



EUROPEAN PARLIAMENT

2009 - 2014

---

*Committee on the Internal Market and Consumer Protection*

---

**2013/0309(COD)**

29.1.2014

## **OPINION**

of the Committee on the Internal Market and Consumer Protection

for the Committee on Industry, Research and Energy

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

Rapporteur: Malcolm Harbour

(\*) Associated committee – Rule 50 of the Rules of Procedure

PA\_Legam

## **SHORT JUSTIFICATION**

In September 2013, the European Commission presented a proposal for a Regulation on the Single Market for electronic communications to achieve a Connected Continent.

The IMCO Committee will contribute to the Parliament's work on this proposal through a legislative opinion with exclusive competence on issues relating to users' rights and consumer protection and shared competence with ITRE in aspects of "Open Internet Access". We will also take a view on consumer aspects of the proposed revisions to the Roaming Regulation, but our input will be formulated as amendments to this draft after the ITRE report is released. In the short time available, your rapporteur has not examined in detail all the other aspects of the proposed Regulation, but focused only on those areas where IMCO has a direct role. Committee members may, of course, table amendments to his report on all other aspects. He has also left amendments to Recitals aside at this stage, and will propose amended recitals as our collaborative work with ITRE progresses.

In preparing this draft report your rapporteur has taken into account broad stakeholder concerns, giving particular attention to the views of consumer organisations and telecom regulators. He shares the concern of many that, while the objectives and ambitions of the proposal are laudable, the proposed instrument is too fragmented and lacking in strategic direction to achieve the goal of a Single EU Electronic Communications market. His opinion has drawn on the IMCO Committees' extensive experience in the area of enhancing Consumer Rights, not just in the Electronic Communications sector, in making significant enhancements to the Commission proposal. He is confident that this approach will command wide support.

### **Securing the Open Internet**

An important element of the Commission draft are measures to secure "Net Neutrality", although this concept is not defined anywhere in the legal text. The IMCO Committee has extensive experience in this area, and the amendments it proposed in the 2009 revision of the Universal Services and Users' Rights Directive remain the key provisions for EU Regulators to intervene to protect consumers from discriminatory behaviour and unfair service blocking.

The new proposals enhance those provisions and provide a clearer framework for Regulators to intervene. While your Rapporteur would have been happy to incorporate these as revisions to the existing Directive, the ITRE Rapporteur has made a strong case for these to be applied as a Regulation for consistent application across the EU. Your Rapporteur has accepted this strategy and made a number of proposals to clarify and improve the text, which will be jointly developed between the two Committees.

### **The legal instrument for Users' Rights**

The Commission proposal replaces many central provisions of the Universal Services and Users' Rights Directive 2002/22/EC (subsequently amended by Directive 2009/136), by taking a number of the provisions and fully harmonising them in the form of a Regulation. It also centralises decisions on detailed implementing rules at the Commission level, removing direct accountability from National Regulatory Authorities. The Commission's justification for

proposing this is the uneven implementation of the rules across all Member States. It does not attempt to base this approach on benefits to the Single Electronic Communications Market. Your rapporteur considers this to be entirely the wrong approach.

Extracting arbitrary elements of the existing regulatory framework will be confusing, while imposing maximum harmonisation in these areas will be a detriment to consumer protection. The IMCO Committee overturned the Commissions' insistence on maximum harmonisation when it revised the Consumer Rights Directive in 2011 and in the fast moving world of electronic communications there is an even more persuasive argument that maximum harmonisation would be detrimental.

Moreover, the Commission is not tackling the real source of market fragmentation, which is the uneven performance of the Regulators in enforcing their existing obligations. Imposing a selection of new centralised regulatory requirements in countries where the Regulator is already underperforming on consumer enforcement is hardly a recipe for long term success! The Commission's proposal is also far too prescriptive in its content. It is the view of the rapporteur that dedicated national regulatory authorities are much better placed to enforce the rules, with support from BEREC. In this fast moving sector, they will be more aware of anticompetitive behaviour that urgently needs remedying.

While criticising the legal framework, your rapporteur recognises that the Commission proposal contains important improvements to Users Rights. He has therefore reformulated these into proposed amendments to the existing Directive, which could be easily and quickly transposed by all Member States.

Notably, your rapporteur has proposed that implementing rules be developed by BEREC, which is much better placed than the Commission to formulate detailed standards. He does not consider that Implementing Acts are an appropriate format for developing these measures.

## AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a regulation Recital 5

*Text proposed by the Commission*

(5) The benefits arising from a single market for electronic communications

PE522.939v02-00

*Amendment*

(5) The benefits arising from a single market for electronic communications

4/84

AD\1016355EN.doc

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.

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

## Amendment 2

### Proposal for a regulation Recital 8 a (new)

*Text proposed by the Commission*

*Amendment*

***(8a) The processing of personal data provided for in this Regulation should be subject to applicable Union law, in particular Directive 95/46/EC of the European Parliament and of the Council<sup>1a</sup> and Directive 2002/58/EC of the European Parliament and of the Council<sup>1b</sup>, and to national law.***

---

<sup>1a</sup> ***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).*

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

### Amendment 3

#### Proposal for a regulation Recital 18

##### *Text proposed by the Commission*

(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

##### *Amendment*

(18) *The 2009 EU Telecom reform establishes the principles for spectrum management. It recognizes Member States' competence with respect to cultural and audiovisual policies and generally leaves them the necessary scope for action.* Therefore, action at Union level regarding certain aspects of radio spectrum assignment should *continue to endorse a dynamic approach to spectrum management, which recognizes Member States' competence in this field and respects the cultural, audiovisual and media policies of each Member State. Sufficient flexibility is needed to accommodate specific national requirements and* Member States should retain the right to adopt measures to organise their radio spectrum for public order, public security purposes and defence. *In cases of disputes between Member States over radio spectrum use, the Commission may coordinate and support dispute settlement.*

adopt measures to organise their radio spectrum for public order, public security purposes and defence.

#### **Amendment 4**

##### **Proposal for a regulation**

##### **Recital 36**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

#### **Amendment 5**

##### **Proposal for a regulation**

##### **Recital 40**

*Text proposed by the Commission*

*Amendment*

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

**deleted**

*Justification*

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

## **Amendment 6**

### **Proposal for a regulation Recital 41**

*Text proposed by the Commission*

*Amendment*

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

**(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.

#### *Justification*

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

### **Amendment 7**

#### **Proposal for a regulation Recital 42**

##### *Text proposed by the Commission*

##### *Amendment*

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

***deleted***

#### *Justification*

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

### **Amendment 8**

#### **Proposal for a regulation Recital 47**

##### *Text proposed by the Commission*

##### *Amendment*

***(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet***

***(47) In an open internet, providers of electronic communications to the public should not block, slow down, degrade, discriminate or otherwise interfere with***

*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.***

*the transmission of internet traffic against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory **and they should not be maintained longer than what is strictly necessary.** Reasonable traffic management encompasses **preventing or minimising the effects of network congestion, provided that equivalent types of traffic are treated equally.***

## Amendment 9

### Proposal for a regulation Recital 48

#### *Text proposed by the Commission*

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

#### *Amendment*

(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow end-users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of electronic communications to the public to better adapt network capacities to expected data volumes. It is essential that end-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, **and** that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired. ***The contractual data volumes and speeds offered should not be affected by any additional specialised service agreements concluded by the end-user, having regard to the provisions of***

***Article 23 of this Regulation on Open Internet Access, which provide that any offers of specialised services must be in addition to internet access services, where applicable and not to the material detriment of their availability and quality.***

## **Amendment 10**

### **Proposal for a regulation Recital 50**

#### *Text proposed by the Commission*

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on ***flexible*** quality parameters, including lower levels of priority for traffic which is not time-sensitive. The possibility for content, applications and service providers to negotiate such ***flexible*** quality of service levels with providers of electronic communications to the public is necessary for the provision of specialised services and is expected to play an important role in the development of new services such as machine-to-machine (M2M) communications. At the same time such arrangements should allow providers of electronic communications to the public to better balance traffic and prevent network congestion. Providers of content, applications and services and providers of electronic communications to the public should therefore be free to conclude specialised services agreements on defined levels of quality of service as long as such agreements do not ***substantially*** impair the general quality of internet access services.

#### *Amendment*

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on quality parameters, including lower levels of priority for traffic which is not time-sensitive. The possibility for content, applications and service providers to negotiate such ***special*** quality of service levels with providers of electronic communications to the public is necessary for the provision of specialised services and is expected to play an important role in the development of new services such as machine-to-machine (M2M) communications. At the same time such arrangements should allow providers of electronic communications to the public to better balance traffic and prevent network congestion. Providers of content, applications and services and providers of electronic communications to the public should therefore be free to conclude specialised services agreements on defined levels of quality of service as long as such agreements do not impair the general quality of ***open*** internet access services.

