period agreed with the alternative roaming provider.

11. This Article is without prejudice to the application of Union competition rules to bilateral and multilateral roaming agreements.'

(5) In Article 8, paragraph 2 is amended as follows:

(a) the first subparagraph is replaced by the following:

'2. With effect from 1 July 2013, the retail charge (excluding VAT) for a euro-voice tariff which a roaming provider may levy on its roaming customer for the provision of a regulated roaming call may vary for any roaming call but shall not exceed EUR 0,24 per minute for any call made or EUR 0,07 per minute for any call received. The maximum retail charge for calls made shall decrease to EUR 0,19 on 1 July 2014. As of 1 July 2014, roaming providers shall not levy any charge on their roaming customers for calls received, without prejudice to measures taken to prevent anomalous or fraudulent usage. Without prejudice to Article 19 those maximum retail charges for the euro-voice tariff shall remain valid until 30 June 2017.'

(b) the third subparagraph is replaced by the following:

'Every roaming provider shall charge its roaming customers for the provision of any regulated roaming call to which a euro-voice tariff applies on a per-second basis.'

(6) In Article 14, the following paragraph 1a is inserted:

'1a. When the consumption of regulated retail roaming services at the applicable domestic service rate is limited by reference to a reasonable use criterion in accordance with Article 4a(2), roaming providers shall alert roaming customers

when the consumption of roaming calls and SMS messages has reached the reasonable use limit and at the same time shall provide roaming customers with basic personalised pricing information on the roaming charges applicable to making a voice call or sending an SMS message outside the domestic service rate or package in accordance with the second, fourth and fifth sub-paragraphs of paragraph 1 of this Article.'

(7) In Article 15, the following paragraph 2a is inserted:

'2a. When the consumption of regulated retail roaming services at the applicable domestic service rate is limited by reference to a reasonable use criterion in accordance with Article 4a(2), roaming providers shall alert roaming customers when the consumption of data roaming services has reached the reasonable use limit and at the same time shall provide roaming customers with basic personalised pricing information on the roaming charges applicable to data roaming outside the domestic service rate or package in accordance with paragraph 2 of this Article. Paragraph 3 of this Article shall apply to data roaming services consumed outside the applicable domestic service rates or packages referred to in Article 4a(2).'

(8) Article 19 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) the first sentence is replaced by the following:

'The Commission shall review the functioning of this regulation and, after a public consultation, shall report to the European Parliament and the Council by 31 December 2016 at the latest.'

(ii) point (g) is replaced by the following:

'(g) the extent to which the implementation of the structural

measures provided for in Articles 3 and 4 and of the alternative regime provided for in Article 4a has produced results in developing competition in the internal market for roaming services to the extent that there is no effective difference between roaming and domestic tariffs;'

(iii) the following point (i) is inserted:

'(i) the extent, if any, to which the evolution of domestic retail prices is observably affected by the application by roaming providers of the domestic service rate to both domestic services and regulated roaming services throughout the Union.

(b) Paragraph 2 is amended as follows:

(i) The first sentence is replaced by the following:

'If the report shows that tariff options, in which the domestic service rate applies both to domestic and regulated roaming services, are not provided in all retail packages for reasonable use by at least one roaming provider in each Member State, or that the offers by alternative roaming providers have not made substantially equivalent retail roaming tariffs easily available to consumers throughout the Union, the Commission shall by the same date make appropriate proposals to the European Parliament and the Council to address the situation and ensure that there is no difference between national and roaming tariffs within the internal market.'

(ii) Point (d) is replaced by the following:

'(d) to change the duration or reduce the level of maximum wholesale charges provided for in Articles 7, 9 and 12 with a view to reinforcing the ability of all roaming providers to make available in their respective retail packages for reasonable use tariff options in which the applicable domestic service rate applies to both domestic services and regulated

roaming services, as if the latter were consumed on the home network.'

Justification

Amending Regulation (EU) No 531/2012 now would seriously undermine planning and legal security for providers. At all events, nothing should be done until the Commission has completed its review of the functioning of that regulation, as provided for in its Article 19.

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	JURI 12.9.2013
Rapporteur Date appointed	Marielle Gallo 4.11.2013
Discussed in committee	25.11.2013 16.12.2013
Date adopted	21.1.2014
Result of final vote	+: 11 -: 10 0: 0
Members present for the final vote	Raffaele Baldassarre, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Klaus-Heiner Lehne, Antonio López-Istúriz White, Antonio Masip Hidalgo, Alajos Mészáros, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Rebecca Taylor, Alexandra Thein, Cecilia Wikström, Tadeusz Zwiefka
Substitute(s) present for the final vote	Eva Lichtenberger, Angelika Niebler, Axel Voss

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

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

PE522.762v02-00

376/392

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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.**

2. The average wholesale charge referred

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.*"

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 BEREC 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
PRODUCTS**

deleted

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

PROCEDURE

Title	European single market for electronic communications			
References	COM(2013)0627 – C7-0267/2013 – 2013/0309(COD)			
Date submitted to Parliament	10.9.2013			
Committee responsible Date announced in plenary	ITRE 12.9.2013			
Committee(s) asked for opinion(s) Date announced in plenary	IMCO 12.9.2013	REGI 12.9.2013	CULT 12.9.2013	JURI 12.9.2013
	LIBE 12.9.2013			
Associated committee(s) Date announced in plenary	IMCO 21.11.2013			
Rapporteur(s) Date appointed	Pilar del Castillo Vera 10.10.2013			
Discussed in committee	9.12.2013	22.1.2014		
Date adopted	18.3.2014			
Result of final vote	+: -: 0:	30 12 14		
Members present for the final vote	Amelia Andersdotter, Jean-Pierre Audy, Ivo Belet, Bendt Bendtsen, Jan Březina, Reinhard Bütikofer, Maria Da Graça Carvalho, Giles Chichester, Jürgen Creutzmann, Pilar del Castillo Vera, Dimitrios Droutsas, Christian Ehler, Vicky Ford, Adam Gierek, Robert Goebbels, Fiona Hall, Edit Herczog, Kent Johansson, Romana Jordan, Krišjānis Kariņš, Philippe Lambert, Bogdan Kazimierz Marcinkiewicz, Judith A. Merkies, Angelika Niebler, Jaroslav Paška, Vittorio Prodi, Miloslav Ransdorf, Herbert Reul, Teresa Riera Madurell, Michèle Rivasi, Jens Rohde, Paul Rübig, Amalia Sartori, Salvador Sedó i Alabart, Francisco Sosa Wagner, Konrad Szymański, Britta Thomsen, Patrizia Toia, Evžen Tošenovský, Catherine Trautmann, Claude Turmes, Marita Ulvskog, Vladimir Urutchev, Kathleen Van Brempt, Alejo Vidal-Quadras, Zbigniew Zaleski			
Substitute(s) present for the final vote	Antonio Cancian, António Fernando Correia de Campos, Francesco De Angelis, Věra Flasarová, Françoise Grossetête, Jolanta Emilia Hibner, Gunnar Hökmark, Holger Kraemer, Alajos Mészáros, Vladko Todorov Panayotov			
Date tabled	20.3.2014			