DRAFT REPORT


Committee on Industry, Research and Energy

Rapporteur: Pilar del Castillo Vera

Rapporteurs 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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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION


(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 (A7-0000/2013),

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

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PR\1007625EN.doc 5/109 PE522.762v01-00
PARLIAMENT AND OF THE COUNCIL

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. 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.
Amendment 3

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) 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 diverging national implementation of the general authorisation regime, national spectrum assignment schemes, and different sets of sector-specific consumer rules applicable. For example, while 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.

Or. en

Amendment 4

Proposal for a regulation
Recital 4
(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.

(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, and should reduce to a minimum unnecessary regulatory burdens on undertakings. 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.

Or. en

Amendment 5
Proposal for a regulation
Recital 5

(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 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-

(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 providers and the wider economy, covering sectors such as education, 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. Citizens, public administrations and the health sector should also benefit from a wider
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 6**

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** 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 **communications** 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*

(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 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 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
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.

Amendment 7
Proposal for a regulation
Recital 7


Or. en
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.

introducing certain targeted measures 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.


Amendment 8

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 networks and service (OJ L 249, 17.9.2002, p. 21.)


(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
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 networks in the whole Union.

should be required to evaluate such requirements and, where appropriate, be empowered to request their removal.

Amendment 9
Proposal for a regulation
Recital 10

Text proposed by the Commission

(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.
Amendment 10
Proposal for a regulation
Recital 11

Text proposed by the Commission

(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.

Or. en

Amendment 11
Proposal for a regulation
Recital 12

Text proposed by the Commission

(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 12
Proposal for a regulation
Recital 13

Text proposed by the Commission

(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.

Amendment

deleted

Amendment 13
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-

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
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.

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 14
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 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.

Or. en
Amendment 15

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 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

(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, while some areas of the Union are far advanced, both with respect to the policy goals of the Digital Agenda for Europe and globally, other areas have been lagging behind. In particular, this is 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.


Amendment 16
Proposal for a regulation
Recital 17 a (new)

Text proposed by the Commission

(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

Or. en
Amendment 17

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

Amendment

(19) Electronic communications services providers should be able to 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 improved conditions for the transfer, lease or sharing of part of all of the radio spectrum subject to such an individual right of use.

Or. en

Amendment 18

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) Coordination and consistency of rights of use for radio spectrum should be

Amendment

(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 19

**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 States, to forestall implementation of any proposal which appears to be non-compliant with Union law.

*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 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.
compliant with Union law.

Amendment 20
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 **not be prevented. This currently** 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 21
Proposal for a regulation
Recital 30

Text proposed by the Commission

(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

Amendment

deleted
equitable access to radio spectrum and that the outcomes of coordination are consistent and enforceable.

Amendment 22
Proposal for a regulation
Recital 31

Text proposed by the Commission

(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.

Amendment 23
Proposal for a regulation
Recital 32

Text proposed by the Commission

(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.

Amendment 24
Proposal for a regulation
Recital 33

Text proposed by the Commission
(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 in order to allow access seekers and providers to plan medium and long term investments.
Amendment 25
Proposal for a regulation
Recital 34

Text proposed by the Commission

(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.

Amendment 26
Proposal for a regulation
Recital 35

Text proposed by the Commission

(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
demanding business users.

Amendment 27
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.

Or. en
Amendment 28
Proposal for a regulation
Recital 37

Text proposed by the Commission

(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 Article 16 of Directive 2002/21/EC.

Amendment 29
Proposal for a regulation
Recital 38
(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.

Amendment 30
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
comparable functionalities, provided that end users are actively informed of such alternatives by their providers.

Amendment 31
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, Directive 2000/31/EC and Directive 2011/93/EC, in particular Article 25 thereof, which allows Member State measures to block access to web pages containing or disseminating child pornography, subject to safeguards.

