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AMENDMENTS

706 - 827

Draft report

Marju Lauristin

(PE606.011v01-00)

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

Proposal for a regulation

(COM(2017)0010 – C8-0009/2017 – 2017/0003(COD))

Amendment 706
Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The providers of a publicly available directory shall inform end-users who are natural persons **and acting out of their business capacity** whose personal data are in the directory of the available search functions of the directory. **Providers of number-based interpersonal communications services and electronic communications service providers shall inform end-users when new search functions are made available.**

Or. en

Amendment 707
Axel Voss, Heinz K. Becker

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The providers of a publicly available directory shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory, **which they shall do there. The providers of electronic information, communication and telecommunication services shall inform end-users when new search functions are made available.**

Or. en

Amendment 708
Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, Pavel Telička

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The providers of a publicly available directory shall **provide accessible and intelligible information to** end-users who are natural persons whose personal data are in the directory of the available search functions of the directory and **provide the** end-users' **the option to disable** such search functions related to their own data.

Or. en

Justification

The publicly available directories are now based on a functional opt-out system. This proposal would create a opt-in system, where the providers are forced to gain consent from all end-users, creating an unnecessary burden for the providers. Securing the end-user's right to object should be sufficient.

Amendment 709
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The providers of a publicly available directory shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory and **shall inform end-users if new** search functions **are made available**.

Or. en

Amendment 710
Pál Csáky

Proposal for a regulation

Article 15 – paragraph 2

Text proposed by the Commission

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

Amendment

2. **In publicly available directories** the providers of **these directories** shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory. **The operators shall inform end-users if new search functions are enabled.**

Or. en

Amendment 711 Marju Lauristin

Proposal for a regulation Article 15 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The providers of a publicly available **directories** shall inform **users** whose personal data are in the directory of the available search functions of the directory. **The electronic communication service providers shall inform users if new search functions are enabled.**

Or. en

Amendment 712 Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation Article 15 – paragraph 2

Text proposed by the Commission

2. The providers of a publicly available directory shall inform **end-users** who are natural persons whose personal data are in the directory of the available search functions of the directory and obtain

Amendment

2. The providers of a publicly available directory shall inform **subscribers** who are natural persons whose personal data are in the directory of the available search functions of the directory

end-users' consent before enabling such search functions related to their own data.

and obtain *subscribers*' consent before enabling such search functions related to their own data.

Or. en

Amendment 713

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The providers of **electronic information, communication and telecommunication services** shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct, **update, supplement** and delete such data. **Natural persons acting for an economic purpose, such as independent professionals, operators of small businesses or freelancers, shall be equated with legal persons.**

Or. en

Amendment 714

Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, Louis Michel, Pavel Telička

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The **operators of electronic communication services** available directories shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. **The operators** shall give such end-users that are legal persons the

means to verify, correct and delete such data. ***Natural persons who act for a commercial or economic purpose, such as freelancers, one-man businesses and individual professionals shall be considered legal persons***

Or. en

Justification

Freelancers, one-man businesses and individual professional would be considered as natural persons, but should be considered as legal persons due to their commercial and economic purpose.

Amendment 715

Pál Csáky

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The ***operators of electronic information, communication and telecommunication services*** shall provide end-users that are legal persons with the possibility to object to data related to them being included in the ***directories***. ***The operators*** shall give such end-users that are legal persons the ***option*** to verify, correct and delete such data. ***Natural persons who act with commercial intent, such as freelancers, small traders or self-employed persons, are equated to legal persons.***

Or. en

Amendment 716

Miltiadis Kyrkos

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

Amendment

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

3. The **operators of electronic information, communication and telecommunication services** shall provide end-users that are legal persons with the possibility to object to data related to them being included in **directories**. **The operators** shall give such end-users that are legal persons the **option** to verify, correct and delete such data. **Natural persons who act with commercial intent, such as freelancers, small traders or self-employed persons, are equated to legal persons.**

Or. en

Amendment 717
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The providers of **electronic communications services** shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data. **Natural persons who act with commercial intent, such as freelancers, small traders or self-employed persons, are equated to legal persons.**

Or. en

Amendment 718
Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. The providers **of publicly available**

Amendment

3. The providers **electronic**

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

information, communication and telecommunication services shall provide end-users that are legal persons *or natural persons acting in their business capacity* with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct, *update, supplement* and delete such data.

Or. en

Amendment 719

Marju Lauristin

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The *electronic communication service providers* shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. *Electronic communication service* Providers shall give such end-users that are legal persons the means to verify, correct and delete such data. *Users who act with commercial intent shall be equated to legal persons.*

Or. en

Amendment 720

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Brice Hortefeux, Carlos Coelho, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The providers of *electronic communication services or providers of* publicly available directories shall provide end-users that are legal persons with the possibility to object to data related to them

end-users that are legal persons the means to verify, correct and delete such data.

being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.

