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From: General Secretariat of the Council

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Subject: Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012

- Outcome of the European Parliament's first reading
(Brussels, 2 to 3 April 2014)

I. INTRODUCTION

The Rapporteur, Pilar del CASTILLO VERA (EPP, ES), presented a report consisting of 233 amendments (amendments 1-233) to the proposal for a Regulation, on behalf of the Committee on Industry, Research and Energy.

In addition, the ALDE political group tabled three amendments (amendments 234-236), the S&D political group, together with the Greens/EFA and the GUE/NGL political groups tabled eight amendments (amendments 237-244), and the Greens/EFA political group tabled two amendments (amendments 245-246).

II. DEBATE

The Rapporteur, Pilar del Castillo Vera (EPP, ES), opened the debate by indicating that it was crucial to develop the conditions for the use of the spectrum, and vital to have an open Internet as it should be a driving force for innovation.

The Rapporteur expressed her preference for no interference and discrimination for Internet, as it must offer opportunities for companies and businesses, but also for creators, the health sector, education, the young and the old. And Europe must lead, as the potential of Internet is to be understood in the long term.

Last, the Rapporteur stressed the need to end roaming charges, as roaming would be in contradiction with mobility and the internal market, both promoted by the EU.

Neelie Kroes, Vice-President of the Commission, clearly identified the issue as removing borders and barriers, boosting EU economy and showing every European what Europe could do for them, and describing the digital world as an ecosystem where it is no good having secure eID across borders without secure networks across borders; "having a fancy new phone if roaming charges lead to switch it off"; or having fast, fixed broadband without the spectrum for wireless networks or if an operator blocks websites. More, if once a community was founded on coal and steel, now it should be founded on connectivity and spectrum.

On openness and innovation online, and on net neutrality, Commissioner Kroes acknowledged that many MEPs had been seriously approached by lobbyists, but that beyond the words, Innovation meant no more blocking or throttling services on the open Internet, even though safeguards for specialized services were needed. According to Commissioner Kroes, specialized services should never be an alternative to the Internet, never slow down the Internet for everyone else, and never be forced on users against their will.

The debate then focussed on overcoming obstacles and digitalizing Europe, with the aim of making Internet accessible and affordable for everybody, as both a basic need and an outstanding opportunity. Roaming charges, net neutrality and Open Internet were at the heart of the debate¹.

Speaking on behalf of the Committee on Internal Market and Consumer Protection, Marielle Gallo (EPP, FR) and Malcolm Harbour (ECR, UK) believed that the first steps of the European single market for electronic communications were being made. In particular, the IMCO Committee had been exclusively responsible for reforms to the issues around users' rights. As a consequence, strong support to the work of the Rapporteur and the IMCO Committee was expressed, especially as regards the improvement brought to users' rights by changing the existing Directive rather than by adopting new regulations.

Speaking on behalf of the Committee on Culture and Education, Petra Kammerevert (S&D, DE) vigorously pleaded in favour of net neutrality, and called for the adoption of all the amendments related thereof.

Speaking on behalf of the Committee on Legal Affairs Alajos Mészáros (EPP, SK) indicated that these new rules were the last step of the key measures included in the Single Market Act and, as such, were welcomed.

Speaking on behalf of the Committee on Civil Liberties, Justice and Home Affairs, Jens Rohde (ALDE, DK) praised the Commission for having tabled a comprehensive package of measures, but stressed that if no profit could be made from the Internet, then it would not be available for use. The speaker indicated that the ALDE political group would broadly support the Report.

¹ Amendment 236, tabled by the S&D (identical to Amendment 243 tabled by ALDE), together with the Greens/EFA and the GUE/NGL political groups, addressed the latter issue.

Speaking on behalf of the EPP Group, Gunnar Hökmark (EPP, SE) declared himself struck by the attempts to block the Internet, be it States or operators, and considered that the debate was sometimes about blocking a number of services from a legal point of view. The speaker considered that the important thing was that the Internet should be free, which did not mean that everything would be free just because it was on the Internet. An operator should not be able to block or discriminate against services on the Internet because this would be discriminating against the users, but service providers should have the opportunity to contribute to the development of the Internet. It would therefore be about finding the right balance for special services, and be firm that all new services, be they specialised services or the services that are emerging all the time, shall have the freedom of the Internet.

Speaking on behalf of the S&D Group, Catherine Trautmann (S&D, FR), praised the work of the Rapporteur but stressed several disagreements. On the management of the spectrum and on roaming charges, the speaker supported the report and stressed an unanimous position for the negotiations to take place with Council: as from December 2015, no more roaming charges for calls, SMS and data shall apply.

On net neutrality, MEP Catherine Trautmann explained that the S&D Group considered Internet as a public forum where there shall be freedom to chose without discriminations, restrictions or interferences, and where quality of access to Internet shall not be deteriorated by a more favourable treatment granted to specialized services. The S&D Group therefore aimed at defining specialized services in such a way that would guarantee the protection of basic Internet and its coexistence with such specialized services. The use of specialized services was seen as positive, but according to MEP Catherine Trautmann the risk was that of forcing citizens to bear the consequences of traffic congestion and de facto choices imposed upon them. Moreover, such net neutrality could not be traded in exchange of roaming charges, as it would not be responsible.

Speaking on behalf of the ALDE Group, Marietje Schaake (ALDE, NL) welcomed the texts as tabled, as essential for a single digital market in Europe. In particular, access, broadband and net neutrality were identified as the key issues, and more clarity was deemed necessary on the definition of net neutrality. To this end, amendments 234-236¹ were tabled to safeguard net neutrality and to define specialised services, and MEP Marietje Schaake called Commissioner Kroes to support them.

¹ See footnote 1 on page 2.

Speaking on behalf of the Greens/EFA Group, Amelia Andersdotter (Greens/EFA, SE), insisted on the importance of safeguarding net neutrality, and called for the adoption of amendments 237-244 related thereof. MEP Amelia Andersdotter expressed some critics against the Commission proposal as leading to security by bureaucracy rather than security by transparency. In general terms, the speaker called the European Parliament not to adopt first reading positions on proposals less than one year after they were tabled.

Speaking on behalf of the ECR Group, Vicky Ford (ECR, UK) supported the end of roaming charges, but called to vote against the amendments tabled by the ALDE political group (amendments 234-236) and the S&D political group, together with the Greens/EFA and the GUE/NGL political groups (amendments 237-244), and in particular amendment 243, as they would prevent fighting against serious crimes such as child pornography.

Speaking on behalf of the GUE/NGL group, Marisa Matias (GUE/NGL, PT) considered net neutrality as a new fundamental right, and called for the greatest Internet openness.

Speaking on behalf of the EFD group, Roger Helmer (EFD, UK) called for limiting rules applicable to the Internet to a degree of mutual recognition and regulatory convergence only.

Individual speakers mainly restated the position of their political groups.

In her closing remarks, Neelie Kroes, Vice-President of the Commission, focused on open Internet and net neutrality, further explaining that the proposal would not create a two-speed Internet but rather an innovative, fast, forward Internet. New safeguards and powers will ensure that specialised services cannot come at the expense of the open Internet, as there would be an open Internet for everybody, with quality guaranteed, and then specialised services.

Commissioner Kroes considered that the amendment defining net neutrality¹ would block specialised services, unlike the proposal as amended by the Committee on Industry, Research and Energy, which constituted a balanced approach that would safeguard innovation without discrimination. There should be no blocking of specialised services as long as they are not blocking the open Internet and the quality guarantee.

¹ Amendment 236/243.

On amendment 243, Commissioner Kroes called to vote against the corresponding part relating to the lawfulness of the information and content, as it would lead to the deletion of Art. 23(3) and thus voluntary measures to stop serious crimes would not be possible.

The Rapporteur, Pilar del Castillo Vera (EPP, ES), stated her conviction that the European Parliament was being watched by millions of citizens awaiting for a political decision on the openness and net neutrality, on an Internet providing specialized services whilst not excluding anyone and fostering innovation, and therefore called for the adoption and implementation of a real European single market for electronic communications.

In addition, MEP Ivo Belet (EPP, BE), Monika Smolková (S&D, SK), and Josef Weidenholzer (S&D, AT) submitted a written statement in accordance with rule 149 of the European Parliament's Rules of Procedure.

III. VOTE

When it voted in plenary on 3 April 2014, the European Parliament adopted amendments 1-46, 49-98, 101-148, 153-236¹, 239 and 240.

The text of the amendments adopted and the European Parliament's legislative resolution are set out in the Annex hereto.

¹ The corresponding part of Amendment 236/243 relating to Art. 23(3) was adopted with the lowest majority of all the amendments (330 in favour and 275 against).

European single market for electronic communications ***I

European Parliament legislative resolution of 3 April 2014 on the proposal for a regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC, 2002/22/EC, and Regulations (EC) No 1211/2009 and (EU) No 531/2012 (COM(2013)0627 – C7-0267/2013 – 2013/0309(COD))

(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 the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Irish House of Representatives and the Irish Senate, the Maltese Parliament, the Austrian Federal Council and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
- having regard to the opinion of the European Economic and Social Committee of 21 January 2014¹,
- having regard to the opinion of the Committee of the Regions of 31 January of 2014²,
- 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

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

Development, the Committee on Culture and Education, the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A7-0190/2014),

1. Adopts its position at first reading hereinafter set out;
2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

(1) Title 1

Text proposed by the Commission

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
laying down measures concerning the
European single market for electronic
communications and **to achieve a
Connected Continent, and** amending
Directives 2002/20/EC, 2002/21/EC and
2002/22/EC and Regulations (EC) No
1211/2009 and (EU) No 531/2012

Amendment

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
laying down measures concerning the
European single market for electronic
communications and amending Directives
2002/20/EC, 2002/21/EC and 2002/22/EC,
Regulations (EC) No 1211/2009 and (EU)
No 531/2012 **and Decision 243/2012/EU.**

Amendment 2

Proposal for a regulation

(2) Recital 1

Text proposed by the Commission

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

Amendment

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

electronic communications by completing and adapting the existing Union Regulatory Framework for Electronic Communications ***in certain respects, and by defining the overall content, aim and timing of the next review of that framework.***

Amendment 3

Proposal for a regulation

(3) Recital 2

Text proposed by the Commission

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

Amendment

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

Amendment 4

Proposal for a regulation

(4) 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

Amendment

(3) The freedom to provide electronic communications networks and services to every customer in the Union and the right of each user to choose the best offer available on the market should be ensured and should not be hindered by the fragmentation of markets along national borders. The current regulatory framework for electronic communications, ***while***

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.

recognising and allowing for objectively different conditions in the Member States, does not fully address such fragmentation due to other causes, with diverging national implementation of the general authorisation regime, national spectrum assignment schemes, and different sets of sector-specific consumer rules applicable. For example, while the Authorisation Directive limits the type of information which may be required, 12 Member States demand additional detail such as a categorisation of the intended types of activities, the geographical scope of the activity, the targeted market, the company structure, including names of shareholders and of shareholders of shareholders, Chamber of Commerce certification and a criminal records of the representative of the undertaking. Additional requirements such as these underline the importance of a firm policy by the Commission regarding infringement procedures.