Or. en

Amendment 32
Proposal for a regulation
Recital 46 a (new)

Text proposed by the Commission

(46a) The Charter of Fundamental Rights of the European Union requires that limitations to the respect for private life, right of confidentiality of communications, right to data protection
or freedom to receive or impart information must be provided for by law and respect the essence of those rights and freedoms. Union case law with respect to monitoring or filtering electronic communications confirms that an imposition of an obligation on a provider of electronic communications or services to indiscriminately monitor communications constitutes not only a serious infringement on the freedom of the provider to conduct its business but also infringes the fundamental rights of the customers of the provider. Any scheme involving monitoring of communications by providers of electronic communications or services should therefore either be specifically provided for by Union law, or national law adopted in conformity with Union law, or, if based on a voluntary arrangement, be subject to prior court review.

Amendment 33

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

Amendment (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 and the general characteristics of the service, 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. Minimising the effects of network congestion should be considered
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 34

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 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. Where such agreements are concluded with the provider of internet access, that provider should ensure that the enhanced quality service does not impair the general quality of internet access, except as may be necessary, considering the state of the art and technology deployed, to ensure the delivery of the enhanced quality service. Furthermore, traffic management measures should not be applied in such a way as to discriminate against services competing with those offered by the provider of internet access.
Amendment 35
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 flexible quality parameters, including lower levels of priority for traffic which is not time-sensitive. There is nothing in current Union law preventing agreements for the provision of such transmission services. The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public may be necessary for the provision of certain 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 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 36
Proposal for a regulation
Recital 51
(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

Proposal for a regulation
Recital 68

Text proposed by the Commission

(68) In order to take account of market and technical developments, the power to adopt acts in accordance with Article 290

Amendment

deleted
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.

Amendment 38
Proposal for a regulation
Recital 70

Text proposed by the Commission

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) No 182/2011 of the European Parliament and of the Council.

Amendment

The implementing powers relating to the harmonisation and coordination of authorisation of radio spectrum, characteristics of small-area wireless access points and coordination between Member States regarding allocation of radio spectrum should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

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Amendment 39
Proposal for a regulation
Recital 71

(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 Directive 2002/21/EC, the Directives 2002/20/EC and 2002/22/EC and Regulations 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.

Or. en
(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, certain regulatory obligations laid down in Regulation (EC) No 531/2012 of the European Parliament and the Council 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
Amendment 41
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.

Amendment 42
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 the imposition of limits by reference to reasonable use if domestic tariffs are applied to such roaming consumption.

Amendment 43
Proposal for a regulation
Recital 75
(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 44
Proposal for a regulation
Recital 76

(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 45

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 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

deleted
Amendment 46
Proposal for a regulation
Recital 78

Text proposed by the Commission

Amendment

Amendment 47
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 48
Proposal for a regulation
Recital 79 a (new)

Text proposed by the Commission
(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 communications26a. 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.

Amendment 49
Proposal for a regulation
Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

1. This Regulation establishes rules necessary to:

Or. en

Amendment 50
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 authorisation system,
**Amendment 51**

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, without being hampered by cross-border restrictions or unjustified additional costs,

**Amendment 52**

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

*Text proposed by the Commission* 

(\textit{ba}) *achieve a more coordinated Union framework for harmonised radio spectrum for wireless broadband communications services*;

*Amendment*

\( (\textit{ba}) \) *achieve a more coordinated Union framework for harmonised radio spectrum for wireless broadband communications services*;

**Amendment 53**

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

*Text proposed by the Commission* 

(\textit{bb}) *to address the phasing out of unjustified surcharges for roaming* 

*Amendment*

(\textit{bb}) *to address the phasing out of unjustified surcharges for roaming*
communications within the Union.

Amendment 54
Proposal for a regulation
Article 1 – paragraph 2 - point a

Text proposed by the Commission

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;

Amendment

deleted

Or. en

Amendment 55
Proposal for a regulation
Article 1 – paragraph 2 – point b

Text proposed by the Commission

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;

Amendment

deleted

Or. en

Amendment 56
Proposal for a regulation
Article 1 – paragraph 2 - point d
Text proposed by the Commission  

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

Or. en

**Amendment 57**

Proposal for a regulation  
Article 1 – paragraph 2 – point **e**

Text proposed by the Commission  

**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

Or. en

**Amendment 58**

Proposal for a regulation  
Article 1 – paragraph 2 – point **f**

Text proposed by the Commission  

**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

Or. en
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:

(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.
Amendment 60

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

Text proposed by the Commission

(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;

Amendment

deleted

Or. en

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 61

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

Text proposed by the Commission

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

(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

deleted
Amendment 62
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

Or. en

Amendment 63
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

Or. en

Amendment 64
Proposal for a regulation
Article 2 – paragraph 2 – point 6

Text proposed by the Commission

(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

Amendment

deleted
provision of electronic communications services or networks in the Union;

Amendment 65
Proposal for a regulation
Article 2 – paragraph 2 – point 7

Text proposed by the Commission
(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;

Amendment
deleted

Or. en

Amendment 66
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

Or. en
Amendment 67
Proposal for a regulation
Article 2 – paragraph 2 – point 12

Text proposed by the Commission

(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;

Amendment

(12) ‘assured service quality (ASQ) connectivity product’ deleted

Or. en

Amendment 68
Proposal for a regulation
Article 2 – paragraph 2 – point 13

Text proposed by the Commission

(13) ‘long-distance communications’ deleted
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;

Amendment

(13) ‘long-distance communications’ deleted

Or. en

Amendment 69
Proposal for a regulation
Article 2 – paragraph 2 – point 15
(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 or any other service that provides the capability to access specific content, applications or services, or a combination thereof at a guaranteed capacity, 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 70
Proposal for a regulation
Article 3 – paragraph 1

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 71
Proposal for a regulation
Article 3 – paragraph 2
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.

Amendment 72
Proposal for a regulation
Article 3 – paragraph 3

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.

Amendment 73
Proposal for a regulation
Article 3 – paragraph 4

4. 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.
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.

Amendment 74
Proposal for a regulation
Article 3 – paragraph 5

Text proposed by the Commission

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.

Amendment

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

Amendment 75
Proposal for a regulation
Article 3 – paragraph 6

Text proposed by the Commission

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,

deleted

PR\1007625EN.doc 53/109 PE522.762v01-00
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.

Amendment 76

Proposal for a regulation
Article 3 – paragraph 7

Text proposed by the Commission

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 77

Proposal for a regulation
Article 4

Text proposed by the Commission

[...]

deleted
Amendment 78
Proposal for a regulation
Article 5

Text proposed by the Commission Amendment

 [...] deleted

Or. en

Amendment 79
Proposal for a regulation
Article 6

Text proposed by the Commission Amendment

 [...] deleted

Or. en

Amendment 80
Proposal for a regulation
Article 7

Text proposed by the Commission Amendment

 [...] deleted

Or. en

Amendment 81
Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission Amendment

In the exercise of powers conferred in this 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 82

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 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 30 years. Member States may grant rights of use of indefinite duration.

4. The duration of all existing rights of use of spectrum is hereby extended to 30 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.

Or. en Justification

The practical possibility of spectrum trading should be further improved in order to stimulate the creation of a secondary market in spectrum leading to a more efficient allocation of released spectrum resources. Such a market will be further stimulated by an extension of the minimum duration of licenses to 30 years (without prejudice to longer or indefinite durations.

Amendment 83

Proposal for a regulation
Article 9 – paragraph 2 – subparagraph 2
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.

The national competent authorities shall apply the least onerous authorisation system possible for allowing the use of radio spectrum, on the basis of objective, 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.
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 86
Proposal for a regulation
Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission
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
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 87
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.

Amendment
deleted
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 88
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

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:

Amendment

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:

Amendment 89
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission
(b) determine a minimum duration for the rights granted in the harmonised bands;

Amendment
(b) determine a minimum duration that is no less than 30 years, for the rights granted in the harmonised bands, or determine that the rights are to be granted for an indefinite duration;
Amendment 90

Proposal for a regulation
Article 12 – paragraph 3 – subparagraph 1

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).

Amendment

Subject to the second subparagraph of Article 8a(3), 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).

Amendment 91

Proposal for a regulation
Article 12 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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

Amendment

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.

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.

Amendment 92
Proposal for a regulation
Article 12 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Where the extension period granted in accordance with the second subparagraph 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.