Or. en

Amendment 721

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 722

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Viviane Reding, Carlos Coelho, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 15 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 723
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

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

Amendment

4. ***Without prejudice to Article 12(5) of Regulation (EU) 2016/679, the information to the subscribers and*** the possibility for *subscribers* not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.

Or. en

Justification

GDPR Art. 12(5) already provides that exercising one's rights shall be free of charge. e-Privacy however also applies to legal persons.

Amendment 724
Sophia in 't Veld

Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 725
Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 726

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 15 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 727

Sophia in 't Veld

Proposal for a regulation

Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. Where the personal data of end-users who are natural persons have been included in a publicly available directory before this Regulation enters into force, and where acquiring consent would lay an unreasonable burden on the directory or originating service provider, the personal data of such end-users may remain included in a publicly available directory, including versions with search functions, unless the end-users have expressed their manifest objection against their data being included in the directory

*or against available search functions
related to their data.*

Or. en

Justification

Transitional provision.

Amendment 728
Marju Lauristin

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

Text proposed by the Commission

Amendment

4 a. Where the personal data of the users of number-based interpersonal communications services have been included in a publicly available directory before this Regulation enters into force, the personal data of such users may remain included in a publicly available directory, including versions with search functions, unless the users have expressed their objection against their data being included in the directory or against available search functions related to their data.

Or. en

Amendment 729
Daniel Dalton, John Procter

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

Text proposed by the Commission

Amendment

4 a. The provisions of paragraphs 1 to 4 shall not apply to data and information published in other publicly accessible sources and data provided by end-users themselves.

Amendment 730

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The provisions of paragraphs 1 to 4 shall not apply to data and information published in other publicly accessible sources and data provided by end-users themselves.

Or. en

Amendment 731

Pál Csáky

Proposal for a regulation

Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. This article shall not apply to data information published in other publicly accessible sources, nor to data which are provided by end-users themselves.

Or. en

Amendment 732

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 15 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4 b. Any undertaking which provides publicly accessible information, communication or telecommunication services and which issues or uses telephone numbers, user names or other

means of user identification shall be required, upon request and with due regard for provisions relating to data protection, to make the participants' data available to any undertaking which provides or operates directory or information services, in order to provide publicly accessible directory or information services. The data shall be communicated immediately and in a non-discriminatory manner.

Or. en

Amendment 733

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 16

Text proposed by the Commission

Amendment

Article 16

deleted

Unsolicited communications

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

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

3. Without prejudice to paragraphs 1 and 2, natural or legal persons using

electronic communications services for the purposes of placing direct marketing calls shall:

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

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

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

5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.

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

7. The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.

Or. en

Justification

Article 16 of the proposal for a regulation deals with direct marketing aspects without making any direct link to communications data or end-user terminal equipment. This provision is concerned with the law on advertising and consumer protection, matters which should be governed by a substantively appropriate EU legal instrument. Directive 2005/29/EC (Directive on unfair business practices) would be a more appropriate legal instrument here.

Amendment 734 **Marju Lauristin**

Proposal for a regulation **Article 16 – paragraph 1**

Text proposed by the Commission

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

Amendment

1. *The use by* natural or legal persons *of electronic communications services, including automated calling, communications systems, semi-automated systems that connect the call person to an individual, faxes, e-mail or other use of* electronic communications services for the purposes of *presenting unsolicited or* direct marketing communications to end-users, *shall be allowed only in respect of end-users who* have given their *prior* consent.

Or. en

Amendment 735 **Monica Macovei, Barbara Spinelli**

Proposal for a regulation **Article 16 – paragraph 1**

Text proposed by the Commission

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

Amendment

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

Amendment 736

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Natural or legal persons may use electronic communications services for the purposes of **presenting or** sending **unsolicited or** direct marketing communications to **subscribers** who are natural persons **only if these** have given their **explicit** consent.

Or. en

Justification

Based on the German Act Against Unfair Competition, which stipulates prior explicit consent for advertising by means of a voice-to-voice call or advertising using automated calling machines, faxes or e-mails.

Amendment 737

Cornelia Ernst

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Natural or legal persons may use electronic communications services for the purposes of **presenting or** sending **unsolicited or** direct marketing communications to **subscribers** who are natural persons **only if these** have given their **explicit** consent.

Or. en

Amendment 738

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 739
Monica Macovei, Barbara Spinelli

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 740**Daniel Dalton, Helga Stevens, John Procter****Proposal for a regulation****Article 16 – paragraph 2***Text proposed by the Commission*

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

Amendment

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

Or. en

Amendment 741**Anna Maria Corazza Bildt****Proposal for a regulation****Article 16 – paragraph 2***Text proposed by the Commission*

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

Amendment

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

shall be given at the time of collection and each time a message is sent.

at the time of collection and each time a message is sent.