## Amendment 11

### Proposal for a regulation Recital 51

#### *Text proposed by the Commission*

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

## Amendment 12

### Proposal for a regulation Recital 52

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 13

### Proposal for a regulation Recital 53

*Text proposed by the Commission*

***(53) End-users should be adequately informed of the price and the type of service offered before they purchase a service. This information should also be provided immediately prior to connection of the call when a call to a specific number or service is subject to particular pricing conditions, such as calls to premium rate services which are often subject to a special rate. Where such an obligation is disproportionate in view of the duration and cost of the tariff***

*Amendment*

***deleted***

*information for the service provider compared to the average call duration and the cost risk to which the end-user is exposed, national regulatory authorities may grant a derogation. End-users should also be informed if a free-phone number is subject to additional charges.*

## Amendment 14

### Proposal for a regulation Recital 54

#### *Text proposed by the Commission*

(54) Providers of electronic communications to the public should inform end-users adequately inter alia on their services and tariffs, quality of service parameters, access to emergency services and any limitation, and the choice of services and products designed for disabled consumers. This information should be provided in a clear and transparent manner and be specific to the Member States where 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 15

### Proposal for a regulation Recital 56

(56) Contracts are an important means of giving end-users a high level of transparency of information and legal certainty. Providers of electronic communications to the public should give end-users clear and comprehensible information on all essential elements of the contract before the end-user is bound by the contract. The information should be mandatory and not be altered except by subsequent agreement of the end-user and the provider. The Commission and several national regulatory authorities recently found considerable discrepancies between the advertised speed of internet access services and the speed actually available to end-users. Providers of electronic communications to the public should therefore inform end-users, prior to the conclusion of the contract, of the speed and other quality of service parameters which they can realistically deliver at the end-user's main location.

(56) Contracts are an important means of giving end-users a high level of transparency of information and legal certainty. Providers of electronic communications to the public should give end-users clear and comprehensible information on all essential elements of the contract before the end-user is bound by the contract. The information should be mandatory and not be altered except by subsequent agreement of the end-user and the provider. The Commission and several national regulatory authorities recently found considerable discrepancies between the advertised speed of internet access services and the speed actually available to end-users. Providers of electronic communications to the public should therefore inform end-users, prior to the conclusion of the contract, of the speed and other quality of service parameters which they can realistically deliver at the end-user's main location. ***For fixed and mobile data links, normally available speed is the speed of a communications service that a consumer could expect to receive most of the time when accessing the service, regardless of the time of day. Normally available speed should be derived from estimated speed ranges, speed averages, peak-hour speed and minimal speed. The methodology should be established in BEREC guidelines and regularly reviewed and updated to reflect technology and infrastructure evolution. Member States should ensure that providers enable end-users to have access to comparable information on the coverage of the mobile networks, including different technologies in their Member State, prior to the conclusion of the contract, to enable those end-users to make informed purchasing decisions.***

## Amendment 16

### Proposal for a regulation Recital 57

#### *Text proposed by the Commission*

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

#### *Amendment*

(57) With respect to terminal equipment, contracts should specify any restrictions imposed by the provider on the use of the equipment, for example by way of ‘SIM-locking’ mobile devices, and any charges due on termination of the contract prior to the agreed expiry date. No charges should be due after expiry of the agreed contract duration. ***Contracts should also specify the types of after-sales services, maintenance services and customer support services provided. Whenever possible, that information should also include technical information, provided on demand, concerning the proper functioning of the end-user's chosen terminal equipment. Provided that no technical incompatibility has been identified, that information should be provided free of charge.***

## Amendment 17

### Proposal for a regulation Recital 58

#### *Text proposed by the Commission*

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

#### *Amendment*

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



*provision as agreed with the provider.*

## Amendment 18

### Proposal for a regulation Recital 59

*Text proposed by the Commission*

*Amendment*

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

***deleted***

## Amendment 19

### Proposal for a regulation Recital 63

*Text proposed by the Commission*

*Amendment*

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

***(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***

*Automated processes should be used as widely as possible and a high level of protection of personal data should **be ensured**. Availability of transparent, accurate and timely information on switching should increase the end-users' confidence in switching and make them more willing to engage actively in the competitive process.*

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

## Amendment 20

### Proposal for a regulation Recital 64

*Text proposed by the Commission*

*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 21

### Proposal for a regulation Recital 65

*Text proposed by the Commission*

*Amendment*

*(65) End-users need to experience continuity when changing important identifiers such as email addresses. To this end, and to ensure that email*

*deleted*

*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.*

## **Amendment 22**

### **Proposal for a regulation Recital 68**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

## **Amendment 23**

### **Proposal for a regulation Recital 71**

*Text proposed by the Commission*

*Amendment*

(71) In order to ensure consistency between the objective and the measures needed to complete the single market for electronic communications pursuant to this Regulation and some specific existing

(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.