Amendment 93
Proposal for a regulation
Article 12 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Where national competent authorities grant

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, 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 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.

Amendment 94
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. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Or. en
Amendment 95
Proposal for a regulation
Article 13 – paragraph 1 – subparagraph 2 – point c

Text proposed by the Commission

(c) the duration of the rights of use;

Amendment

(c) the duration of the rights of use, which shall be no less than 30 years;

Or. en

Amendment 96
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;

Or. en

Amendment 97
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;

Or. en

Amendment 98
Proposal for a regulation
Article 15 – paragraph 2 – subparagraph 1
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 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/EU and with the thresholds defined in Council Recommendation No 1999/519/EC.


Amendment 99

Proposal for a regulation
Article 16

Text proposed by the Commission

Amendment

[...] deleted

Or. en

Amendment 100

Proposal for a regulation
Chapter 3 – section 2

Text proposed by the Commission

Amendment

[...] deleted

Or. en

Justification

These products have met with heavy criticism ranging from that they are not fit for purpose to that they are fundamentally against the approach of the framework. They should be deleted and included in the review.

Amendment 101

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.

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

Amendment 102
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
End-users shall be free to enter into agreements on data volumes and speeds, and the general characteristics of the service, with providers of internet access.

ISP should not only be required to meet the basic needs of users; they should also be allowed to meet more specific user demand such as: broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications.

Amendment 103
Proposal for a regulation
Article 23 – paragraph 2 – subparagraph 1

Text proposed by the Commission
End-users shall also be free to agree with

Amendment
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.

Where such agreements are concluded with the provider of internet access, that provider shall ensure that the enhanced quality service does not impair the general quality of internet access, except as may be necessary taking into account the state of the art and technology deployed, in order to ensure the delivery of the enhanced quality service.

Amendment 104

Proposal for a regulation
Article 23 – paragraph 2 – subparagraph 2

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 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

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 services. Furthermore, traffic management measures shall not be applied in such a way as to discriminate against services competing with those offered by the provider of internet access.
**Justification**

Provisions in this regulation must ensure the transparency and non-discrimination principles.

**Amendment 105**

Proposal for a regulation  
Article 23 – paragraph 5 – subparagraph 1 – point a

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) implement a legislative provision or a court order, <em>or prevent or impede serious crimes</em>;</td>
<td>a) implement a legislative provision or a court order;</td>
</tr>
</tbody>
</table>

**Justification**

This is without prejudice to Directive 2011/92, paragraph 25 of which allows Member State measures to block access to web pages containing or disseminating child pornography, subject to safeguards.

**Amendment 106**

Proposal for a regulation  
Article 24 – paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <em>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</em>. 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</td>
<td>1. <em>In exercising their powers under Article 30a with respect to Article 23, national regulatory authorities shall closely monitor</em> 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.*</td>
</tr>
</tbody>
</table>

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*For the sake of clarity, the document text has been slightly adjusted to improve readability.*
to the Commission and BEREC on their monitoring and findings.

Amendment 107
Proposal for a regulation
Article 24 – paragraph 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>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).</td>
<td>3. BEREC shall, after consulting stakeholders and in cooperation with the Commission, lay down guidelines defining uniform conditions for the implementation of the obligations of national competent authorities under this Article.</td>
</tr>
</tbody>
</table>

Justification

In order to ensure the principles of transparency and non-discrimination and uniform application throughout the Union, BEREC is required to draft proper guidelines.

Amendment 108
Proposal for a regulation
Article 30 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
</table>
| Article 30a
Supervision and enforcement
1. National regulatory authorities shall 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. Where a national regulatory authority finds that a breach of the obligations set out in this Regulation has occurred, it may require the immediate cessation of such a breach.

Or. en

Amendment 109
Proposal for a regulation
Article 31 – paragraph 2

Text proposed by the Commission

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

Or. en
Amendment 110

Proposal for a regulation
Article 32

Text proposed by the Commission

Amendment

[...] deleted

Or. en

Amendment 111

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:

Or. en

Amendment 112

Proposal for a regulation
Article 34 - point 1 - point a (new)
Directive 2002/20/EC
Article 3 – paragraph 2

Present text

Amendment

(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. The undertaking concerned may be required

Where a Member State deems that a
to submit a notification but may not require 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.