Or. en

Amendment 742

Michal Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 16 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 743

Michal Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 16 – paragraph 3 – introductory part

Text proposed by the Commission

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

Amendment

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

that the call is a marketing call.

Or. en

Amendment 744
Daniel Dalton, John Procter, Helga Stevens

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

Text proposed by the Commission

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

Amendment

3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall ***present the identity of a line on which the can be contacted.***

Or. en

Amendment 745
Daniel Dalton, Helga Stevens, John Procter

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

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 746
Michal Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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

Text proposed by the Commission

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

Amendment

deleted

Amendment 747

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 16 – paragraph 3 – point a

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 748

Sophia in 't Veld

Proposal for a regulation

Article 16 – paragraph 3 – point a

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 749

Michał Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 16 – paragraph 3 – point b

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 750
Daniel Dalton, John Procter, Helga Stevens

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 751
Sophia in 't Veld

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

Text proposed by the Commission

Amendment

3 a. The masking of the identity and the use of false identities, false return addresses or numbers while sending unsolicited communications for direct marketing purposes is prohibited.

Or. en

Amendment 752
Cornelia Ernst

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

Amendment

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

Amendment 753**Jan Philipp Albrecht, Judith Sargentini, Viviane Reding****Proposal for a regulation****Article 16 – paragraph 4***Text proposed by the Commission**Amendment*

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

Or. en

Justification

We should prohibit all direct marketing cold calls to natural persons across the EU and not only leave it to the Member States to introduce a Robinson List or a consent requirement. See also paragraph 5, where parts of this paragraph were moved for legal persons.

Amendment 754**Monica Macovei, Marian-Jean Marinescu, Barbara Spinelli****Proposal for a regulation****Article 16 – paragraph 4***Text proposed by the Commission**Amendment*

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

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

Member States availing of this exception shall establish a national "Do Not Call" register and provide by law that end-users who are natural persons can object to all future direct marketing voice-to-voice

calls by registering in the national "Do Not Call" register.

Or. en

Amendment 755
Marju Lauristin

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 756
Sophia in 't Veld

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Notwithstanding paragraph 1, the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.

Or. en

Amendment 757
Sophia in 't Veld

Proposal for a regulation
Article 16 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. Service providers of electronic communications services enabling marketing calls referred to in Article 16(3) shall provide new subscribers with the choice to either accept marketing calls with the designated prefix or to automatically block such calls.

Or. en

Amendment 758
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 16 – paragraph 5

Text proposed by the Commission

Amendment

5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of **end-users** that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.

5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of **subscribers** that are legal persons with regard to unsolicited communications sent **to them** by means set forth under paragraph 1 are sufficiently protected. **Member States shall specifically provide that the placing of direct marketing voice-to-voice calls to subscribers who are legal persons shall only be allowed in respect of subscribers who have not expressed their objection or have consented to receiving those communications. Member States shall provide that subscribers can object to receiving the unsolicited communications via a national Do Not Call Register, thereby also ensuring that the user is only required to opt out once.**

Justification

Moved parts of the provisions in paragraph 4 here, where it is limited to subscribers that are legal persons. Here, the Member States can have a certain leeway.

Amendment 759

Monica Macovei, Marian-Jean Marinescu, Barbara Spinelli

Proposal for a regulation**Article 16 – paragraph 6***Text proposed by the Commission*

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

Amendment

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner ***and free of charge***, to receiving further marketing communications. ***Any use of masked sender identities, false contact information or false return addresses or numbers for direct marketing purposes shall be prohibited.***

Or. en

Amendment 760

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation**Article 16 – paragraph 6***Text proposed by the Commission*

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform ***end-users*** of the marketing nature of the communication and the identity of the legal or natural person on

Amendment

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall ***clearly and visibly*** inform ***subscribers*** of the marketing nature of the communication and the identity of the legal

behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving further marketing communications.

or natural person ***transmitting the communication and*** on behalf of whom the communication is transmitted and shall provide the necessary information ***and means*** for recipients to exercise their right to withdraw their consent ***or to object***, in an easy manner, to receiving further marketing communications.

Or. en

Justification

Incorporates LIBE AM 110 Rapporteur (new paragraph 3a) here in order to avoid duplication.

Amendment 761
Sophia in 't Veld

Proposal for a regulation
Article 16 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 762
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Article 16 – paragraph 7

Text proposed by the Commission

Amendment

7. *The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.*

deleted

Or. en

Amendment 763
Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation
Article 16 – paragraph 7

Text proposed by the Commission

Amendment

7. *The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.*

deleted

Or. en

Amendment 764
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 16 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the *code/or* prefix to identify marketing calls, pursuant to point (b) of paragraph 3.