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

## **Amendment 24**

### **Proposal for a regulation Recital 76**

*Text proposed by the Commission*

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

*Amendment*

***(76) In order to provide clarity and legal certainty, a date should be set for the final phasing out of retail roaming surcharges which reduction began with Regulation (EC) No 717/2007. In advance of that final abolition of retail surcharges, the wholesale rates should be further decreased and mobile termination rates should be harmonised, throughout the Union, in order to allow for a genuine level playing field for telecom operators.***

### *Justification*

*In a number of Member States average domestic price is below EUR 0,05. Keeping wholesale price for voice roaming at current level - EUR 0,05 after 1/07/2016, when operators will be obliged to charge roaming customers identically as domestic ones, would create serious distortions on the market. As mobile operators will compete from 2016 on a European market, mobile termination rates should be harmonised in order to level playing field for all companies.*

### **Amendment 25**

#### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point b**

##### *Text proposed by the Commission*

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

##### *Amendment*

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

### **Amendment 26**

#### **Proposal for a regulation**

#### **Article 1 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

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

##### *Amendment*

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

## Amendment 27

### Proposal for a regulation

#### Article 1 – paragraph 2 – point c

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 28

### Proposal for a regulation

#### Article 1 – paragraph 3 – point e

*Text proposed by the Commission*

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

*Amendment*

***deleted***

*Justification*

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

## Amendment 29

### Proposal for a regulation

#### Article 1 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

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

## Amendment 30

### Proposal for a regulation

#### Article 2 – paragraph 2 – point 12

*Text proposed by the Commission*

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

*Amendment*

***deleted***

## Amendment 31

### Proposal for a regulation

#### Article 2 – paragraph 2 – point 14

*Text proposed by the Commission*

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

*Amendment*

**(14) ‘internet access service’ means a publicly available electronic communications service that provides connectivity to the internet, and between virtually all end points connected to the internet, irrespective of the network *technologies or terminal equipment* used;**

## Amendment 32

### Proposal for a regulation

## Article 2 – paragraph 2 – point 15

*Text proposed by the Commission*

(15) ‘specialised service’ means an electronic communications service ***or any other service that provides the capability to access*** specific content, applications or services, or a combination thereof, ***and whose technical characteristics are controlled from end-to-end or provides the capability to send or receive data to or from a determined number of parties or endpoints;*** and that is not marketed or ***widely*** used as a substitute for internet access ***service***;

*Amendment*

(15) ‘specialised service’ means an electronic communications service, ***optimised for*** specific content, applications or services, or a combination thereof, ***by deploying traffic management to ensure the appropriate level of network capacity and quality, provided over logically distinct capacity and relying on strict admission control, with a view to securing enhanced quality characteristics which are controlled from end-to-end*** and that is not marketed or used as a substitute for internet access ***services***;

## Amendment 33

### Proposal for a regulation Article 3 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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.

## Amendment 34

### Proposal for a regulation Article 17 – paragraph 1 – point f

*Text proposed by the Commission*

(f) respect of the rules on protection of

*Amendment*

(f) respect of the rules on protection of



privacy, personal data, security and integrity of networks and transparency in conformity with Union law.

privacy, personal data, *the principle of 'Data Protection by Design'*, security and integrity of networks and transparency in conformity with Union law.

## Amendment 35

### Proposal for a regulation Article 19

*Text proposed by the Commission*

*Amendment*

#### *Article 19*

*deleted*

#### *Assured service quality (ASQ) connectivity product*

*(1) Any operator shall have the right to provide a European ASQ connectivity product as specified in paragraph 4.*

*(2) Any operator shall meet any reasonable request to provide a European ASQ connectivity product as specified in paragraph 4 submitted in writing by an authorised provider of electronic communications services. Any refusal to provide a European ASQ product shall be based on objective criteria. The operator shall state the reasons for any refusal within one month from the written request.*

*It shall be deemed to be an objective ground of refusal that the party requesting the supply of a European ASQ connectivity product is unable or unwilling to make available, whether within the Union or in third countries, a European ASQ connectivity product to the requested party on reasonable terms, if the latter so requests.*

*(3) Where the request is refused or agreement on specific terms and conditions, including price, has not been reached within two months from the written request, either party is entitled to refer the issue to the relevant national*