Amendment 5

Proposal for a regulation

(5) Recital 4

Text proposed by the Commission

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

Amendment

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

The growing availability of digital infrastructures and services should in turn increase consumer choice, quality of service and diversity of content, and contribute to territorial and social cohesion, as well as facilitating mobility across the Union.

Amendment 6

Proposal for a regulation

(6) Recital 4 a (new)

Text proposed by the Commission

Amendment

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

Amendment 7

Proposal for a regulation

(7) Recital 4 b (new)

Text proposed by the Commission

Amendment

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

Amendment 8

Proposal for a regulation

(8) Recital 4 c (new)

Text proposed by the Commission

Amendment

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

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

Amendment 9

Proposal for a regulation

(9) Recital 4 d (new)

Text proposed by the Commission

Amendment

(4d) Investment in the latest infrastructure, which is essential if people in the Union are to be in a position to take advantage of new, innovative services must not be restricted to central or densely populated areas where it is certain to yield a return. Such investment must also be made at the same time in outlying and

outermost regions, which are less densely populated and less developed, so that these regions do not fall even further behind.

Amendment 10

Proposal for a regulation (10) Recital 5

Text proposed by the Commission

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

Amendment

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

Amendment 11

Proposal for a regulation

(11) Recital 6

Text proposed by the Commission

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

(6) This Regulation aims at **moving further towards** the completion of the single electronic communications market through action on three broad, inter-related axes. First, it should **affirm** the freedom to provide electronic communications services across borders and networks in different Member States, **by harmonising and simplifying the application of the general authorisation scheme.** Second, it is necessary to **address the conditions and procedures for granting spectrum licenses for wireless broadband communications, as well as the use of unlicensed spectrum.** Third, in the interests of aligning business conditions and building the digital confidence of citizens, this Regulation should **address** rules on the protection of users, especially consumers. This includes rules on non-discrimination, contractual information, termination of contracts and switching, in addition to rules on access to online content, applications and services and on traffic management **and shared, common standards on user privacy and data protection and security,** which not only protect users but simultaneously guarantee the continued functioning of the Internet ecosystem as an engine of innovation. In addition, further reforms in the field of roaming should give users the confidence to stay connected when they travel in the Union **without being subject to additional charges over and above the tariffs which they pay in the Member State where their contract was concluded.**

Amendment 12

Proposal for a regulation

(12) Recital 7

Text proposed by the Commission

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

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

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

Amendment

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

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

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

24.4.2002, p. 21).

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

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

¹⁸ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (E-Privacy Directive) (OJ L 201, 31.7.2002, p. 37)

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

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

²¹ Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10.)

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

24.4.2002, p. 21).

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

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

¹⁸ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (E-Privacy Directive) (OJ L 201, 31.7.2002, p. 37)

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

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

²¹ Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10.)

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

Amendment 13

Proposal for a regulation (13) Recital 9

Text proposed by the Commission

Amendment

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

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

Amendment 14

Proposal for a regulation

(14) Recital 10

Text proposed by the Commission

Amendment

(10) *The provision of electronic communications services or networks across borders may take different forms, depending on several factors such as the kind of network or services provided, the extent of the physical infrastructure needed or the number of subscribers in*

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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 15

Proposal for a regulation

(15) Recital 11

Text proposed by the Commission

Amendment

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

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Amendment 16

Proposal for a regulation

(16) Recital 12

Text proposed by the Commission

Amendment

(12) The single EU authorisation should be based on the general authorisation in the home Member State. It should not be made subject to conditions which are

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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.

Amendment 17

Proposal for a regulation

(17) 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

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Amendment 18

Proposal for a regulation

(18) 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

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

objectively equivalent situations in order to enable more integrated multi-territorial operations. Furthermore, there should be specific procedures at Union level for the review of draft decisions on remedies within the meaning of Article 7a of Directive 2002/21/EC in such cases, in order to avoid unjustified divergences in obligations applicable to European electronic communications providers in different Member States.

different Member States and that consistent regulatory practices are applied in the single market, in particular as regards measures falling within the scope of Articles 15 or 16 of Directive 2002/21/EC, or Articles 5 or 8 of Directive 2002/19/EC.

Amendment 19

Proposal for a regulation (19) Recital 16

Text proposed by the Commission

Amendment

(16) An allocation of regulatory and supervisory competences should be established between the home and any host Member State of European electronic communications providers with a view to reducing the barriers to entry while ensuring that the applicable conditions for the provision of electronic communications services and networks by these providers are properly enforced. Therefore, while each national regulatory authority should supervise compliance with the conditions applicable in its territory in accordance with Union legislation, including by means of sanctions and interim measures, only the national regulatory authority in the home Member State should be entitled to suspend or withdraw the rights of a European electronic communications provider to provide electronic communications networks and services in the whole Union or part thereof.

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Amendment 20

Proposal for a regulation (20) Recital 17

(17) Radio spectrum is a public good and **an essential** resource for the internal market for mobile, wireless broadband and satellite communications in the Union. Development of wireless broadband communications contributes to the implementation of the Digital Agenda for Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens and of providing the Union with the highest possible broadband speed and capacity. However, the Union **has fallen behind other major global regions - North America, Africa and parts of Asia - in terms of the roll-out and penetration of the latest generation of wireless broadband technologies that are necessary to achieve** those policy goals. The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States **seeking** a derogation or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council,²³ testifies to the urgency of action even within the term of the current RSPP. Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council²⁴ **have not been sufficient to address** this problem.

(17) Radio spectrum is a public good and **finite** resource **vital for the achievement of a wide range of social, cultural and economic values** for the internal market for mobile, wireless broadband, **broadcasting** and satellite communications in the Union. **Radio spectrum policy in the Union should contribute to the freedom of expression, including the freedom of opinion and the freedom to receive and disseminate information and ideas, irrespective of borders, as well as freedom and plurality of the media.** Development of wireless broadband communications contributes to the implementation of the Digital Agenda for Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens and of providing the Union with the highest possible broadband speed and capacity. However, **while some regions of the Union are far advanced, both with respect to the policy goals of the Digital Agenda for Europe and globally, others have been lagging behind. In particular, this is partly due to the fragmentation of the Union process for making available spectrum particularly suitable for high speed wireless broadband access, which jeopardises the achievement of those policy goals for the Union as a whole.** The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States **having been granted** a derogation **by the Commission** or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council, testifies to the urgency of action even within the term of the current RSPP. **It also indicates a need for improvement in the Commission's exercise of its powers, of crucial importance for the loyal implementation**

of Union measures and sincere cooperation between Member States. Stringent efforts by the Commission to enforce already adopted Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council should, by themselves, contribute substantially to addressing this problem

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

²⁴ Decision 676/2002/EC of the European Parliament and the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002, p. 1).

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

²⁴ Decision 676/2002/EC of the European Parliament and the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002, p. 1).

Amendment 21

Proposal for a regulation (21) Recital 17 a (new)

Text proposed by the Commission

Amendment

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

Amendment 22

Proposal for a regulation (22) Recital 18

Text proposed by the Commission

(18) The application of various national policies creates inconsistencies and fragmentation of the internal market which hamper the roll-out of Union-wide services and the completion of the internal market for wireless broadband communications. It could in particular create unequal conditions for access to such services, hamper competition between undertakings established in different Member States and stifle investments in more advanced networks and technologies and the emergence of innovative services, thereby depriving citizens and businesses of ubiquitous integrated high-quality services and wireless broadband operators of increased efficiency gains from large-scale more integrated operations. Therefore, action at Union level regarding certain aspects of radio spectrum assignment should accompany the development of wide integrated coverage of advanced wireless broadband communications services throughout the Union. At the same time, Member States should retain the right to adopt measures to organise their radio spectrum for public order, public security *purposes and defence*.

Amendment

(18) The application of various national policies creates inconsistencies and fragmentation of the internal market which hamper the roll-out of Union-wide services and the completion of the internal market for wireless broadband communications. It could in particular create unequal conditions for access to such services, hamper competition between undertakings established in different Member States and stifle investments in more advanced networks and technologies and the emergence of innovative services, thereby depriving citizens and businesses of ubiquitous integrated high-quality services and wireless broadband operators of increased efficiency gains from large-scale more integrated operations. Therefore, action at Union level regarding certain aspects of radio spectrum assignment should accompany the development of wide integrated coverage of advanced wireless broadband communications services throughout the Union. At the same time, *sufficient flexibility is needed to accommodate specific national requirements and* Member States should retain the right to adopt measures to organise their radio spectrum for *purposes of public order, public security and defence, safeguarding and promoting general interest objectives such as linguistic and cultural diversity and media pluralism*.

Amendment 23

Proposal for a regulation

(23) Recital 19

Text proposed by the Commission

(19) Electronic communications services providers, *including mobile operators or consortia of such operators*, should be

Amendment

(19) Electronic communications services providers should be able to organise the efficient, *technologically modern*,

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.

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

Amendment 24

Proposal for a regulation

Recital 20

Text proposed by the Commission

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

Amendment

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

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.*

significant societal, cultural, social and economic impact of decisions regarding spectrum, such decisions should take due account of the considerations mentioned in Article 8a of Directive 2002/21/EC and, where relevant, of the general-interest objectives mentioned in Article 9(4) of that Directive.

Amendment 25

Proposal for a regulation (24) 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.

Amendment 26

Proposal for a regulation (25) 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

Amendment

(25) Considering the massive growth in radio spectrum demand for wireless broadband, solutions for alternative spectrally efficient access to wireless broadband should be *encouraged and not prevented*. *This currently* includes *but is*

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).

not restricted to the use of low-power wireless access systems with a small-area operating range such as so called 'hotspots' of radio local area networks (RLAN,), as well as networks of low-power small size cellular access points (also called femto-, pico- or metrocells). ***Dynamic spectrum access, including on a licence-exempt basis and other innovative technologies and uses of spectrum should be encouraged and made possible.***

Amendment 27

Proposal for a regulation (26) Recital 30

Text proposed by the Commission

Amendment

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

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Amendment 28

Proposal for a regulation (27) Recital 31

Text proposed by the Commission

Amendment

(31) Experience in the implementation of the Union's regulatory framework indicates that existing provisions requiring the consistent application of regulatory measures together with the goal of contributing to the development of the internal market have not created

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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 29

Proposal for a regulation

(28) Recital 32

Text proposed by the Commission

Amendment

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

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Amendment 30

Proposal for a regulation

(29) Recital 33

Text proposed by the Commission

Amendment

(33) The operational needs served by various virtual products should be addressed. European virtual broadband access products should be available in cases where an operator with significant market power has been required under the terms of the Framework Directive and the Access Directive to provide access on

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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 31

Proposal for a regulation

(30) Recital 34

Text proposed by the Commission

Amendment

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

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Amendment 32

Proposal for a regulation

(31) Recital 35

Text proposed by the Commission

Amendment

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

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Amendment 33

Proposal for a regulation

(32) Recital 35 a (new)

Text proposed by the Commission

Amendment

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

Amendment 34

Proposal for a regulation

(33) Recital 36

Text proposed by the Commission

Amendment

(36) In a context of progressive migration to 'all IP networks', the lack of availability of connectivity products based on the IP protocol for different classes of services with assured service quality that enable communication paths across network domains and across network

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

Amendment 35

Proposal for a regulation

(34) Recital 37

Text proposed by the Commission

Amendment

(37) The establishment of European virtual broadband access products under this Regulation should be reflected in the assessment by national regulatory authorities of the most appropriate access remedies to the networks of operators designated as having significant market power, while avoiding over-regulation through the unnecessary multiplication of wholesale access products, whether imposed pursuant to market analysis or provided under other conditions. In particular, the introduction of the European virtual access products should not, in and of itself, lead to an increase in the number of regulated access products imposed on a given operator. Moreover, the need for national regulatory authorities, following the adoption of this Regulation, to assess whether a European virtual broadband access product should be imposed instead of existing wholesale

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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 36

Proposal for a regulation

(35) Recital 38

Text proposed by the Commission

Amendment

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

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to evolve towards the provision of ultra-fast services, which is one important parameter of retail competition.