7. The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the *code or* prefix to identify marketing calls, pursuant to point (b) of paragraph 3.

Or. en

Amendment 765
Axel Voss, Heinz K. Becker, Brice Hortefeux

Proposal for a regulation
Article 17

Text proposed by the Commission

Amendment

Article 17

deleted

Information about detected security risks

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

Or. en

Justification

Article 34 of Regulation (EU) No 2016/679, Article 40 of the European Electronic Communications Code (COM(2016) 590 final) and the Directive concerning measures for a high common level of security of network and information systems across the Union (EU 2016/1148) are adequate legal instruments containing information about recognised security risks.

Amendment 766
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Article 17

Text proposed by the Commission

Amendment

Article 17

deleted

Information about detected security risks

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an

indication of the likely costs involved.

Or. en

Amendment 767
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Information about *detected* security risks

Amendment

Integrity of the communications and
information about security risks

Or. en

Amendment 768
Daniel Dalton, John Procter

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Information about *detected* security risks

Amendment

Information about security risks ***and***
personal data breaches

Or. en

Amendment 769
Michał Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Information about detected security risks

Amendment

Security ***obligations***

Or. en

Amendment 770
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

Amendment

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

deleted

Or. en

Amendment 771
Cornelia Ernst

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

Amendment

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

deleted

Or. en

Amendment 772
Emilian Pavel

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

Amendment

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

deleted

Or. en

Amendment 773

Michal Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

**Proposal for a regulation
Article 17 – paragraph 1**

Text proposed by the Commission

Amendment

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

Provider of electronic communication services shall comply with the security obligations as prescribed Regulation (EU) 2016/679 and [European Electronic Communications Code].

Or. en

Amendment 774

Daniel Dalton, John Procter

**Proposal for a regulation
Article 17 – paragraph 1**

Text proposed by the Commission

Amendment

In the case of a particular risk that may

In the case of a particular risk that may

compromise the security of networks and electronic communications services, ***the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.***

compromise the security of networks and electronic communications services ***or of a personal data breach, Article 40 of [Electronic Communications Code] and Article 34 of Regulation (EU) 2016/679 shall apply.***

Or. en

Amendment 775
Sophia in 't Veld

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

In the case of a particular risk that may compromise the security of networks ***and*** electronic communications services, ***the provider of an electronic communications service*** shall inform end-users ***concerning such*** risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform ***end-users*** of any possible remedies, ***including an indication of the likely costs involved.***

Amendment

In the case of a particular risk that may compromise the security of networks, electronic communications services, ***information society services, hardware or software, the relevant provider or manufacturer*** shall inform ***all*** end-users ***of such a*** risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform ***subscribers*** of any possible remedies.

Or. en

Amendment 776
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Providers of electronic communications services shall ensure that there is sufficient protection in place against unauthorised access or alterations to the electronic communications data, and that the confidentiality and integrity of the

Amendment

communication in transmission or stored are also guaranteed by technical measures according to the state of the art, including end-to-end encryption of the electronic communications data. When encryption of electronic communications data is used, decryption by anybody else than the user shall be prohibited. Member States shall not impose any obligations on electronic communications service providers or on hardware or software manufacturers that would result in the weakening of the confidentiality and integrity of their networks and services of the terminal equipment, including the encryption methods used.

Or. en

Justification

Based on LIBE rapporteur AM 116.

Amendment 777

Cornelia Ernst

Proposal for a regulation

Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The providers of electronic communications services shall ensure that there is sufficient protection in place against unauthorised access or alterations to the electronic communications data, and that the confidentiality and safety of the transmission are also guaranteed by the nature of the means of transmission used or by state-of-the-art end-to-end encryption of the electronic communications data. Furthermore, when encryption of electronic communications data is used, decryption, reverse engineering or monitoring of such communications shall be prohibited. Member States shall not impose any obligations on electronic communications service providers that would result in the

weakening of the security and encryption of their networks and services.

Or. en

Amendment 778

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 17 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Providers of electronic communications services, providers of information society services, and manufacturers of hardware and software permitting the retrieval and presentation of information on the internet shall not use any means, no matter if technical, operational, or by terms of use or by contracts, that could prevent users and subscribers from applying the best available techniques against intrusions and interceptions and to secure their networks, terminal equipment and electronic communications. Breaking, decrypting, restricting or circumventing such measure taken by users or subscribers shall be prohibited.

Or. en

Justification

The users should always be able to protect their own security by any means available to them.

