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From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft 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 (first reading)

- Adoption
- a) of the Council's position
- b) of the statement of the Council's reasons

= Statements

Statement of the Republic of Slovenia

Slovenia commends the last few Council presidencies on the work accomplished on the TSM Regulation.

While Slovenia supports the compromise solution on roaming, it cannot support the final text on the protection of Internet neutrality. The Internet is the core of the modern digital society, a facilitator of globalisation, innovation, and the development of entrepreneurship, and a basin for the free flow of information and democracy. In order to maintain its positive role, it must remain free and open. Slovenia emphasises the importance of the neutral character of the Internet and is committed to its strong and clear protection.

Although the final compromise text of the TSM regulation on Internet neutrality contains certain improvements, it fails to eliminate our concerns. Slovenia fears that the new arrangements will result in a two-layer Internet: a slow "best effort" service model and a high-speed Internet with guaranteed quality for an additional charge. Slovenia believes that this is the wrong response to the competitive challenges facing the European industry in the global digital market.

Also, given the current legal protection of Internet neutrality in Slovenia, we cannot support the final TSM regulation.

Statement by the Netherlands

The Netherlands wishes to thank the presidencies involved for all their efforts to reach a final compromise on the proposal for a Regulation laying down measures concerning the European single market for electronic communications and to achieve a connected continent.

More than two years ago the Netherlands was the first member state to set national rules to protect the open internet. We have since pleaded for European net neutrality rules that effectively safeguard the internet as an open platform for communication and internet services. An open platform that respects the freedom of choice for end-users as a fundamental right and creates a level playing field for providers of services and applications.

The Regulation provides the EU with a harmonised set of net neutrality rules. It contains positive elements like a clear rule against discriminatory traffic management. However effective net neutrality rules also require discriminatory pricing practices to be clearly prohibited. Such a clear ban on price discrimination is unfortunately not included in the final compromise. The Netherlands will therefore be obliged to withdraw this ban from its national net neutrality rules, even though it was applied effectively.

The lack of a clear ban on price discrimination has been a fundamental concern for the Netherlands throughout the negotiations. This fundamental concern is expressed by a vote against the Regulation.

Statement by Finland

Finland welcomes the agreement reached between the Council and the Parliament on the Telecom Single Market Regulation. The Regulation is a step to the right direction as it reduces roaming charges and thus contributes to the overall target of providing well-functioning, reliable and affordable mobile connections to all end-users. However, Finland finds it problematic that the final outcome of this Regulation and benefits achieved are highly dependent on the implementing acts to be prepared by the Commission and the forthcoming legislative proposal for wholesale price regulation.

For the reasons of legal certainty for economic actors and consumers it is very important to prepare following elements as soon as possible: 1) new wholesale price regulation significantly reducing the current level of wholesale charges, 2) implementing acts of the Telecom Single Market Regulation further defining the fair use policy and, 3) the mechanism for roaming providers to recover costs due to the abolitions of roaming charges. Implementation of these instruments in an appropriate manner has a significant impact on the functioning of the whole Telecoms Single Market Regulation.

For Finland, the issue of unlimited subscription packages is also of utmost importance. In Finland, unlimited subscription packages are widely used, prices are low and data usage is high by European standards. The implementing acts should therefore ensure the costs are to be covered in this type of subscriptions without raising domestic price level.

Moreover, Finland emphasizes that in order to avoid administrative burden and uncertainty encumbering consumers, the notification and assessment procedures regarding the coverage of the costs should be as clear and simple as possible.

Declaração da República Portuguesa, da República da Bulgária e da Croácia

A República Portuguesa, a República da Bulgária e a Croácia congratulam-se com a aprovação do regulamento, na medida em que o mesmo estabelece regras harmonizadas para uma Internet aberta e redução de custos dos serviços de itinerância para os utilizadores de redes de comunicações móveis.

O regime jurídico relativo à itinerância nas redes de comunicações móveis públicas da União será concluído mediante a aprovação de regras detalhadas, pela aprovação de atos de execução pela Comissão, relativos à implementação de políticas de utilização razoável e à metodologia de avaliação da sustentabilidade da abolição das sobretaxas de itinerância a nível retalhista sustentabilidade da eliminação das tarifas retalhistas de itinerância, bem como pela aprovação de nova proposta legislativa para para alterar as tarifas grossistas aplicáveis aos serviços regulados de itinerância ou prever outra solução para resolver os problemas identificados a nível grossista. Tais regras detalhadas deverão proteger utilizadores de eventuais aumentos dos preços domésticos derivados do facto de os operadores não poderem recuperar os custos associados à prestação de serviços de itinerância.

Neste contexto, a República Portuguesa, a República da Bulgária e a Croácia pretendem realçar a importância de que as regras a definir venham a garantir aos operadores a recuperação de todos os custos associados à prestação do serviço, incluindo os custos diretos, assim como os custos conjuntos e comuns, e uma taxa razoável de retorno do capital investido.

Por outro lado, a revisão dos preços grossistas deverá ter em conta o impacto da sazonalidade na estrutura de custos dos operadores ativos em áreas turísticas, bem como as situações em que existem significativos diferenciais de tráfego relacionados com as questões de sazonalidade ou decorrentes nomeadamente da existência de diferentes níveis de deslocação de utilizadores entre os vários Estados-Membros, situações que tenderão a acentuar-se devido ao esperado aumento da procura decorrente da eliminação das sobretaxas.