Amendment 37

Proposal for a regulation

(36) Recital 40

Text proposed by the Commission

Amendment

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

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Amendment 38

Proposal for a regulation

(37) Recital 41

Text proposed by the Commission

Amendment

*(41) As this Regulation **harmonises only certain sector-specific rules**, it should be*

(41) This Regulation should be without prejudice to the general consumer

without prejudice to the general consumer protection rules, as established by Union *acts* and national legislation implementing them.

protection rules, as established by Union *law* and national legislation implementing them.

Amendment 39

Proposal for a regulation (38) Recital 42

Text proposed by the Commission

Amendment

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

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Amendment 40

Proposal for a regulation (39) Recital 44

Text proposed by the Commission

Amendment

(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

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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 41

Proposal for a regulation

(40) Recital 45

Text proposed by the Commission

(45) The internet has developed over the past decades as an open platform for innovation with low access barriers for *end*-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May

Amendment

(45) The internet has developed over the past decades as an open platform for innovation with low access barriers for users, content and application providers and internet service providers. The ***principle of "net neutrality" in the open internet means that traffic should be treated equally, without discrimination, restriction or interference, independent of the sender, receiver, type, content, device, service or application. As stated by the European Parliament resolution of 17 November 2011 on the open internet and***

2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.

net neutrality in Europe¹, the internet's open character has been a key driver of competitiveness, economic growth, social development and innovation – which has led to spectacular levels of development in online applications, content and services – and thus of growth in the offer of, and demand for, content and services, and has made it a vitally important accelerator in the free circulation of knowledge, ideas and information, including in countries where access to independent media is limited. The existing regulatory framework aims at promoting the ability of users to access and distribute information or run applications and services of their choice. Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May 2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.

¹ P7_TA(2011)0511.

Amendment 42

Proposal for a regulation (41) 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

Amendment

(46) The freedom of users to access and distribute information and content, run applications and use services of their choice is subject to the respect of Union

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*.

and compatible national law. This Regulation defines the limits for any restrictions to this freedom by providers of electronic communications to the public but is without prejudice to other Union legislation.

Amendment 43

Proposal for a regulation

(42) Recital 47

Text proposed by the Commission

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

Amendment

(47) In an open internet, providers of ***internet access services*** 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 traffic management measures. Such measures should be ***technically necessary***, transparent, proportionate and non-discriminatory. ***Addressing network congestion should be allowed provided that network congestion occurs only temporarily or in exceptional circumstances. National Regulatory Authorities should be able to require that a provider demonstrates that equal treatment of traffic will be substantially less efficient.***

Amendment 44

Proposal for a regulation

(43) Recital 47 a (new)

Text proposed by the Commission

Amendment

(47a) This Regulation is without prejudice to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of

Amendment 45

Proposal for a regulation

(44) Recital 48

Text proposed by the Commission

(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow *end*-users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of *electronic communications to the public* to better adapt network capacities to expected data volumes. It is essential that *end*-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired.

Amendment

(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow users to choose the tariff corresponding to their normal data consumption based on *clear*, transparent *and explicit* information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of *internet access services* to better adapt network capacities to expected data volumes. It is essential that users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired.

Amendment 46

Proposal for a regulation

(45) 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

Amendment

(49) *It should be possible to meet* user demand for services and applications requiring an enhanced level of assured service quality. Such services may comprise inter alia broadcasting, video-conferencing and certain health applications. Users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of *internet access services*,

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.

providers of electronic communications to the public or providers of content, applications or services. ***Where such agreements are concluded with the provider of internet access, that provider should ensure that the enhanced quality service does not cause material detriment to the general quality of internet access. Furthermore, traffic management measures should not be applied in such a way as to discriminate between competing services.***

Amendment 239

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

Amendment 240

Proposal for a regulation

Recital 51

Text proposed by the Commission

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

Amendment

(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise 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 **internet access services, other providers of** electronic communications **and other service providers** and the availability of non-discriminatory internet access services of high quality which are not impaired by specialised services. In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with **enhanced quality** services, and quality as perceived by end-users. National regulatory authorities should **establish complaint procedures providing effective, simple and readily available redress mechanisms for end users and** be empowered to impose minimum quality of service requirements on all or individual providers of **internet access services, other providers of** electronic communications **and other service providers** if this is necessary to prevent impairment/degradation of the quality of service of internet access services.

Amendment 49

Proposal for a regulation

(46) Recital 52

Text proposed by the Commission

(52) The measures to ensure better transparency and comparability of prices, tariffs, terms and conditions, and quality of

Amendment

(52) The measures to ensure better transparency and comparability of prices, tariffs, terms and conditions, and quality of

service parameters including those specific to the provision of internet access services, should increase the ability of end-users to optimise their selection of providers and thus benefit fully from competition.

service parameters including those specific to the provision of internet access services, should increase the ability of end-users to optimise their selection of providers and thus benefit fully from competition. ***Any voluntary certification scheme for interactive comparison websites, guides or similar tools should be independent from any provider of electronic communications, use plain and clear language, use complete and up-to-date information, have transparent methodology, be reliable and accessibility according to Web Content Accessibility Guidelines 2.0 and have an effective complaints handling procedure***

Amendment 50

Proposal for a regulation

(47) Recital 53

Text proposed by the Commission

Amendment

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

deleted

Amendment 51

Proposal for a regulation

(48) Recital 54

Text proposed by the Commission

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

Amendment

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

Amendment 52

Proposal for a regulation

(49) Recital 56

Text proposed by the Commission

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

Amendment

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

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

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

Amendment 53

Proposal for a regulation

(50) Recital 57

Text proposed by the Commission

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

Amendment

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

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

Amendment 54

Proposal for a regulation

(51) Recital 58

Text proposed by the Commission

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

Amendment

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

Amendment 55

Proposal for a regulation

(52) Recital 58 a (new)

Text proposed by the Commission

Amendment

(58a) The processing of personal data referred to in Regulation of the European Parliament and of the Council laying down measures concerning the European Single Market for electronic communications and to achieve a Connected Continent should comply with Directive 95/46 of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data^{1a}, which governs

the processing of personal data carried out in the Member States pursuant to this Regulation and under the supervision of the Member States' competent authorities, in particular the independent public authorities designated by the Member States, and with Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector^{1b}.

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

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

Amendment 56

Proposal for a regulation (53) Recital 58 b (new)

Text proposed by the Commission

Amendment

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

Amendment 57

Proposal for a regulation
(54) Recital 59

Text proposed by the Commission

Amendment

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

deleted

Amendment 58

Proposal for a regulation
(55) Recital 63

Text proposed by the Commission

Amendment

*(63) In order to **support the provision of one-stop-shops and to** facilitate a seamless switching experience for **end-users, the switching process should be led by the receiving provider of electronic communications to the public.** The transferring provider of electronic communications to the public **should** not delay or hamper the switching process. **Automated processes should be used as widely** as possible and a high level of protection of personal data should **be***

*(63) In order to facilitate a seamless switching experience for end-users, **BEREC should be empowered to lay down guidelines setting out the respective responsibilities of the receiving and transferring provider in the switching and porting process, ensuring inter alia that** the transferring provider of electronic communications to the public **does** not delay or hamper the switching process, **that the process is automated as much** as possible and **that** a high level of protection*

ensured. Availability of transparent, accurate and timely information on switching should increase the *end-users'* confidence in switching and make them more willing to engage actively in the competitive process.

of personal data *is ensured*. *Those guidelines should also address the question of how to ensure continuity in the experience of end-users, including through identifiers, such as email addresses, through, for instance, the opportunity to opt for an email forwarding facility*. Availability of transparent, accurate and timely information on switching should increase the *end-users'* confidence in switching and make them more willing to engage actively in the competitive process.

Amendment 59

Proposal for a regulation

(56) Recital 64

Text proposed by the Commission

Amendment

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

deleted

Amendment 60

Proposal for a regulation

(57) Recital 65

Text proposed by the Commission

Amendment

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

deleted

Amendment 61

Proposal for a regulation

(58) 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 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

deleted

Amendment 62

Proposal for a regulation

(59) Recital 70

Text proposed by the Commission

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

Amendment

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

²⁵ Regulation (EU) No 182/2011 of the

²⁵ Regulation (EU) No 182/2011 of the

European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment 63

Proposal for a regulation (60) Recital 71

Text proposed by the Commission

(71) In order to ensure consistency between the objective and the measures needed to ***complete the single market for electronic communications pursuant to this Regulation and some specific existing legislative provisions and to reflect key elements of evolving decisional practice***, Directive 2002/21/EC, the Directives 2002/20/EC and 2002/22/EC and Regulation No 531/2012 should be amended. This includes ***making provision for Directive 2002/21/EC and the related Directives to be read in conjunction with this Regulation, the introduction of strengthened powers of the Commission in order to ensure consistency of remedies imposed on European electronic communications providers having significant market power in the context of the European consultation mechanism***, harmonisation of the criteria adopted in assessing the definition and competitiveness of relevant markets, the adaptation of the notification system under Directive 2002/20/EC ***in view of the single EU authorisation*** as well as the repeal of provisions on minimum harmonisation of end-users rights provided in Directive 2002/22/EC made redundant by the ***full*** harmonisation provided in this Regulation.

Amendment

(71) In order to ensure consistency between the objective and the measures needed to ***meet the objectives of*** this Regulation and some specific existing legislative provisions, Directive 2002/21/EC, the Directives 2002/20/EC and 2002/22/EC and Regulations No 531/2012 ***and Regulation (EC) No 1211/2009, as well as Decision No 243/2012/EU***, should be amended. This includes harmonisation of the criteria adopted in assessing the definition and competitiveness of relevant markets, the adaptation of the notification system under Directive 2002/20/EC as well as the repeal of provisions on minimum harmonisation of end-users rights provided in Directive 2002/22/EC made redundant by the harmonisation provided in this Regulation.