Amendment 779

Cornelia Ernst

Proposal for a regulation

Article 17 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

In the case of a particular risk that may compromise the security of networks and

electronic communications services, the relevant provider of an electronic communications service shall inform end-users of such a risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies.

Or. en

Amendment 780
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 17 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

In the case of a particular risk that may compromise the security of networks, electronic communications services, information society services, hardware or software, the relevant provider or manufacturer shall inform all subscribers of such a risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform subscribers of any possible remedies. It shall also inform the relevant manufacturer and service provider.

Or. en

Justification

Based on LIBE AM 117 rapporteur, added manufacturer.

Amendment 781
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 17 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

As regards the security of networks and services and related security obligations,

the obligations of Article 40 of the [European Electronic Communications Code] shall apply mutatis mutandis to all services in the scope of this Regulation.

Or. en

Amendment 782

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Article 17 – paragraph 1 e (new)

Text proposed by the Commission

Amendment

This Article shall be without prejudice to the obligations provided for in Articles 32 to 34 of Regulation (EU) 2016/679 and the obligations provided for in Directive (EU) 2016/1148.

Or. en

Justification

Security obligations and breach notifications under the GDPR and the general obligations under the NIS Directive of course shall remain applicable.

Amendment 783

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to **end-users**.

1. The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. **Where Regulation (EU) 2016/679 refers to data subjects**, the tasks and powers of the supervisory authorities shall be exercised with regard to **users and**

subscribers under this Regulation. Where Regulation (EU) 2016/679 refers to data controllers, the tasks and powers of the supervisory authorities shall be exercised with regard to providers of electronic communications services and information society services, and manufacturers of hardware and software under this Regulation.

Or. en

Justification

Clarification about which entities in this Regulation relate to which entities under the GDPR.

Amendment 784

Elissavet Vozemberg-Vrionidi, Kostas Chrysogonos, Miltiadis Kyrkos

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

1. ***The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.***

Amendment

1. ***Each Member State shall provide for one or more independent public authorities to be responsible for monitoring the application of this Regulation.***

Or. en

Justification

The present wording of Article 18(1) does not take into consideration the constitutional identity of all Member States. It is indicative that the Hellenic Constitution (HC) pursuant to its Article 19 par 2 calls for the establishment of an independent authority with the mission to ensure the confidentiality of mail and all other forms of free correspondence or communication. This provision has been implemented with the establishment of the Hellenic Authority for Communication Security and Privacy (ADAE). On the other hand Article 9A HC calls for the establishment of the Hellenic Data Protection Authority, which has the task to protect personal data. As a result, the present wording of Article 18(1) would lead to a repeal of Article 19 HC. This is why the present wording of Article 18(1) shall be modified.

Amendment 785

Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, Louis Michel, Pavel Telička

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

1. ***The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also*** be responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply *mutatis mutandis*. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.

Amendment

1. ***Each member state shall determine which relevant supervisory authority should*** be responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply *mutatis mutandis*. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.

Or. en

Amendment 786

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 18 – paragraph 2

Text proposed by the Commission

2. The supervisory authority or authorities referred to in paragraph 1 shall cooperate whenever appropriate with national regulatory authorities established pursuant to the [Directive Establishing the European Electronic Communications Code].

Amendment

2. The supervisory authority or authorities referred to in paragraph 1 shall cooperate whenever appropriate with national regulatory authorities established pursuant to the [Directive Establishing the European Electronic Communications Code], ***and vice versa***.

Or. en

Amendment 787

Elissavet Vozemberg-Vrionidi, Kostas Chrysogonos, Miltiadis Kyrkos

Proposal for a regulation

Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Where more than one supervisory authority is established in a Member State, each authority is represented to the European Data Protection Board to the extent of its respective competence, and the Member State shall set out the mechanism to ensure compliance by the other authorities with the rules relating to the consistency mechanism.

Or. en

Justification

With regard to recital 38 of the Preamble of the proposed Regulation, and in order to ensure the more effective protection and confidentiality, Member States should be able to have more than one supervisory authority for the implementation of the present Regulation, in accordance with their constitutional and administrative structure, and to extent of each authority's respective competence. This is in line with the provisions of the proposed Regulation, which, inter alia, lays down the rules relating to the protection of electronic communications data conveyed through publicly available communications channels, which, as it is recognized in recital 4 of the Preamble, do not necessarily include personal data.. Hence, Member States should be able to set out the mechanism to ensure compliance by the other authorities with the rules relating to the consistency mechanism.