*regulatory authority pursuant to Article 20 of Directive 2002/21/EC. In such a case, Article 3(6) of this Regulation may apply.*

*(4) The provision of a connectivity product shall be considered as the provision of a European ASQ connectivity product if it is supplied in accordance with the minimum parameters listed in Annex II and cumulatively meets the following substantive requirements:*

*(a) ability to be offered as a high quality product anywhere in the Union;*

*(b) enabling service providers to meet the needs of their end-users;*

*(c) cost-effectiveness, taking into account existing solutions that may be provided on the same networks;*

*(d) operational effectiveness, in particular in respect of limiting to the extent possible implementation obstacles and deployment costs for customers;*

*(f) and (e) ensuring that the rules on protection of privacy, personal data, security and integrity of networks and transparency in accordance with Union law are respected.*

*(5) The Commission shall be empowered to adopt delegated acts in accordance with Article 32 in order to adapt Annex II in light of market and technological developments, so as to continue to meet the substantive requirements listed in paragraph 4.*

## **Amendment 36**

### **Proposal for a regulation Chapter IV – Title**

*Text proposed by the Commission*

***Harmonised rights of end-users***

*Amendment*

***Users' rights to open internet access***

## **Amendment 37**

### **Proposal for a regulation Article 21 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

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

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

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

*Justification*

*As regards the fixed communications market, regulatory intervention is unjustified as there is no clear evidence of its usefulness. As regards mobile communication, this should be dealt with through the overall approach to Roaming as defined in the Roaming III Regulation.*

## **Amendment 38**

### **Proposal for a regulation Article 22**

*Text proposed by the Commission*

*Amendment*

**Article 22**

*deleted*

**Cross-border dispute resolution**

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

*of electronic communications to the public which are established in another Member State. For disputes within the scope of Directive 2013/11/EU<sup>33</sup>, the provisions of that Directive shall apply.*

---

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

#### *Justification*

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

#### **Amendment 39**

##### **Proposal for a regulation Article 23 – title**

*Text proposed by the Commission*

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

*Amendment*

Open internet access, *specialised services, and proportionate technical* traffic management

#### **Amendment 40**

##### **Proposal for a regulation Article 23 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

*End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.*

*Internet access service providers shall not restrict or prevent the use by end-users of any terminal equipment to access and distribute information and content via their internet access service. This is in accordance with Directive of the European Parliament and of the Council 2014/.../EU<sup>1a\*</sup> and without prejudice to the rights of Member States to grant individual rights of use under Article 5 of Directive 2002/20/EC.*

---

<sup>1a</sup> *Directive 2014/.../EU of the European Parliament and of the Council of ... on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L ..., .... p. ...).*

*\* OJ: please insert number of the Directive (COD 2011/0283) and the number, date of adoption and publication reference of the Directive in footnote 33a.*

#### **Amendment 41**

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

*Text proposed by the Commission*

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

***In order to enable the provision of specialised services to end-users, providers of content, applications and services and providers of electronic communications to the public shall be free to enter into agreements with each other to transmit the related data volumes or traffic as***

*Amendment*

2. End-users shall also be free to **enjoy specialised services delivered by** providers of electronic communications services or providers of content, applications and services.

***Providers of electronic communication services or*** providers of content, applications and services shall be **allowed to offer** specialised services, **provided that such offers are in addition to internet access services and are not to the material detriment of their availability or** quality.

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.*

*For competent authorities to be able to assess such potential detriment, providers of electronic communication services or providers of content, applications and services shall transmit to them, upon request, precise information regarding the capacities assigned to the two types of services referred to in the second subparagraph, the criteria based on which network capacity is shared and, where appropriate, justifications about the measures put in place to prevent impairment of internet access services by the specialised services.*

#### **Amendment 42**

##### **Proposal for a regulation Article 23 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

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

#### **Amendment 43**

##### **Proposal for a regulation Article 23 – paragraph 5**

**5. Within the limits of any contractually agreed data volumes or speeds for internet access services, providers** of internet access services shall not restrict the freedoms provided for in paragraph 1 by **blocking, slowing down, degrading or** discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. **Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:**

- 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

**5. Providers** of internet access services shall not restrict the freedoms provided for in paragraph 1 by discriminating against, **restricting, or otherwise interfering with the transmission of** specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures **to prevent or minimise the effects of network congestion, provided that equivalent types of traffic are treated equally, or to implement a court order.**

**Such measures shall be set by transparent procedures and they shall not be maintained longer than what is strictly necessary and provide adequate safeguards, in particular to ensure that any restrictions are limited to what is necessary, they are non-discriminatory and proportionate.**

**Those safeguards shall include the possibility of judicial redress.**

Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes

set out in this *paragraph*.

set out in this *Article*.