Amendment 64

Proposal for a regulation (61) Recital 72

(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 Council²⁶ should be adapted. In particular, when roaming providers, through their own networks or through bilateral or multilateral roaming agreements ensure that all customers in the Union are offered by default roaming tariffs at the level of domestic tariffs, the obligation of domestic providers to enable their customers to access voice, SMS and data roaming services of any alternative roaming provider should not apply to such providers, subject to a transitional period where such access has already been granted.

deleted

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

Amendment 65

Proposal for a regulation

(62) Recital 73

Text proposed by the Commission

Amendment

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

Amendment 66

Proposal for a regulation

(63) 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 ***deleted***

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 67

Proposal for a regulation

(64) Recital 75

Text proposed by the Commission

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

Amendment

(75) While roaming providers assess themselves the volumes of roaming voice calls, SMS and data to be covered at domestic rates under their various retail packages, ***they may, notwithstanding the abolition of retail roaming charges by 15 December 2015, apply a "fair use clause" to the consumption of regulated retail roaming services provided at the applicable domestic price level, by reference to fair use criteria. These criteria should be applied in such a way that consumers are in a position to confidently replicate the typical domestic consumption pattern associated with their respective domestic retail packages while periodically travelling within the Union.*** National regulatory authorities should

and SMS usage trends at the Union level, and the evolution of expectations as regards in particular wireless data consumption.

supervise the application by roaming providers of such *fair* use limits and ensure that they are specifically defined by reference to detailed quantified information in the contracts in terms which are clear and transparent to customers. In so doing, national regulatory authorities should take utmost account of relevant guidance from BEREC, ***based on the results of a public consultation, for the application of fair use criteria in retail contracts provided by roaming providers.*** In its guidance, BEREC should identify various usage patterns substantiated by the underlying voice, data and SMS usage trends at the Union level, and the evolution of expectations as regards in particular wireless data consumption. ***The maximum eurotariff price caps should continue to serve as a safeguard limit for charges for consumption in excess of fair use limits until the expiry of the Regulation (EU) No 531/2012.***

Amendment 68

Proposal for a regulation

(65) Recital 76

Text proposed by the Commission

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

Amendment

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

Amendment 69

Proposal for a regulation

(66) Recital 77

Text proposed by the Commission

Amendment

(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.

deleted

Amendment 70

Proposal for a regulation

(67) Recital 78

Text proposed by the Commission

Amendment

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

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

Amendment 71

Proposal for a regulation

(68) Recital 79

Text proposed by the Commission

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

Amendment

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

Amendment 72

Proposal for a regulation

(69) Recital 79 a (new)

Text proposed by the Commission

Amendment

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

^{1a} P7_TA(2013)0454.

Amendment 73

Proposal for a regulation

(70) Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Regulation establishes **the**

Amendment

1. This Regulation establishes rules

regulatory principles and detailed rules necessary to *complete a European single market for electronic communications* where:

necessary to:

Amendment 74

Proposal for a regulation

(71) Article 1 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 75

Proposal for a regulation

(72) Article 1 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 76

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 77

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 78

Proposal for a regulation

(75) Article 1 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

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

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

Amendment 79

Proposal for a regulation

(76) Article 1 – paragraph 2 – point a

Text proposed by the Commission

Amendment

a) to secure simplified, predictable and convergent regulatory conditions regarding key administrative and

deleted

commercial parameters, including as regards the proportionality of individual obligations which may be imposed pursuant to market analysis;

Amendment 80

Proposal for a regulation

(77) Article 1 – paragraph 2 – point b

Text proposed by the Commission

Amendment

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

deleted

Amendment 81

Proposal for a regulation

(78) Article 1 – paragraph 2 – point c

Text proposed by the Commission

Amendment

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

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

Amendment 82

Proposal for a regulation

(79) Article 1 – paragraph 2 - point d

Text proposed by the Commission

Amendment

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

deleted

Amendment 83

Proposal for a regulation

(80) Article 1 – paragraph 2 – point e

Text proposed by the Commission

Amendment

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

deleted

Amendment 84

Proposal for a regulation

(81) Article 1 – paragraph 2 – point f

Text proposed by the Commission

Amendment

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

deleted

Amendment 85

Proposal for a regulation

(82) Article 1 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

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

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

providers;

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

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

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

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

Amendment 86

Proposal for a regulation

(83) Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

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

Amendment 87

Proposal for a regulation

(84) Article 2 – paragraph 2 – point 1

Text proposed by the Commission

Amendment

(1) ‘European electronic communications provider’ means an undertaking established in the Union providing or intending to provide electronic communications networks or services, whether directly or by means of one or ***deleted***

more subsidiaries, directed to more than one Member State and which cannot be considered a subsidiary of another electronic communications provider;

Amendment 88

Proposal for a regulation

(85) Article 2 – paragraph 2 – point 3

Text proposed by the Commission

Amendment

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

deleted

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

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

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

Amendment 89

Proposal for a regulation

(86) Article 2 – paragraph 2 – point 4

Text proposed by the Commission

Amendment

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

deleted

Amendment 90

Proposal for a regulation

(87) Article 2 – paragraph 2 – point 5

Text proposed by the Commission

Amendment

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

deleted

Amendment 91

Proposal for a regulation

(88) Article 2 – paragraph 2 – point 6

Text proposed by the Commission

Amendment

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

deleted

Amendment 92

Proposal for a regulation

(89) Article 2 – paragraph 2 – point 7

Text proposed by the Commission

Amendment

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

deleted

Amendment 93

Proposal for a regulation

(90) Article 2 – paragraph 2 – point 8

Text proposed by the Commission

Amendment

(8) ‘harmonised radio spectrum for wireless broadband communications’ means radio spectrum for which the

(8) ‘harmonised radio spectrum for wireless broadband communications’ means radio spectrum for which the

conditions of availability *and efficient* use are harmonised at Union level, in *particular pursuant to* Decision 676/2002/EC of the European Parliament and the Council,²⁷ and which serves for electronic communications services other than broadcasting;

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

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

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

Amendment 94

Proposal for a regulation

(91) Article 2 – paragraph 2 – point 9

Text proposed by the Commission

(9) ‘small-area wireless access point’ means a low power wireless network access equipment of small size operating within a small range, which may or may not be part of a public terrestrial mobile communications network, and be equipped with one or more low visual impact antennas, which allows wireless access by the public to electronic communications networks regardless of the underlying network topology;

Amendment

(9) ‘small-area wireless access point’ means a low power wireless network access equipment of small size operating within a small range, *using licensed spectrum or a combination of licensed and license-exempt spectrum*, which may or may not be part of a public terrestrial mobile communications network, and be equipped with one or more low visual impact antennas, which allows wireless access by the public to electronic communications networks regardless of the underlying network topology;

Amendment 95

Proposal for a regulation

(92) Article 2 – paragraph 2 – point 10

Text proposed by the Commission

(10) ‘radio local area network’ (RLAN) means a low power wireless access system, operating within a small range, with a low

Amendment

(10) ‘radio local area network’ (RLAN) means a low power wireless access system, operating within a small range, with a low

risk of interference to other such systems deployed in close proximity by other users, using on a *non-exclusive* basis spectrum for which the conditions of availability and efficient use for this purpose are harmonised at Union level;

risk of interference to other such systems deployed in close proximity by other users, using on a *license-exempt* basis spectrum for which the conditions of availability and efficient use for this purpose are harmonised at Union level;

Amendment 96

Proposal for a regulation

(93) Article 2 – paragraph 2 – point 11

Text proposed by the Commission

Amendment

(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;

deleted

Amendment 97

Proposal for a regulation

(94) Article 2 – paragraph 2 – point 12

Text proposed by the Commission

Amendment

(12) ‘assured service quality (ASQ) connectivity product’ means a product that is made available at the internet protocol (IP) exchange, which enables customers to set up an IP communication link between a point of interconnection and one or several fixed network termination points, and enables defined levels of end to end network performance for the provision of specific services to end users on the basis of the delivery of a specified guaranteed quality of service, based on specified parameters;

deleted

Amendments 234 and 241

Proposal for a regulation

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

Text proposed by the Commission

Amendment

12a. "net neutrality" means the principle according to which all internet traffic is treated equally, without discrimination, restriction or interference, independently of its sender, recipient, type, content, device, service or application;

Amendment 98

Proposal for a regulation

(95) Article 2 – paragraph 2 – point 13

Text proposed by the Commission

Amendment

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

deleted

Amendments 235 and 242

Proposal for a regulation

Article 2 – paragraph 2 – points 14 and 15

Text proposed by the Commission

Amendment

(14) "internet access service" means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used;

(14) "internet access service" means a publicly available electronic communications service that provides connectivity to the internet ***in accordance with the principle of net neutrality***, and thereby connectivity between virtually all end points of the internet, irrespective of the network technology ***or terminal equipment*** used;

(15) "specialised service" means an electronic communications service ***or any***

(15) "specialised service" means an electronic communications service

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;

optimised for specific content, applications or services, or a combination thereof, provided over logically distinct capacity, relying on strict admission control, offering functionality requiring enhanced quality from end to end, and that is not marketed or usable as a substitute for internet access service;

Amendment 101

Proposal for a regulation

(96) Article 2 – paragraph 2 – point 16

Text proposed by the Commission

Amendment

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

deleted

Amendment 102

Proposal for a regulation

(97) Article 2 – paragraph 2 – point 17

Text proposed by the Commission

Amendment

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

deleted

Amendment 103

Proposal for a regulation

(98) Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. **A European** electronic communications provider has the right to provide electronic communications networks and services in

1. **Any** electronic communications provider has the right to provide electronic communications networks and services in

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

the whole Union and to exercise the rights linked to the provision of such networks and services in each Member State where it operates.

Amendment 104

Proposal for a regulation (99) Article 3 – paragraph 2

Text proposed by the Commission

Amendment

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

deleted

Amendment 105

Proposal for a regulation (100) Article 3 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

Amendment 106

Proposal for a regulation (101) Article 3 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

Amendment 107

Proposal for a regulation (102) Article 3 – paragraph 5

Text proposed by the Commission

Amendment

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

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

Amendment 108

Proposal for a regulation (103) Article 3 – paragraph 6

Text proposed by the Commission

Amendment

6. In the event of a dispute between undertakings involving a European electronic communications provider regarding obligations applicable in accordance with Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC, this Regulation or Regulation (EU) No 531/2012 in a host Member State, the European electronic communications

deleted

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 109

Proposal for a regulation

(104) Article 3 – paragraph 7

Text proposed by the Commission

Amendment

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

Amendment 110

Proposal for a regulation

(105) Article 4

Text proposed by the Commission

Amendment

[...] **deleted**

Amendment 111

Proposal for a regulation

(106) Article 5

Text proposed by the Commission

Amendment

[...] **deleted**

Amendment 112

Proposal for a regulation (107) Article 6

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 113

Proposal for a regulation (108) Article 7

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 114

Proposal for a regulation (109) Article 8 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Amendment 115

Proposal for a regulation (110) Article 8 – paragraph 2

Text proposed by the Commission

Amendment

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

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

security and defence.

interest objectives such as cultural diversity and media pluralism.