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.

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 113
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

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
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 an estimated date for starting the activity.

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.'

(Or. en


Amendment 114

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.

______________________________

Proposal for a regulation
Article 34 - point 1 a (new)
Directive 2002/20/EC
Annex – part D (new)

Text proposed by the Commission

Amendment

(1a). 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 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 116

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.'

Or. en

Amendment 117

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:

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

Or. en
Amendment 118

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;'

**Or. en**


Amendment 119

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 constitutional law. Only appeal bodies set up in accordance with Article 4 shall have

**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 affordability of tariffs, quality of service of designated undertakings, costing of
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.

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 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.


**Or. en**

*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 120**

**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

PR\1007625EN.doc 79/109 PE522.762v01-00
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 121

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

Text proposed by the Commission

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

'(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 122

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

Text proposed by the Commission

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

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

Or. en

Amendment 123

Proposal for a regulation
Article 35 – point 2 a (new)
Directive 2002/21/EC
Article 8 – paragraph 4

Text proposed by the Commission

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

Or. en

Amendment 124

Proposal for a regulation
Article 35 – point 2 b (new)
Directive 2002/21/EC
Article 9b – paragraph 3 – subparagraph 1

Present text

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

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

'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.

____________________


Or. en


**Amendment 125**

**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...

(Proposal for a regulation)

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 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 126
Proposal for a regulation
Article 37 - point 1
Regulation (EU) No 531/2012
Article 1

Text proposed by the Commission

(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.’

Amendment

deleted

Or. en

Amendment 127
Proposal for a regulation
Article 37 - point 2
Regulation (EU) No 531/2012
Article 2

Text proposed by the Commission

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

(r) 'bilateral or multilateral roaming'

Amendment

deleted
"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 128

Proposal for a regulation
Article 37 - point 3
Regulation (EU) No 531/2012 Article 4

Text proposed by the Commission

(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.'
Text proposed by the Commission

(4) The following Article 4a is inserted:

Article 4a

[...]

Amendment

(4a) The following Article is inserted:

'Article 6a

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 domestic 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.'

Or. en

Amendment 130

Proposal for a regulation

Article 37 – point 4 a (new)

Regulation (EU) No 531/2012

Article 6 a (new)

Justification

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 not come into force before the 1st of July 2016 in order not hinder the principle of legal certainty.

Amendment 131

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 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.'

Or. en

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

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

'...'

Or. en

Amendment 132
Amendment 133

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

Present text

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.

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 remain at EUR 0,06 until 30 June 2016.'

Or. en

Amendment 134

Proposal for a regulation
Article 37 – point 5b (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.

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 and shall, without prejudice to Article 19, remain at EUR 0,20 per megabyte used until 30 June 2017. 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, remain at EUR 0,20 per megabyte used until 30 June 2016.'

Amendment 135

Proposal for a regulation
Article 37 – point 6
Regulation (EU) No 531/2012
Article 14

Text proposed by the Commission

(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.'

Amendment

(6) Article 14 is deleted with effect from 1 July 2016.
Amendment 136

Proposal for a regulation
Article 37 – point 7
Regulation (EU) No 531/2012
Article 15

Text proposed by the Commission

(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).

Amendment 137

Proposal for a regulation
Article 37 – point 7 a (new)
Regulation (EU) No 531/2012
Article 15

Present text

(7a) Article 15 is replaced by the following with effect from 1 July 2016:
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

Transparency and safeguard mechanisms for retail data roaming services for roaming customers travelling outside the Union

1. Roaming providers shall ensure, with respect to data roaming services used by roaming customers travelling outside the Union and provided by a roaming provider, 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 such 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 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 data roaming services to that roaming customer in the visited country 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).

an SMS message, an e-mail or a pop-up window on the mobile device, every time the roaming customer enters a *country outside the Union* and initiates for the first time a data roaming service in that *country*. It shall be provided free of charge at the moment the roaming customer initiates a 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. With respect to visited network operators in countries outside the Union who allow the roaming provider to monitor its customers' usage on a real-time basis, 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 data roaming services and which guarantees that, without the customer's explicit consent, the accumulated expenditure for 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).