#### Amendment 44

##### Proposal for a regulation Article 24 – paragraph 1

###### *Text proposed by the Commission*

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

###### *Amendment*

1. National regulatory authorities, ***in cooperation with national data protection authorities and other competent authorities, where appropriate,*** shall ***have the power and obligation to*** monitor, in compliance with Article 23(5), ***the application of reasonable traffic management measures*** and, ***through the*** availability of ***affordable*** non-discriminatory internet access services, ***ensure the ability of end-users to benefit from the freedoms provided for in Article 23(1) and (2). They shall take the utmost account of the BEREC guidelines referred to in the fourth subparagraph of paragraph 2 of this Article and in Article 21(3a) of Directive 2002/22/EC. The criteria for defining reasonable traffic management measures shall be subject to periodic review.*** National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring, findings ***and measures taken. Those reports shall be made public.***

#### Amendment 45

##### Proposal for a regulation Article 24 – paragraph 2

###### *Text proposed by the Commission*

2. In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run

###### *Amendment*

2. In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run



applications and services of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements on providers of electronic communications to the public.

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

applications, services ***and software*** of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements, ***and where appropriate, other quality of service parameters, as defined by the national regulatory authorities*** on providers of electronic communications to the public.

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

***National regulatory authorities shall put in place appropriate complaint procedures for issues concerning the performance of internet access service provided for end-users and providers of content, applications and services.***

***By ... \* BEREC, after consulting stakeholders and in close cooperation with the Commission, shall lay down general guidelines defining uniform conditions for the implementation of the***

*obligations of national regulatory authorities under this Article, including in particular the application of reasonable traffic management measures.*

---

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

## **Amendment 46**

### **Proposal for a regulation Article 24 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

*Justification*

*The rapporteur is not in favour of dealing with these conditions through implementing acts. He proposes instead to delegate this task to BEREC, see amendment to Article 24(2).*

## **Amendment 47**

### **Proposal for a regulation Article 25**

*Text proposed by the Commission*

*Amendment*

*Article 25*

*deleted*

*Transparency and publication of information*

*1. Providers of electronic communications to the public shall, save for offers which are individually negotiated, publish transparent, comparable, adequate and up-to-date information on:*

- a) their name, address and contact information;*
- b) for each tariff plan the services offered and the relevant quality of service parameters, the applicable prices (for consumers including taxes) and any applicable charges (access, usage, maintenance and any additional charges), as well as costs with respect to terminal equipment;*
- c) applicable tariffs regarding any number or service subject to particular pricing conditions;*
- d) the quality of their services, in accordance with implementing acts provided for in paragraph 2;*
- e) internet access services, where offered, specifying the following:*
- (i) actually available data speed for download and upload in the end-user's Member State of residence, including at peak-hours;*
- (ii) the level of applicable data volume limitations, if any; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and the means for end-users to monitor at any moment the current level of their consumption;*
- (iii) a clear and comprehensible explanation as to how any data volume limitation, the actually available speed and other quality parameters, and the simultaneous use of specialised services with an enhanced quality of service, may practically impact the use of content, applications and services;*
- (iv) information on any procedures put in place by the provider to measure and shape traffic so as to avoid congestion of a network, and on how those procedures could affect service quality and the*

*protection of personal data;*

*f) measures taken to ensure equivalence in access for disabled end-users, including regularly updated information on details of products and services designed for them;*

*g) their standard contract terms and conditions, including any minimum contractual period, the conditions for and any charges due on early termination of a contract, the procedures and direct charges related to switching and portability of numbers and other identifiers, and compensation arrangements for delay or abuse of switching;*

*h) access to emergency services and caller location information for all services offered, any limitations on the provision of emergency services under Article 26 of Directive 2002/22/EC, and any changes thereto;*

*i) rights as regards universal service, including, where appropriate, the facilities and services mentioned in Annex I to Directive 2002/22/EC.*

*The information shall be published in a clear, comprehensive and easily accessible form in the official language(s) of the Member State where the service is offered, and be updated regularly. The information shall, on request, be supplied to the relevant national regulatory authorities in advance of its publication. Any differentiation in the conditions applied to consumers and other end-users shall be made explicit.*

*2. The Commission may adopt implementing acts specifying the methods for measuring the speed of internet access services, the quality of service parameters and the methods for measuring them, and the content, form and manner of the information to be published, including possible quality certification mechanisms.*