Amendment 116

Proposal for a regulation (111) Article 8 – paragraph 3

Text proposed by the Commission

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

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

Amendment

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

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

Amendment 117

Proposal for a regulation (112) Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

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

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

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

format;

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

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

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

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

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

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

5. The duration of all existing rights of use of spectrum is hereby extended to 25

years from their date of grant, without prejudice to other conditions attached to the right of use and to rights of use of indefinite duration.

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

Amendment 118

Proposal for a regulation (113) Article 9 – paragraph 1

Text proposed by the Commission

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

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

Amendment

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

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

Amendment 119

Proposal for a regulation (114) Article 9 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The national competent authorities shall apply the least onerous authorisation system possible for allowing the use of radio spectrum, on the basis of objective, transparent, non-discriminatory and proportionate criteria, in such a way as to maximise flexibility and efficiency in radio spectrum use and to promote comparable conditions throughout the Union for integrated multi-territorial investments and operations by electronic communications providers.

Amendment 120

Proposal for a regulation (115) Article 9 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 121

Proposal for a regulation (116) Article 9 – paragraph 4

Text proposed by the Commission

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

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

Amendment

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

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

Amendment 122

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

Text proposed by the Commission

Amendment

5a. National competent authorities shall ensure that information is available on authorisation conditions and procedures for the use of radio spectrum, and allow stakeholders to present their views during the process.

Amendment 123

Proposal for a regulation

(118) Article 10 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

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

Amendment 124

Proposal for a regulation

(119) Article 10 – paragraph 2 – point a

Text proposed by the Commission

Amendment

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

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

Amendment 125

Proposal for a regulation

(120) Article 10 – paragraph 3

Text proposed by the Commission

Amendment

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

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

- (a) appropriately reflect the social and economic value of the radio spectrum, including beneficial externalities;
- (b) avoid under-utilisation and foster investment in capacity, coverage and quality of networks and services;
- (c) avoid discrimination and ensure equality of opportunity between operators, including between existing and potential operators;
- (d) achieve an optimal distribution between *immediate and, if any*, periodic payments, having regard in particular to the need to incentivise rapid network roll-out and radio spectrum utilisation in accordance with Article 9(4)(b) and (e).

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

Amendment 126

Proposal for a regulation (121) Article 11 – paragraph 1

Text proposed by the Commission

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

- (a) appropriately reflect the social, ***cultural*** and economic value of the radio spectrum, including beneficial externalities;
- (b) avoid under-utilisation and foster investment in capacity, coverage and quality of networks and services;
- (c) avoid discrimination and ensure equality of opportunity between operators, including between existing and potential operators;
- (d) achieve an optimal distribution between ***upfront and, preferably***, periodic payments, having regard in particular to the need to incentivise rapid network roll-out and radio spectrum utilisation in accordance with Article 9(4)(b) and (e);

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

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

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

Amendment

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

alternative use from impeding the effective application of such harmonised regime.

alternative use from impeding the effective application of such harmonised regime.
This shall be without prejudice to the provisions of Article 2(8).

Amendment 127

Proposal for a regulation

(122) Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 128

Proposal for a regulation

(123) Article 12 – paragraph 1 – subparagraph 2

Text proposed by the Commission

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

Amendment

deleted

Amendment 129

Proposal for a regulation

(124) Article 12 – paragraph 2

Text proposed by the Commission

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

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

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

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

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

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

Amendment

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

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

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

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

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

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2) ***as well as without prejudice to the provisions***

Amendment 130

Proposal for a regulation (125) Article 12 – paragraph 3

Text proposed by the Commission

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

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

Where the extension period granted in accordance with the second subparagraph 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

Amendment

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

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

authorisation conditions which are necessary in the light of the changed circumstances, including the imposition of additional fees. These additional fees shall be based on an application pro rata temporis of any initial fee for the original rights of use which was expressly calculated by reference to the originally foreseen duration.

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

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

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

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

Amendment 131

Proposal for a regulation

(126) Article 12 – paragraph 5 – subparagraph 2

Text proposed by the Commission

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

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

Amendment 132

Proposal for a regulation

(127) Article 12 – paragraph 6 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 133

Proposal for a regulation

(128) Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

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

1. Two or several Member States may cooperate with each other, and with the Commission, in meeting their obligations under Article 6 and 7 of the Authorisation Directive with a view to establish a joint authorisation process to grant individual rights of use of radio spectrum, in line, where applicable, with any common timetable established in accordance with Article 12(2). The joint authorisation process shall meet the following criteria:

(a) the individual national authorisation processes shall be initiated and

implemented by the national competent authorities according to a common schedule;

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

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

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

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

Amendment 134

Proposal for a regulation

(129) 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 25 years, and in any case appropriate to incentivise investment and competition, and discourage the under-use or 'hoarding' of spectrum;*

Amendment 135

Proposal for a regulation

(130) Article 13 – paragraph 1 – subparagraph 2 – point j

Text proposed by the Commission

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

Amendment

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

Amendment 136

Proposal for a regulation

(131) Article 13 – paragraph 2 – subparagraph 2 – point d

Text proposed by the Commission

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

Amendment

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

Amendment 137

Proposal for a regulation

(132) Article 15 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. For the purposes of the uniform implementation of the general authorisation regime for the deployment, connection and operation of small-area wireless access points pursuant to paragraph 1, the Commission **may**, by means of an implementing act, specify technical characteristics for the design, deployment and operation of small-area wireless access points, compliance with which shall ensure their unobtrusive character when in use in different local contexts. The Commission shall specify those technical characteristics by reference to the maximum size, power and electromagnetic characteristics, as well as the visual impact, of the deployed small-area wireless access points. Those technical characteristics for use of small-area wireless access points shall at a minimum comply with the requirements of Directive 2013/35/EU³⁰ and with the thresholds defined in Council

Amendment

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

Recommendation No 1999/519/EC.³¹

Directive 2013/35/EU³⁰ and with the thresholds defined in Council Recommendation No 1999/519/EC³¹.

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

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

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

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

Amendment 138

Proposal for a regulation

(133) Article 15 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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

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

Amendment

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

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

Amendment 139

Proposal for a regulation (134) Article 16

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 140

Proposal for a regulation (135) Article 17

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 141

Proposal for a regulation (136) Article 17a (new)

Text proposed by the Commission

Amendment

Article 17a

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

1. National Regulatory Authorities shall consider the proportionality of imposing on providers of electronic communications services designated in accordance with article 16 of Directive 2002/21/EC (Framework Directive) as having significant market power in a relevant market relating to the provision of wholesale high-quality electronic communications services an obligation to publish a wholesale reference offer taking into account the BEREC guidelines referred to in paragraph 2. This consideration should take place within one month after the publication of the BEREC guideline.

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

Amendment 142

Proposal for a regulation (137) Article 18

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 143

Proposal for a regulation (138) Article 19

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 144

Proposal for a regulation (139) Article 20

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 145

Proposal for a regulation (140) 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.

Amendment 146

Proposal for a regulation (141) Chapter 4 – title

Text proposed by the Commission

Amendment

Harmonised rights of end-users

Users' rights to open internet access

Amendment 147

Proposal for a regulation Article 22

Text proposed by the Commission

Amendment

Article 22

deleted

Cross-border dispute resolution

1. The out-of-court procedures set up in accordance with Article 34 (1) of Directive 2002/22/EC shall also apply to disputes related to contracts between consumers, and other end-users to the

extent that such out-of-court procedures are available also for them, and providers of electronic communications to the public which are established in another Member State. For disputes within the scope of Directive 2013/11/EU³³, the provisions of that Directive shall apply.

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

Amendment 148

Proposal for a regulation (142) Article 23 – title

Text proposed by the Commission

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

Amendment

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

Amendments 236 and 243

Proposal for a regulation Article 23

Text proposed by the Commission

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

End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such

Amendment

1. End-users shall **have the right** to access and distribute information and content, run **and provide** applications and services **and use terminals** of their choice, **irrespective of the end-user's or provider's location or the location, origin or destination of the service, information or content, via their internet access service.**

agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.

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

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

3. This Article is without prejudice to Union or national legislation related to the lawfulness of the information, content, application or services transmitted.

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

5. Within the limits of any contractually agreed data volumes or speeds for internet access services, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by

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

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

*5. Providers of internet access services and end-users may agree to set limits on data volumes or speeds for internet access services. Providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by blocking, slowing down, **altering**, degrading or*

blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply *reasonable* traffic management measures. *Reasonable* traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:

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

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

discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply traffic management measures. Traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:

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

Traffic management *measures shall not be maintained longer than necessary.*

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

Providers of internet access services shall

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

Amendment 153

Proposal for a regulation (143) Article 24 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 154

Proposal for a regulation (144) Article 24 – paragraph 2

Text proposed by the Commission

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

Amendment

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

service requirements on providers of electronic communications to the public.

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

Amendment 155

Proposal for a regulation (145) Article 24 – paragraph 3

Text proposed by the Commission

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

quality of service requirements, ***and where appropriate, other quality of service parameters, as defined by the national regulatory authorities*** on providers of electronic communications to the public.

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

Amendment

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

application of traffic management measures and for monitoring of compliance.

Amendment 156

**Proposal for a regulation
(146) Article 24 a (new)**

Text proposed by the Commission

Amendment

Article 24a

Review

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

Amendment 157

**Proposal for a regulation
Article 25**

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 158

**Proposal for a regulation
Article 26**

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 159

Proposal for a regulation

Article 27

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 160

Proposal for a regulation

Article 28

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 161

Proposal for a regulation

(147) Article 29

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 162

Proposal for a regulation

(148) Article 30

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 163

Proposal for a regulation

(149) Article 30 a (new)

Text proposed by the Commission

Amendment

Article 30 a

Supervision and enforcement

- 1. National regulatory authorities shall have the necessary resources to monitor and supervise compliance with this Regulation within their territories.*
- 2. National regulatory authorities shall make up-to-date information on the application of this Regulation publicly available in a manner that enables interested parties to have easy access to it.*
- 3. National regulatory authorities shall have the power to require undertakings subject to obligations under this Regulation to supply all information relevant to the implementation and enforcement of this Regulation. Those undertakings shall provide such information promptly on request and in accordance with time limits and the level of detail required by the national regulatory authority.*
- 4. National regulatory authorities may intervene on their own initiative in order to ensure compliance with this Regulation.*
- 5. National regulatory authorities shall put in place appropriate, clear, open and efficient procedures to address complaints alleging breaches of Article 23. National regulatory authorities shall respond to complaints without undue delay.*
- 6. Where a national regulatory authority finds that a breach of the obligations set out in this Regulation has occurred, it shall require the immediate cessation of such a breach.*

Amendment 164

**Proposal for a regulation
(150) Article 31 – paragraph 2**

Text proposed by the Commission

Amendment

With regard to European electronic communications providers, penalties shall

deleted

be imposed in accordance with Chapter II regarding the respective competences of national regulatory authorities in the home and host Member States.