*With respect to visited network operators*
in countries outside the Union that do not allow the roaming provider to monitor its customers' usage on a real-time basis, 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.

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

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 fourth 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 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 138

Proposal for a regulation
Article 37 – point 8
Regulation (EU) No 531/2012
Article 19

Text proposed by the Commission

(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 139
Proposal for a regulation
Article 37 – point 8 a (new)
Regulation (EU) No 531/2012
Article 19

Present text

Amendment

(8a) Article 19 is replaced by the following:
'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;

2. The Commission shall, by 31 December 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, also taking into account termination
(b) whether competition will be sufficient for the removal of maximum wholesale charges;

(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 rates.

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

(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 a need to change the duration or revise the level of maximum wholesale charges, the Commission shall make appropriate 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.

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

address this situation.

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.
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.'
Regulation (EU) No 1211/2009

Article 4

Text proposed by the Commission

(2) In Article 4, paragraphs 4 and 5 are deleted

Amendment

Proposal for a regulation

Article 38 – point 3

Regulation (EU) No 1211/2009

Article 4a (new)

Text proposed by the Commission

(3) The following Article 4a is inserted:

Amendment

[...]

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 143

Proposal for a regulation

Article 38 – point 4

Regulation (EU) No 1211/2009

Article 6

Text proposed by the Commission

(4) Article 6 is amended as follows:

Amendment

[...]

Or. en
Amendment 144
Proposal for a regulation
Article 38 – point 5
Regulation (EU) No 1211/2009
Article 7

Text proposed by the Commission

(5) Article 7 is amended as follows:
[...] deleted

Or. en

Amendment 145
Proposal for a regulation
Article 38 – point 6
Regulation (EU) No 1211/2009
Article 8

Text proposed by the Commission

(6) Article 8 paragraphs 2, 3 and 4 are deleted and replaced as follows:
[...] deleted

Or. en

Amendment 146
Proposal for a regulation
Article 38 – point 7
Regulation (EU) No 1211/2009
Article 9

Text proposed by the Commission

(7) Article 9 paragraph 2 is amended as follows:
[..] deleted

Or. en
Amendment 147

Proposal for a regulation
Article 38 – point 8
Regulation (EU) No 1211/2009
Article 10

Text proposed by the Commission

(8) Article 10 is amended as follows: deleted

[...]

Or. en

Amendment 148

Proposal for a regulation
Article 38 – point 9
Regulation (EU) No 1211/2009
Article 10 a (new)

Text proposed by the Commission

(9) The following Article 10a is inserted: deleted

[...]

Or. en

Amendment 149

Proposal for a regulation
Article 39 – paragraph 1

Text proposed by the Commission

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

Amendment

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
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.

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 review shall include:

(i) the universal service obligation, including the 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 fully substitutable to those provided by traditional providers; 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;
(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) the effectiveness and functioning of the procedure established in Article 19 of Directive 2002/21/EC;
(xiii) pan-European services and operators, taking into account the possibility for the Commission to identify transnational markets under Article 15(4) of Directive 2002/21/EC;
(xiv) 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;
(xv) a single Union authorisation and the supervisory structure for the framework as a whole;
(xvi) active and passive inputs, including assured service quality products;
(xvii) the recommendation on relevant markets;
(xviii) the regulation of equipment, including bundling of equipment and operating systems;
(xix) the impact of the internet having become a crucial infrastructure for conducting a wide array of economic and social activities;

The main goals of the review shall include:
(i) ensuring that fully 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;

(ii) ensuring that consumers have access to comprehensive and comprehensible information on internet connection speeds, in order to enable them to compare the services offered by different operators;

(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.
Amendment 150

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.

Or. en

Amendment 151

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.

deleted

Or. en
Amendment 152

Proposal for a regulation
Annex I

Text proposed by the Commission Amendment

[...]

deleted

Or. en

Amendment 153

Proposal for a regulation
Annex II

Text proposed by the Commission Amendment

[...]

deleted

Or. en
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 outmost 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 continuous 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.