*The Commission may take into account the parameters, definitions and measurement methods set out in Annex III of the Directive 2002/22/EC. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).*

*3. End-users shall have access to independent evaluation tools allowing them to compare the performance of electronic communications network access and services and the cost of alternative usage patterns. To this end Member States shall establish a voluntary certification scheme for interactive websites, guides or similar tools. Certification shall be granted on the basis of objective, transparent and proportionate requirements, in particular independence from any provider of electronic communications to the public, the use of plain language, the provision of complete and up-to-date information, and the operation of an effective complaints handling procedure. Where certified comparison facilities are not available on the market free of charge or at a reasonable price, national regulatory authorities or other competent national authorities shall make such facilities available themselves or through third parties in compliance with the certification requirements. The information published by providers of electronic communications to the public shall be accessible, free of charge, for the purposes of making available comparison facilities.*

*4. Upon request of the relevant public authorities, providers of electronic communications to the public shall distribute public interest information free of charge to end-users, where appropriate, by the same means as those ordinarily used by them in their communications with end-users. In such a case, that information shall be provided by the*

*relevant public authorities to the providers of electronic communications to the public in a standardised format and may, inter alia, cover the following topics:*

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

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

#### *Justification*

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

### **Amendment 48**

#### **Proposal for a regulation Article 26**

*Text proposed by the Commission*

*Amendment*

#### *Article 26*

*deleted*

#### *Information requirements for contracts*

*1. Before a contract on the provision of connection to a public electronic communications network or publicly available electronic communications services becomes binding providers of electronic communications to the public shall provide consumers, and other end-users unless they have explicitly agreed otherwise, at least the following information:*

*(a) the identity, address and contact information of the provider and, if*

*different, the address and contact information for any complaints;*

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

*(i) for each tariff plan the types of services offered, the included volumes of communications and all relevant quality of service parameters, including the time for the initial connection;*

*(ii) whether and in which Member States access to emergency services and caller location information is being provided and any limitations on the provision of emergency services in accordance with Article 26 of Directive 2002/22/EC;*

*(iii) the types of after-sales services, maintenance services and customer support services provided, the conditions and charges for these services, and the means of contacting these services;*

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

*(c) details of prices and tariffs (for consumers including taxes and possibly due additional charges) and the means by which up-to-date information on all applicable tariffs and charges are made available;*

*(d) payment methods offered and any cost differences due to the payment method, and available facilities to safeguard bill transparency and monitor the level of consumption ;*

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

*(i) any minimum usage or duration required to benefit from promotional*

*terms;*

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

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

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

*(g) where an obligation exists in accordance with Article 25 of Directive 2002/22/EC, the end-users' options as to whether or not to include their personal data in a directory, and the data concerned;*

*(h) for disabled end-users, details of products and services designed for them;*

*(i) the means of initiating procedures for the settlement of disputes, including cross-border disputes, in accordance with Article 34 of Directive 2002/22/EC and Article 22 of this Regulation;*

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

*2. In addition to paragraph 1, providers of electronic communications to the public shall provide end-users, unless otherwise agreed by an end-user who is not a consumer, at least the following information with respect to their internet access services:*

*(a) the level of applicable data volume limitations, if any; the prices for*



*increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and how end-users can at any moment monitor the current level of their consumption;*

*(b) the actually available data speed for download and upload at the main location of the end-user, including actual speed ranges, speed averages and peak-hour speed, including the potential impact of allowing access to third parties through a radio local area network ;*

*(c) other quality of service parameters;;*

*(d) information on any procedures put in place by the provider to measure and shape traffic so as to avoid congestion of a network, and information on how those procedures could impact on service quality and protection of personal data;*

*(e) a clear and comprehensible explanation as to how any volume limitation, the actually available speed and other quality of service parameters, and the simultaneous use of specialised services with an enhanced quality of service, may practically impact the use of content, applications and services.*

*3. The information referred to in paragraphs 1 and 2 shall be provided in a clear, comprehensive and easily accessible manner and in an official language of the end-user's Member State of residence, and shall be updated regularly. It shall form an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise. The end-user shall receive a copy of the contract in writing.*

*4. The Commission may adopt implementing acts specifying the details of the information requirements listed in paragraph 2. Those implementing acts shall be adopted in accordance with the*

*examination procedure referred to in Article 33(2).*

***5. The contract shall also include, upon request by the relevant public authorities, any information provided by these authorities for this purpose on the use of electronic communications networks and services to engage in unlawful activities or to disseminate harmful content, and on the means of protection against risks to personal security and unlawful processing of personal data, referred to in Article 25(4) and relevant to the service provided.***