Amendment 165

Proposal for a regulation (151) Article 32

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 166

Proposal for a regulation (152) Article 34 – point 1

Directive 2002/20/EC

Article 3

Text proposed by the Commission

Amendment

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

(1) Article 3 is amended as follows:

Amendment 167

Proposal for a regulation (153) Article 34 – point 1 – point a (new)

Directive 2002/20/EC

Article 3 – paragraph 2

Present text

Amendment

2. The provision of electronic communications networks or the provision of electronic communications services may, without prejudice to the specific

(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** to submit a notification **but** may not **be required** to obtain an explicit decision or any other administrative act by the national regulatory authority before exercising the rights stemming from the authorisation. Upon notification, when required, an undertaking may begin activity, where necessary subject to the provisions on rights of use in Articles 5, 6 and 7.

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

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

Amendment 168

Proposal for a regulation (154) Article 34 – point 1 – point b (new)

Directive 2002/20/EC

Article 3 – paragraph 3

Present text

3. **The** notification referred to in paragraph 2 shall not entail more than a declaration by a legal or natural person to **the national regulatory authority** of the intention to commence the provision of electronic communication networks or services and the submission of the minimal information which is required to allow the national regulatory authority to keep a register or

obligations referred to in Article 6(2) or rights of use referred to in Article 5, only be subject to a general authorisation. **Where a Member State deems that a notification requirement is justified, that Member State may require undertakings** to submit a notification **to BEREC but it** may not **require them** to obtain an explicit decision or any other administrative act by the national regulatory authority **or any other authority** before exercising the rights stemming from the authorisation. Upon notification **to BEREC**, when required, an undertaking may begin activity, where necessary subject to the provisions on rights of use in Articles 5, 6 and 7.'

Amendment

(b) paragraph 3 is replaced by the following:

'3. A notification referred to in paragraph 2 shall not entail more than a declaration **on a harmonised template in the form set out in part D of the Annex** by a legal or natural person to **BEREC** of the intention to commence the provision of electronic communication networks or services and the submission of the minimal information which is required to allow **BEREC and the**

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.***

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.'***

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

Amendment 169

Proposal for a regulation

(155) Article 34 – point 1 – point c (new)

Directive [2002/20/EC](#)

Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(c) the following paragraph is added:

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

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

Amendment 170

Proposal for a regulation (156) Article 34 – point 2 (new)

Directive 2002/20/EC

Article 10 – paragraph 6a (new)

Text proposed by the Commission

Amendment

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

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

Amendment 171

Proposal for a regulation (157) Article 34 – point 3 (new)

Directive 2002/20/EC

Annex – part D (new)

Text proposed by the Commission

Amendment

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

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

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

- 1. the name of the provider,*
- 2. the provider's legal status, form and registration number, where the provider is registered in a trade or other similar public register,*
- 3. the geographical address of the provider's main establishment,*
- 4. a contact person,*
- 5. a short description of the networks or services intended to be provided,*
- 6. the Member States concerned, and*
- 7. an estimated date for starting the activity.'*

Amendment 172

Proposal for a regulation (158) Article 34 a (new)

Decision No 243/2012/EU

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

Text proposed by the Commission

Amendment

Article 34a

Amendments to Decision No 243/2012/EU

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

the following subparagraph is added:

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

Amendment 173

Proposal for a regulation (159) Article 35 – point 1

Directive 2002/21/EC

Article 1

Text proposed by the Commission

Amendment

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

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

Amendment 174

Proposal for a regulation (160) Article 35 – point 1 a (new)

Directive 2002/21/EC

Article 2 – point g

Present text

Amendment

'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;

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

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

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

Amendment 175

Proposal for a regulation (161) Article 35 – point 1 b (new)

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 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

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

Each national regulatory authority shall act independently and shall not seek or take instructions from any other body in relation to the exercise of these tasks assigned to them under national law implementing Community law. This shall not prevent supervision in accordance with national constitutional law. Only appeal bodies set up in accordance with Article 4 shall have the power to suspend or overturn decisions by the national regulatory authorities.

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.

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

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

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.

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

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

Amendment 176

Proposal for a regulation

(162) Article 35 – point 2 – point a

(163) Directive 2002/21/EC

Article 7a

Text proposed by the Commission

Amendment

(a) in paragraph 1, the first subparagraph is replaced by the following:

deleted

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

Amendment 177

Proposal for a regulation

(164) 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 following: *deleted*

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

Amendment 178

Proposal for a regulation

(165) Article 35 – point 2 – point c

Directive 2002/21/EC

Article 7a

Text proposed by the Commission

Amendment

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

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

meaning of Regulation [XXX/2014]'.

Amendment 179

Proposal for a regulation

(166) Article 35 – point 2 – point d

Directive 2002/21/EC

Article 7a

Text proposed by the Commission

Amendment

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

deleted

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

Amendment 180

Proposal for a regulation

(167) Article 35 – point 2 a (new)

Directive 2002/21/EC

Article 8 – paragraph 4

Text proposed by the Commission

Amendment

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

Amendment 181

Proposal for a regulation

(168) Article 35 – point 2 b (new)

Directive 2002/21/EC

Article 9b – paragraph 3 – subparagraph 1

Present text

Amendment

(2b) In Article 9b(3), the first

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.

subparagraph is replaced by the following:

'3. The Commission *shall* adopt appropriate implementing measures to **facilitate the transfer or lease of** rights to use radio frequencies **between undertakings**. **Those measures shall be adopted by within 12 months following the date of application of Regulation [XXX/2014]**. *Those* measures shall not cover frequencies which are used for broadcasting.

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

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

Amendment 182

Proposal for a regulation

Article 35 – point 4

Directive 2002/21/EC

Article 19 – paragraph 1

Text proposed by the Commission

‘Without prejudice to Article 9 of this Directive and Articles 6 and 8 of Directive 2002/20/EC (Authorisation Directive), where the Commission finds that divergences in the implementation by the national regulatory authorities of the regulatory tasks specified in this Directive, and the Specific Directives and Regulation

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.’

No [XX/2014] may create a barrier to the internal market, the Commission *shall*, taking the utmost account of the opinion of BEREC, issue a recommendation or a decision on the harmonised application of the provisions in this Directive, the Specific Directives and Regulation No [XX/2014] in order to further the achievement of the objectives set out in Article 8.’

Amendment 183

Proposal for a regulation

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

Directive 2002/22/EC

Article 2 – point f a (new)

Text proposed by the Commission

Amendment

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

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

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

Amendment 184

Proposal for a regulation

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

Directive 2002/22/EC

Article 20 – title

Present text

Amendment

‘Contracts’

***(1b) The title of Article 20 is replaced by:
‘Information requirements for contracts’;***

Amendment 185

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

Directive 2002/22/EC

Article 20 – paragraph –1 a (new)

Text proposed by the Commission

Amendment

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

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

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

**** Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council***

Amendment 186
(172) Proposal for a regulation
(173) Article 36 – paragraph 1 – point 1 d (new)

Directive 2002/22/EC

Article 20 – paragraph 1

Present text

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

(a) the identity and address of the undertaking;

(b) the services provided, including in particular,

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

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

Amendment

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

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

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

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

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

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

accordance with Community law,

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

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

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

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

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

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

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

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

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

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

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

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

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

- any minimum usage or duration required to benefit from promotional terms,
- any charges related to portability of numbers and other identifiers,

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

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

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

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

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

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

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

- (i) any minimum usage or duration required to benefit from promotional terms,
- (ii) any charges related to ***switching and*** portability of numbers and other identifiers, ***including compensation and refund arrangements for delay or abuse of switching;***
- (iii) any charges due on ***early*** termination of the contract, including any cost recovery with respect to terminal equipment, ***on the basis of customary depreciation methods, and other promotional advantages, on a pro rata temporis basis,***

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

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

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

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

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

data, referred to in Article 21(4) and relevant to the service provided.’

data, referred to in Article 21(4) and relevant to the service provided.’

Amendment 187

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

Directive 2002/22/EC

Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

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

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

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

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

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

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

(f) information on any procedures put in place by the provider to measure and shape traffic including an indication of the underlying communication inspection methods used for reasonable traffic management measures and information on how those procedures could impact on service quality, end-users' privacy and the protection of personal data; and

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

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

Amendment 188

Proposal for a regulation

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

Directive 2002/22/EC

Article 20 – paragraph 2

Present text

Amendment

(1f) Article 20 (2) is deleted

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

Member States shall ensure that national regulatory authorities are able to specify the format of such notifications.

Amendment 189

Proposal for a regulation

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

Directive 2002/22/EC

Article 20 – paragraph 2 a (new)

Present text

Amendment

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

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

Amendment 190

Proposal for a regulation

(175) Article 36 – paragraph – point 1 h (new)

Directive 2002/22/EC

Article 20 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

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

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

National regulatory authorities may specify additional requirements on the content, form and manner of the contractual information to be published,

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

Amendment 191

Proposal for a regulation

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

Directive 2002/22/EC

Article 20 a (new)

Text proposed by the Commission

Amendment

(1i) The following Article is inserted:

‘Article 20a

Contract duration and termination

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

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

3. Where a contract or national law provides for contract periods with a fixed term (as opposed to a minimum term) to be automatically rolled over, the provider of electronic communications to the public shall inform the consumer in due time thereof so that the consumer has at least one month to oppose such automatic roll-over. If the consumer does not oppose such automatic roll-over, the contract shall be deemed to be a permanent rolling contract which can be terminated by the consumer, at any time with a one-month

notice period and without incurring any costs except the cost of providing service during the notice period.

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

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

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

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

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

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

Amendment 192

Proposal for a regulation

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

Directive 2002/22/EC

Article 21

Present text

‘Article 21

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

Amendment

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

‘Article 21

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

in which such information is to be published, *which may in particular include the introduction of language requirements so as to ensure that such information is easily understood by consumers and other end-users so requesting. Member States shall ensure that providers of electronic communications to the public are obliged upon request to supply the information, to the relevant national regulatory authorities, in advance of its publication.*

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

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

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

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

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

services to inter alia:

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

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

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

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

services to inter alia:

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

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

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

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

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

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

limitations can be set;

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

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

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

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

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

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

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

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

*3a. By ... *, BEREC, after consulting stakeholders and in close cooperation with the Commission, shall lay down general guidelines for the methods of measuring the speed, the quality of service parameters to be measured (inter alia average versus advertised speeds; quality as perceived by users), and the methods*

for measuring them over time, as well as the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information. Where appropriate, the parameters, definitions and measurement methods set out in Annex III may be used.

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

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

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

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

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

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

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

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

Amendment 193

(178) Proposal for a regulation

(179) Article 36 – paragraph 1 – point 1 k (new)

Text proposed by the Commission

Amendment

(1k) The following Article is inserted:

'Article 21a

Control of consumption

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

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

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

(c) itemised bills on a durable medium.