Amendment 788

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 19 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) draw up guidelines for supervisory authorities concerning the application of Article 9(1) and the particularities of expression of consent by legal entities;

Or. en

Amendment 789

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 19 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(b b) issue guidelines, recommendations and best practices in accordance with point (b) of this paragraph for the purpose of further specifying the criteria and requirements for types of services that may be requested for purely individual or work-related usage as referred to in Article 6(3a);

Or. en

Amendment 790

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 19 – paragraph 1 – point b c (new)

Text proposed by the Commission

Amendment

(b c) issue guidelines, recommendations and best practices in accordance with point (b) of this paragraph for the purpose of further specifying the criteria and requirements for:

(i) security updates referred to in Article 8(1)(e);

(ii) the interference in the context of employment relationships referred to in Article 8(1)(f);

(iv) the processing of information emitted by the terminal equipment referred to in Article 8(2)(c);

(v) technical specifications and signalling methods that fulfil the conditions for consent and objection pursuant to Article 8(2a).

(vi) software settings referred to in Article 10(1) and (2); and

(vii) technical measures to ensure confidentiality and integrity of the communication pursuant to Article 17(1).

Amendment 791

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 21 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any other administrative or judicial remedy, every **end-user** of electronic communications services shall have the same remedies provided for in Articles 77, 78, **and 79** of Regulation (EU) 2016/679.

Amendment

1. Without prejudice to any other administrative or judicial remedy, every **user and subscriber** of electronic communications services **and, where applicable, every body, organisation or association**, shall have the same remedies provided for in Articles 77, 78, **79, and 80** of Regulation (EU) 2016/679.

Or. en

Justification

Aligned with the GDPR

Amendment 792

Sophia in 't Veld

Proposal for a regulation

Article 21 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services shall have the same remedies provided for in Articles 77, 78, **and 79** of Regulation (EU) 2016/679.

Amendment

1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services **and, where applicable, every body, organization or association**, shall have the same remedies provided for in Articles 77, 78, **79 and 80** of Regulation (EU) 2016/679.

Or. en

Amendment 793

Axel Voss, Heinz K. Becker

PE608.161v01-00

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

Amendment

2. *Any natural or legal person other than end-users adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements, including a provider of electronic communications services protecting its legitimate business interests, shall have a right to bring legal proceedings in respect of such infringements.* *deleted*

Or. en

Justification

Articles 77, 78 and 79 of Regulation (EU) No 2016/679 regulate the right to lodge a complaint with a supervisory authority, the right to an effective judicial remedy against a supervisory authority and the right to an effective judicial remedy against a controller or processor, and therefore provide sufficiently for complaints.

Amendment 794
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

Amendment

2. Any natural or legal person other than *end-users* adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements, including a provider of electronic communications services protecting its legitimate business interests, shall have a right to bring legal proceedings in respect of such infringements.

2. Any natural or legal person other than *users or subscribers* adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements, including a provider of electronic communications services protecting its legitimate business interests, shall have a right to bring legal proceedings in respect of such infringements.

Or. en

Amendment 795
Sophia in 't Veld

Proposal for a regulation
Article 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. End-users shall have the right to mandate a not-for-profit body, organisation or association to lodge the complaint on their behalf, to exercise the right referred to in paragraphs 1, 1a and 1b of this Article on their behalf, and to exercise the right to receive compensation referred to in Article 22 on their behalf. Such bodies, organisations or associations shall be properly constituted in accordance with the law of the Member State concerned, have statutory objectives which are in the public interest, and be active in the field of the protection of data subjects' rights and freedoms with regard to the protection of their personal data and the protection of privacy.

Or. en

Amendment 796
Sophia in 't Veld

Proposal for a regulation
Article 21 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. Independently of an end-user's mandate, a body, organisation or association has the right to lodge a complaint with the supervisory authority which is competent pursuant to paragraph 1 and to exercise the rights referred to in paragraphs 1a and 1b if it considers that the rights of the end-user under this Regulation have been infringed.

Or. en

Amendment 797

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

Any end-user of electronic communications services who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage in accordance with Article 82 of Regulation (EU) 2016/679.

Amendment

Article 82 of Regulation (EU) 2016/679 **shall apply.**

Or. en

Justification

*Article 82 of Regulation (EU) No 2016/679 already regulates the issue of liability and the right to compensation. The article inserted in Article 22 of the proposal for a regulation extends and specifies Article 82 of Regulation (EU) No 2016/679 and makes this proposal *lex specialis*.*

Amendment 798

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

Any **end-user** of electronic communications services who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage **in accordance with** Article 82 of Regulation (EU) 2016/679.

Amendment

Any **user or subscriber** of electronic communications services who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage. Article 82 of Regulation (EU) 2016/679 **shall apply**

*mutatis mutandis also for subscribers
which are legal persons.*

Or. en

Justification

Needed to clarify that the damages provisions of the GDPR also apply for legal persons under the e-Privacy Regulation.