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

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

Amendment 194

Proposal for a regulation

(180) Article 36 – paragraph 1 – point 2

Text proposed by the Commission

Amendment

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

(2) *Article 22 is deleted.*

Amendment 195

(181) Proposal for a regulation

(182) Article 36 – paragraph 1 – point 2 a (new)

Directive 2002/22EC

Article 26

Present text

Amendment

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

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

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

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

2. Member States, in consultation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national calls to a number or numbers in a national telephone numbering plan provide access to emergency services.

2. Member States, in consultation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national calls to a number or numbers in a national telephone numbering plan provide access to emergency services.

3. Member States shall ensure that calls to the single European emergency call number "112" are appropriately answered

3. Member States shall ensure that calls to the single European emergency call number "112" are appropriately answered

and handled in the manner best suited to the national organisation of emergency systems. Such calls shall be answered and handled at least as expeditiously and effectively as calls to the national emergency number or numbers, where these continue to be in use.

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

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

and handled in the manner best suited to the national organisation of emergency systems. Such calls shall be answered and handled at least as expeditiously and effectively as calls to the national emergency number or numbers, where these continue to be in use.

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

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

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

the BEREC guidelines.

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

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

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

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

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

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

Amendment 196

(183) Proposal for a regulation

(184) Article 36 – paragraph 1 – point 2 b (new)

Directive 2002/22/EC

Article 26 a (new)

Text proposed by the Commission

Amendment

(2b) The following Article is inserted:

‘Article 26 a

Reverse EU “112” communication system

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

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

Amendment 197

(185) Proposal for a regulation

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

Directive 2002/22/EC

Article 30

Present text

Amendment

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

‘1. Member States shall ensure that all

‘1. Member States shall ensure that all

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

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

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

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

Without prejudice to the first subparagraph, competent national authorities may establish the global process of porting of numbers, **taking into account national provisions on contracts, technical feasibility** and the need to maintain continuity of service to the **subscriber**. In any event, loss of service during the process of porting shall not exceed one working day. **Competent national authorities shall also take into account, where necessary, measures ensuring that subscribers are protected throughout the switching process and are not** switched to another provider against their will.

Member States shall ensure that appropriate sanctions on undertakings are provided for, including an obligation to compensate subscribers in case of delay in

subscribers with numbers from the national telephone numbering plan who so request can retain their number(s) independently of the **provider of electronic communications to the public** providing the service in accordance with the provisions of Part C of Annex I.'

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

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

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

Without prejudice to the first subparagraph, competent national authorities may establish the global process of **switching and** porting of numbers **taking into account the BEREC guidelines referred to in paragraph 4b. They shall take into account necessary end-user protection throughout the switching process, the need to ensure the efficiency of such a process for the end-user, the need to maintain continuity of service to the end-user and the need to ensure that switching processes are not harmful to competition.** In any event, loss of service during the process of porting shall not exceed one working day. **End-users** shall **not be** switched to another provider against their will.

Member States shall ensure that appropriate sanctions on undertakings are provided for, including an obligation to compensate subscribers in case of delay in

porting or abuse of porting by them or on their behalf.

porting, *of not making available information necessary for porting in a timely manner*, or abuse of porting by them or on their behalf.

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

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

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

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

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

Amendment 198

Proposal for a regulation

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

Directive 2002/22/EC

Article 34 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

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

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

Amendment 199

(187) Proposal for a regulation

(188) Article 36 – paragraph 1 – point 2 e (new)

Directive 2002/22/EC

Article 37a (new)

Text proposed by the Commission

Amendment

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

‘Article 37a

Exercise of the delegation

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

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

Amendment 200

Proposal for a regulation

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

Directive 2002/22/EC

Annex II – point 1

Present text

‘1. Name(s) **and** address(es) of undertaking(s)
i.e. names and head office addresses of

Amendment

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

‘1. Name(s), address(es) **and contact information** of undertaking(s)
i.e. names and head office addresses of

undertakings providing public communications networks and/or publicly available telephone services.’

undertakings providing public communications networks and/or publicly available telephone services.’;

Amendment 201

Proposal for a regulation

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

Directive 2002/22/EC

Annex II – point 2.2

Present text

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

Amendment

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

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

Amendment 202

Proposal for a regulation

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

Directive 2002/22/EC

Annex II – point 2.2 a (new)

Text proposed by the Commission

Amendment

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

‘2.2.a. *Additional information on internet access services, where offered, including*

in particular details on data pricing, download and upload data speeds and any applicable speed limitations, on possibilities to monitor consumption levels, on any applicable traffic management procedures and their impact on service quality, on end-user privacy and on the protection of personal data.’;

Amendment 203

Proposal for a regulation

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

Directive 2002/22/EC

Annex II – point 2.5

Present text

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

Amendment

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

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

Amendment 204

Proposal for a regulation

(189) Article 37 – point 1

Regulation (EU) No 531/2012

Article 1

Text proposed by the Commission

Amendment

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

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

Amendment 205

Proposal for a regulation (190) Article 37 – point 2

Regulation (EU) No 531/2012

Article 2

Text proposed by the Commission

Amendment

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

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

Amendment 206

Proposal for a regulation (191) Article 37 – point 3

Regulation (EU) No 531/2012

Article 4

Text proposed by the Commission

Amendment

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

deleted

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

Amendment 207

**Proposal for a regulation
(192) Article 37 – point 4**

Regulation (EU) No 531/2012

Article 4 a (new)

Text proposed by the Commission

Amendment

(4) The following Article 4a is inserted:

deleted

Article 4a

[...]

Amendment 208

**Proposal for a regulation
(193) Article 37 – point 4 a (new)**

Regulation (EU) No 531/2012

Articles 6 a and 6 b (new)

Text proposed by the Commission

Amendment

(4a) The following articles are inserted:

'Article 6a

Abolition of retail roaming charges

With effect from 15 December 2015, roaming providers shall not levy any surcharge in comparison to the charges for mobile communications services at

domestic level on roaming customers in any Member States for any regulated roaming call made or received, for any regulated roaming SMS/MMS message sent and for any regulated data roaming services used, nor any general charge to enable the terminal equipment or service to be used abroad.

Article 6b

Fair usage

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

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

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

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

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

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

6. The retail charges for euro tariff services established by articles 8, 10 and 13 of this Regulation apply for regulated roaming services in excess of any fair usage limit applied in accordance with article 6b.'

Amendment 209

Proposal for a regulation

(194) 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

Amendment

(a) the first subparagraph is replaced by the following

'2. With effect from 1 July **2012**, the retail

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

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 **0,29** per minute for any call made or EUR **0,08** per minute for any call received. The maximum retail charge for calls made shall decrease to EUR **0,24** on 1 July 2013 *and to EUR 0,19 on 1 July 2014 and the maximum retail charge for calls received shall decrease to EUR 0,07 on 1 July 2013 and to EUR 0,05 on 1 July 2014. The maximum charges applicable as of 1 July 2014 shall expire 16 December 2015 save for regulated roaming calls in excess of any fair use limit applied in accordance with Article 6b.'*

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0531&qid=1395835424273&from=EN>)

Amendment 210

Proposal for a regulation

(195) Article 37 – point 5 – point b

Regulation (EU) No 531/2012

Article 8

Text proposed by the Commission

Amendment

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

deleted

[...]

Amendment 211

Proposal for a regulation

(196) Article 37 – point 5 a (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. **The maximum charges applicable as of 1 July 2014 shall expire 16 December 2015 save for regulated roaming SMS messages in excess of any fair use limit applied in accordance with Article 6b.'**

Amendment 212

**Proposal for a regulation
(197) Article 37 – point 5 b (new)**

Regulation (EU) No 531/2012

Article 13 – paragraph 2

Present text

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

Amendment

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

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

June 2017.

for regulated data roaming services in excess of any fair use limit applied in accordance with Article 6b.'

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0531&qid=1395835424273&from=EN>)

Amendment 213

Proposal for a regulation (198) Article 37 – point 6

Regulation (EU) No 531/2012

Article 14

Present text

Amendment

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

deleted

Amendment 214

Proposal for a regulation (199) Article 37 – point 6 a (new)

Regulation (EU) No 531/2012

Article 14

Present text

Amendment

1. To alert roaming customers to the fact that they will be subject to roaming charges when making or receiving a call or when sending an SMS message, each roaming provider shall, except when the customer has notified the roaming provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his domestic

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

1. To alert roaming customers to the fact that they will be subject to roaming charges when making or receiving a call or when sending an SMS message, each roaming provider shall, except when the customer has notified the roaming provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his domestic

provider, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls and to the sending of SMS messages by that customer in the visited Member State.

That basic personalised pricing information shall include the maximum charges (in the currency of the home bill provided by the customer's domestic provider) to which the customer may be subject under his tariff scheme for:

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

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

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

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

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

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

provider, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls and to the sending of SMS messages by that customer in the visited Member State.

That basic personalised pricing information shall include the maximum charges (in the currency of the home bill provided by the customer's domestic provider) to which the customer may be subject under his tariff scheme for:

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

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

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

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

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

provider.

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

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

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

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

4. Roaming providers shall make available information to their customers on how to avoid inadvertent roaming in border regions. Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for

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

4. Roaming providers shall make available information to their customers on how to avoid inadvertent roaming in border regions. Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for

inadvertently accessed roaming services while situated in their home Member State.

inadvertently accessed roaming services while situated in their home Member State.

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

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

Amendment 215

Proposal for a regulation (200) Article 37 – point 7

Regulation (EU) No 531/2012

Article 15

Text proposed by the Commission

Amendment

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

deleted

Amendment 216

Proposal for a regulation (201) Article 37 – point 7 a (new)

Regulation (EU) No 531/2012

Article 15

Present text

Amendment

(7a) Article 15 is deleted and replaced by the following with effect from 15 December 2015:

Transparency and safeguard mechanisms for retail data roaming services

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

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

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

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

Transparency and safeguard mechanisms for retail data roaming services

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customer initiates a regulated data roaming service, by an appropriate means adapted to facilitate its receipt and easy comprehension.

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

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

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

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

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

The default limits referred to in the second and third subparagraphs shall be applicable

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.

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

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

The default limits referred to in the second and third subparagraphs shall be applicable

to all customers who have not opted for another limit.

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

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

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

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.

regions.

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

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

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

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

Amendment 217

Proposal for a regulation (202) Article 37 – point 8

Regulation (EU) No 531/2012

Article 19

Text proposed by the Commission

Amendment

(8) Article 19 is amended as follows:

deleted

(a) Paragraph 1 is amended as follows:

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

'The Commission shall review the functioning of this regulation and, after a public consultation, shall report to the

European Parliament and the Council by 31 December 2016 at the latest.'

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

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

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

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

(b) Paragraph 2 is amended as follows:

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

'If the report shows that tariff options, in which the domestic service rate applies both to domestic and regulated roaming services, are not provided in all retail packages for reasonable use by at least one roaming provider in each Member State, or that the offers by alternative

roaming providers have not made substantially equivalent retail roaming tariffs easily available to consumers throughout the Union, the Commission shall by the same date make appropriate proposals to the European Parliament and the Council to address the situation and ensure that there is no difference between national and roaming tariffs within the internal market

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

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

Amendment 218

Proposal for a regulation

(203) Article 37 – point 8 a (new)

Regulation (EU) No 531/2012

Article 19

Present text

1. The Commission shall review the functioning of this Regulation and, *after a public consultation*, shall report to the European Parliament and the Council *by 30*

Amendment

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

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

June 2016. The Commission shall evaluate in particular whether the objectives of this Regulation have been achieved. In so doing, the Commission shall review, *inter alia*:

(a) whether competition has sufficiently developed in order to justify the expiry of maximum retail charges;

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

(c) the developments and expected future trends in wholesale and retail charges for the provision to roaming customers of voice, SMS and data communication services, in comparison to the charges for mobile communications services at domestic level in the Member States, both for pre-paid and post-paid customers separately, and in the quality and speed of these services;;

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

(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;

to 6.

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

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

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

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

(g) the extent to which the implementation of the structural measures provided for in Articles 3 and 4 has produced results in developing competition in the internal market for roaming services ***to the extent that the difference between roaming and national tariffs has approached zero;***

(h) the extent to which the level of wholesale and retail maximum charges has provided adequate safeguards against excessive prices for consumers while allowing the development of competition in the internal market for roaming services.

2. If the report shows that the structural measures provided for by this Regulation have not been sufficient to promote competition in the internal market for roaming services for the benefit of all European consumers or that the differences between roaming tariffs and national tariffs have not approached zero, the Commission shall make appropriate proposals to the European Parliament and the Council to address this situation and thus achieve an internal market for mobile communication services, ultimately with there being no difference between national and roaming tariffs. The

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

(c) the extent to which the implementation of the structural measures provided for in Articles 3 and 4 has produced results in developing competition in the internal market for roaming services.

The Commission shall examine, in particular, whether it is necessary to lay down additional technical and structural measures or to modify the structural measures.

4. If the report referred to in paragraph 2 shows that there is no level playing field between roaming providers and consequently that there is a need to change the duration or lower the level of maximum wholesale charges or to provide for other arrangements to address wholesale market problems, including by a significant reduction of the mobile termination rates applicable to roaming throughout the Union, the Commission shall, ***after consulting BEREC***, make appropriate legislative proposals to the European Parliament and the Council to address this situation ***by 30 June 2015.***

If the report referred to in paragraph 3 shows that the structural measures provided for by this Regulation have not been sufficient to promote competition in the internal market for roaming services for the benefit of all European consumers, the Commission shall make appropriate proposals to the European Parliament and the Council to address this situation. With respect to both reports, proposals for any appropriate measures shall be presented simultaneously with the reports.

Commission shall examine, in particular, whether it is necessary:

(a) to lay down additional technical and structural measures;

(b) to modify the structural measures;

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

(d) to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12;

(e) to introduce any other necessary requirements, including non-differentiation of roaming and national tariffs.

3. In addition, the Commission shall submit a report to the European Parliament and the Council every two years after the report referred to in paragraph 1. Each report shall include a summary of the monitoring of the provision of roaming services in the Union and an assessment of the progress towards achieving the objectives of this Regulation, ***including by reference to the matters referred to in paragraphs 1 and 2.***

4. In order to assess the competitive developments in the Union-wide roaming markets, BEREC shall regularly collect data from national regulatory authorities on the development of retail and wholesale charges for voice, SMS and data roaming 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.

5. In addition, the Commission shall submit a report to the European Parliament and the Council every two years after the report referred to in paragraph **3**. Each report shall include a summary of the monitoring of the provision of roaming services in the Union and an assessment of the progress towards achieving the objectives of this Regulation.

6. In order to assess the competitive developments in the Union-wide roaming markets, BEREC shall regularly collect data from national regulatory authorities on the development of retail and wholesale charges for voice, SMS and data roaming services. Those data shall be notified to the Commission at least twice a year. The Commission shall make them public.

BEREC shall also annually collect information from national regulatory authorities on transparency and comparability of different tariffs offered by operators to their customers. The Commission shall make those data and findings public.'

Amendment 219

Proposal for a regulation

(204) Article 38 – point 1 a (new)

Regulation (EU) No 1211/2009

Article 3 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(1a) In Article 3(1), the following points (ma) and (mb) are inserted:

'(ma) to receive notifications submitted pursuant to Article 3 of Directive 2002/20/EC, to maintain an inventory of those notifications and to inform the national regulatory authorities concerned about notifications received;

(mb) to issue opinions on measures intended to be adopted by national regulatory authorities under Article 10, paragraphs 5 and 6, of Directive 2002/20/EC.'

Amendment 220

Proposal for a regulation

(205) Article 38 – point 1 b (new)

Regulation (EU) No 1211/2009

Article 3 – paragraph 1 – point n a (new)

Text proposed by the Commission

Amendment

(1b) In Article 3(1), the following point (na) is inserted:

'(na) to support the development of Union policy and law in the field of electronic communications, including by delivering opinions to the Commission with respect to any planned initiative'

Amendment 221

Proposal for a regulation (206) Article 38 – point 2

Regulation (EU) No 1211/2009

Article 4

Text proposed by the Commission

Amendment

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

Amendment 222

Proposal for a regulation (207) Article 38 – point 3

Regulation (EU) No 1211/2009

Article 4a (new)

Text proposed by the Commission

Amendment

*(3) The following Article 4a is inserted:
[...]*

Amendment 223

Proposal for a regulation (208) Article 38 – point 4

Regulation (EU) No 1211/2009

Article 6

Text proposed by the Commission

Amendment

*(4) Article 6 is amended as follows:
[...]*

Amendment 227

Proposal for a regulation (212) Article 38 – point 8

Regulation (EU) No 1211/2009

Article 10

Text proposed by the Commission

Amendment

(8) Article 10 is amended as follows: *deleted*
[...]

Amendment 228

Proposal for a regulation (213) Article 38 – point 9

Regulation (EU) No 1211/2009

Article 10 a (new)

Text proposed by the Commission

Amendment

(9) The following Article 10a is inserted: *deleted*
[...]

Amendment 229

Proposal for a regulation (214) Article 39 – paragraph 1

Text proposed by the Commission

Amendment

The Commission shall **submit reports on the** evaluation and review of **this Regulation** to the European Parliament and the Council **at regular intervals. The first report** shall be **submitted no later than 1 July 2018. Subsequent reports shall be submitted every four years thereafter.** The Commission shall, **if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning**

The Commission shall **perform a comprehensive** evaluation and review of **the entire regulatory framework for electronic communications, and shall submit a report with appropriate proposals** to the European Parliament and the Council **by 30 June 2016 in order to allow sufficient time for the legislator to analyse and debate the proposals**

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.*

properly.

The review shall be based on a full public consultation as well as on ex-post assessments of the impact of the regulatory framework since 2009 and a thorough ex-ante assessment of the expected impact of the options emanating from the review.

The main goals of the review shall include:

(i) ensuring that substitutable services are subject to the same rules, taking into consideration the definition of electronic communications services in Article 2(c) of Directive 2002/21/EC, in order to achieve equivalent, coherent and consistent regulation of electronic communications services and services substitutable to them, including with respect to access, all aspects of consumer protection, including portability, as well as privacy and data protection;

(ii) ensuring a high degree of consumer protection and more informed consumer choice through increased transparency and access to clear and comprehensive information, including on data delivery speeds and mobile network coverage;

(iii) ensuring that users of digital services are able to control their digital life and data by removing obstacles to switching operating systems without losing their applications and data;

(iv) further promoting effective and sustainable competition;

(v) providing a stable and sustainable framework for investment;

(vi) ensuring a harmonised, consistent and effective application;

(vii) facilitating the development of pan-European providers and the provision of cross-border business services;

(viii) ensuring that the regulatory framework is adequate for the digital age and delivers an internet ecosystem that supports the entire economy, and

(ix) increasing user confidence in the internal market for electronic communications, including through measures to implement the future regulatory framework for the protection of personal data and measures to increase the security of electronic communications in the internal market.

The review shall inter alia include:

(i) the universal service obligation, including a review of the need for an additional obligation to offer broadband internet access at a fair price;

(ii) the competence of national regulatory authorities for all issues, including spectrum, that are addressed by the framework; the powers granted to the national regulatory authorities in the Member States and the scope of the requirement of independence of national regulatory authorities;

(iii) cooperation between the national regulatory authorities and national competition authorities;

(iv) the symmetric obligations relating to network access;

(v) the rules on leverage effects and joint dominance;

(vi) the market review processes;

(vii) the impact of services that are substitutable to electronic communications services; including whether clarifications are needed regarding the reach of the regulatory framework's technological neutrality and regarding the dichotomy between services in the 'information society' bracket and those in the 'electronic communications' bracket;

(viii) the necessity of abolishing redundant regulation;

(ix) the lifting of regulation where a

market analysis has shown the market concerned to be truly competitive and that ways and means exist for extended monitoring;

(x) the experience with non-discrimination obligations and remedies;

(xi) the effectiveness and functioning of the procedures established in Articles 7 and 7a of Directive 2002/21/EC;

(xii) initiation of an Article 7/7a procedure in situations where phase II of the procedure is not triggered due to an NRA withdrawal of its draft measure or where an NRA does not propose a remedy to a problem recognised on a certain market;

(xiii) the effectiveness and functioning of the procedure established in Article 19 of Directive 2002/21/EC;

(xiv) transnational services and operators, taking into account the possibility for the Commission to identify transnational markets under Article 15(4) of Directive 2002/21/EC, and with a focus on the competitive provision of communications services to EU businesses and to the effective and consistent application of business grade remedies across the EU;

(xv) identification of transnational markets, initially at least with respect to business services; enabling providers to notify BEREC of their intention to serve such markets, and supervision of providers serving such markets by BEREC;

(xvi) the scope of BEREC's competencies;

(xvii) a single Union authorisation and the supervisory structure for the framework as a whole;

(xviii) active and passive inputs;

(xix) the recommendation on relevant markets;

(xx) the regulation of equipment, including bundling of equipment and operating systems;

(xxi) the effectiveness of the implementation of the European emergency call number '112', including in particular necessary measures to improve the accuracy and reliability of caller location criteria;

(xxii) the feasibility of setting up a "reverse EU '112' communication system";

(xxiii) the impact of the internet having become a crucial infrastructure for conducting a wide array of economic and social activities.

Amendment 230

Proposal for a regulation (215) Article 39 a (new)

Text proposed by the Commission

Amendment

Article 39a

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 34, 35 and 36 by 12 months after the date of entry into force of this Regulation. They shall forthwith communicate to the Commission the text of those provisions.

2. When Member States adopt those provisions, they shall contain a reference to this Regulation or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by Articles 34, 35 and 36.

Amendment 231

Proposal for a regulation

(216) Article 40 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

However, Articles 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 shall apply from 1 July 2016. *deleted*

Amendment 232

Proposal for a regulation

(217) Annex I

Text proposed by the Commission

Amendment

[...] *deleted*

Amendment 233

Proposal for a regulation

(218) Annex II

Text proposed by the Commission

Amendment

[...] *deleted*