Amendment 799

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 23

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

Article 83 of Regulation (EU) No 2016/679 regulates the general preconditions for the imposition of fines. The specification here amends Article 83 of Regulation (EU) No 2016/679 and creates a dual regime. This dual structure would hamper the correct application of the law by supervisory authorities and courts and lead to unfair treatment.

Amendment 800

Cornelia Ernst

Proposal for a regulation

Article 23 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;

deleted

Or. en

Amendment 801

Jan Philipp Albrecht, Judith Sargentini

**Proposal for a regulation
Article 23 – paragraph 2 – point a**

Text proposed by the Commission

Amendment

(a) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;

deleted

Or. en

Justification

moved to paragraph 3

Amendment 802

Jan Philipp Albrecht, Judith Sargentini

**Proposal for a regulation
Article 23 – paragraph 2 – point a a (new)**

Text proposed by the Commission

Amendment

(a a) the obligations of the providers of electronic communications services for documentation, pursuant to Article 11c(1);

Or. en

Amendment 803

Cornelia Ernst

**Proposal for a regulation
Article 23 – paragraph 2 – point a a (new)**

Text proposed by the Commission

Amendment

(a a) the obligations of providers pursuant to Article 11c;

Or. en

Amendment 804
Cornelia Ernst

Proposal for a regulation
Article 23 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) the obligations of the provider of software enabling electronic communications, pursuant to Article 10; **deleted**

Or. en

Amendment 805
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 23 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) the obligations of the provider of software enabling electronic communications, pursuant to Article 10; **deleted**

Or. en

Justification

moved to paragraph 3

Amendment 806
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 23 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(d a) the obligations of the providers of publicly available number-based interpersonal communication services pursuant to Article 12, 13 and 14.

Or. en

Amendment 807

Cornelia Ernst

Proposal for a regulation

Article 23 – paragraph 3

Text proposed by the Commission

3. Infringements of the ***principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, and 7*** shall, in accordance with paragraph 1 ***of this Article***, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

Amendment

3. Infringements of the ***following provisions of this Regulation*** shall, in accordance with paragraph 1, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:

Or. en

Amendment 808

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 23 – paragraph 3

Text proposed by the Commission

3. Infringements of the ***principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, and 7*** shall, in accordance with paragraph 1 ***of this Article***, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

Amendment

3. Infringements of the ***following provisions of this Regulation*** shall, in accordance with paragraph 1, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:

Or. en

Amendment 809

Cornelia Ernst

Proposal for a regulation

Article 23 – paragraph 3 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

- (a) the principle of confidentiality of communications pursuant to Article 5;*
- (b) the permitted processing of electronic communications data, pursuant to Article 6,*
- (c) the time limits for erasure and the confidentiality obligations pursuant to Article 7;*
- (d) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;*
- (e) the requirements for consent pursuant to Article 9;*
- (f) the obligations of the provider of software or hardware enabling electronic communications, pursuant to Article 10;*
- (g) the obligations of the providers of electronic communications services, of the providers of information society services, or of the manufacturers of hardware and software permitting the retrieval and presentation of information on the internet pursuant to Article 17.*

Or. en

Amendment 810

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 23 – paragraph 3 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

- (a) the principle of confidentiality of communications pursuant to Article 5;*
- (b) the permitted processing of electronic*

communications data, pursuant to Article 6,

(c) the time limits for erasure and the confidentiality obligations pursuant to Article 7;

(d) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;

(e) the requirements for consent pursuant to Article 9;

(f) the obligations of the provider of software enabling electronic communications, pursuant to Article 10;

(g) the obligations of the providers of electronic communications services, of the providers of information society services, or of the manufacturers of hardware and software permitting the retrieval and presentation of information on the internet pursuant to Article 17.

Or. en

Amendment 811

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall lay down the rules on penalties for infringements of Articles 12, 13, 14, and 17.

deleted

Or. en

Justification

Based on recommendations by EDPS and WP29. Covered by introduction of the references in this Article to ensure full harmonisation.

Amendment 812

Cornelia Ernst

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall lay down the rules on penalties for infringements of Articles 12, 13, 14, and 17. *deleted*

Or. en

Amendment 813

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23 a

Article 83 of Regulation (EU) No 2016/679 shall apply.

Or. en

Justification

Article 83 of Regulation (EU) No 2016/679 regulates the general preconditions for the imposition of fines. The specification here amends Article 83 of Regulation (EU) No 2016/679 and creates a dual regime. This dual structure would hamper the correct application of the law by supervisory authorities and courts and lead to unfair treatment.

Amendment 814

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Article 24

Text proposed by the Commission

Amendment

Article 24

deleted

Penalties

1. Member States shall lay down the rules on other penalties applicable to infringements of this Regulation in

particular for infringements which are not subject to administrative fines pursuant to Article 23, and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.

2. Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to paragraph 1, no later than 18 months after the date set forth under Article 29(2) and, without delay, any subsequent amendment affecting them.

Or. en

Justification

Article 84 of Regulation (EU) No 2016/679 regulates penalties. The specification here amends Article 84 of Regulation (EU) No 2016/679 and creates a dual regime. This dual structure would hamper the correct application of the law by supervisory authorities and courts and lead to unfair treatment.

Amendment 815

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24 a

Article 84 of Regulation (EU) No 2016/679 shall apply.

Or. en

Justification

Article 84 of Regulation (EU) No 2016/679 regulates penalties. The specification here amends Article 84 of Regulation (EU) No 2016/679 and creates a dual regime. This dual structure would hamper the correct application of the law by supervisory authorities and courts and lead to unfair treatment.

Amendment 816

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 25

Text proposed by the Commission

Amendment

Article 25

deleted

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts referred to in Article 8(4) shall be conferred on the Commission for an indeterminate period of time from [the data of entering into force of this Regulation].***
- 3. The delegation of power referred to in Article 8(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***
- 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016.***
- 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***
- 6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both***

informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Or. en

Justification

The only delegated act is on privacy icons in Art. 8(4) of this proposal, which is already in the GDPR and therefore not needed.

Amendment 817

Jan Philipp Albrecht, Judith Sargentini

**Proposal for a regulation
Article 26 – paragraph 1**

Text proposed by the Commission

1. The Commission shall be assisted by the ***Communications*** Committee established under Article ***110 of the [Directive establishing the European Electronic Communications Code]***. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011²⁹.

²⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13–18).

Amendment

1. The Commission shall be assisted by the Committee established under Article ***93 of Regulation (EU) 2016/679***. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011²⁹.

²⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13–18).

Or. en

Amendment 818

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

**Proposal for a regulation
Article 27 – paragraph 1**

Text proposed by the Commission

1. Directive 2002/58/EC is repealed with effect from **25 May 2018**.

Amendment

1. Directive 2002/58/EC is repealed with effect from **[1 year after entering into force of this Regulation]**.

Or. en

Amendment 819

Jan Philipp Albrecht, Judith Sargentini

**Proposal for a regulation
Article 27 – paragraph 1**

Text proposed by the Commission

1. Directive 2002/58/EC **is** repealed with effect from 25 May 2018.

Amendment

1. Directive 2002/58/EC **and Commission Regulation 611/2013 are** repealed with effect from 25 May 2018.

Or. en

Justification

As breach notifications are now fully covered by the GDPR, the Commission Regulation on breach notifications, which is based on the old e-Privacy Directive, should also be repealed.

Amendment 820

Peter Kouroumbashev, Maria Grapini

**Proposal for a regulation
Article 27 – paragraph 1**

Text proposed by the Commission

1. Directive 2002/58/EC is repealed with effect from **25 May** 2018.

Amendment

1. Directive 2002/58/EC is repealed with effect from 25 **November** 2018.

Or. en

Amendment 821

Anna Maria Corazza Bildt

Proposal for a regulation

Article 27 – paragraph 1

Text proposed by the Commission

1. Directive 2002/58/EC is repealed with effect from **25 May 2018**.

Amendment

1. Directive 2002/58/EC is repealed with effect from **[XXX]**

Or. en

Amendment 822

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 28 – paragraph 1

Text proposed by the Commission

By **1 January 2018** at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation.

Amendment

By **[the date of entry into force of this Regulation]** at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation.

Or. en

Amendment 823

Brice Hortefeux, Rachida Dati

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

It shall apply from **25 May 2018**.

Amendment

It shall apply from **[one year from the date of entry into force of this regulation]**.

Or. en

Amendment 824

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

It shall apply from **25 May 2018**.

It shall apply from **[1 year after entering into force of this Regulation]**.

Or. en

Amendment 825

Anna Maria Corazza Bildt

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

It shall apply **from 25 May 2018**.

It shall apply **18 months following the entry into forces**.

Or. en

Amendment 826

Peter Kouroumbashev, Maria Grapini

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

It shall apply from **25 May 2018**.

It shall apply from **25 November 2018**.

Or. en

Amendment 827

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

It shall apply from **25 May 2018**.

It shall apply from **25 May 2019**.

Or. en

Justification

The regulation ought to apply from 25 May 2019 at the earliest, and, at the latest, from one year after the entry into force of the European Electronic Communications Code (COM(2016)590 final). This proposal and Regulation (EU) No 2016/679 ought indeed to enter into force in parallel, but businesses must be given a realistic time frame for adjustment, and the definition must be aligned with the European Electronic Communications Code.