#### *Justification*

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

#### **Amendment 49**

##### **Proposal for a regulation Article 27**

*Text proposed by the Commission*

*Amendment*

##### **Article 27**

***deleted***

##### ***Control of consumption***

***1. Providers of electronic communications to the public shall offer end-users the opportunity to opt, free of charge, for a facility which provides information on the accumulated consumption of different electronic communications services expressed in the currency in which the end-user is billed. Such a facility shall guarantee that, without the end-user's consent, the accumulated expenditure over a specified period of use does not exceed a specified financial limit set by the end-user.***

***2. Providers of electronic communications to the public shall ensure that an appropriate notification is sent to the end-***

*user when the consumption of services has reached 80% of the financial limit set in accordance with paragraph 1. The notification shall indicate the procedure to be followed to continue the provision of those services, including their cost. The provider shall cease to provide the specified services and to charge the end-user for it if the financial limit would otherwise be exceeded, unless and until the end-user requests the continued or renewed provision of those services. After having reached the financial limit end-users shall continue to be able to receive calls and SMS messages and access free-phone numbers and emergency services by dialling the European emergency number 112 free of charge until the end of the agreed billing period.*

*3. Providers of electronic communications to the public shall, immediately prior to connecting the call, enable end-users to access easily and without incurring any costs information on applicable tariffs regarding any number or service subject to particular pricing conditions unless the national regulatory authority has granted a prior derogation for reasons of proportionality. Any such information shall be provided in a comparable fashion for all such numbers or services.*

*4. Providers of electronic communications to the public shall offer end-users the opportunity to opt, free of charge for receiving itemised bills.*

#### *Justification*

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

#### **Amendment 50**

#### **Proposal for a regulation**

## Article 28

*Text proposed by the Commission*

*Amendment*

### *Article 28*

*deleted*

#### *Contract termination*

- 1. Contracts concluded between consumers and providers of electronic communications to the public shall not provide for a minimum duration that exceeds 24 months. Providers of electronic communications to the public shall offer end-users the possibility to conclude a contract with a maximum duration of 12 months.*
- 2. Consumers, and other end-users unless they have otherwise agreed, shall have the right to terminate a contract with a one-month notice period, where six months or more have elapsed since conclusion of the contract. No compensation shall be due other than for the residual value of subsidised equipment bundled with the contract at the moment of the contract conclusion and a pro rata temporis reimbursement for any other promotional advantages marked as such at the moment of the contract conclusion. Any restriction on the usage of terminal equipment on other networks shall be lifted, free of charge, by the provider at the latest upon payment of such compensation.*
- 3. Where the contracts or national law provide for contract periods to be extended tacitly, the provider of electronic communications to the public shall inform the end-user in due time so that the end-user has at least one month to oppose a tacit extension. If the end-user does not oppose, the contract shall be deemed to be a permanent contract which can be terminated by the end-user at any time with a one-month notice period and without incurring any costs.*
- 4. End-users shall have the right to*

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

*5. Any significant and non-temporary discrepancy between the actual performance regarding speed or other quality parameters and the performance indicated by the provider of electronic communications to the public in accordance with Article 26 shall be considered as non-conformity of performance for the purpose of determining the end-user's remedies in accordance with national law.*

*6. A subscription to additional services provided by the same provider of electronic communications to the public shall not re-start the initial contract period unless the price of the additional service(s) significantly exceeds that of the initial services or the additional services are offered at a special promotional price linked to the renewal of the existing contract.*

*7. Providers of electronic communications to the public shall apply conditions and procedures for contract termination which do not raise obstacles to or disincentives against changing service provider.*

#### *Justification*

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

*amendments to Article 36 for details.*

## **Amendment 51**

### **Proposal for a regulation Article 29**

*Text proposed by the Commission*

*Amendment*

#### **Article 29**

***deleted***

#### ***Bundled offers***

***If a bundle of services offered to consumers comprises at least a connection to an electronic communications network or one electronic communications service, Articles 28 and 30 of this Regulation shall apply to all elements of the bundle.***

#### *Justification*

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

## **Amendment 52**

### **Proposal for a regulation Article 30**

*Text proposed by the Commission*

*Amendment*

#### **Article 30**

***deleted***

#### ***Switching and portability of numbers***

***1. All end-users with numbers from a national telephone numbering plan who so request shall have the right to retain their number(s) independently of the provider of electronic communications to the public providing the service in accordance with Part C of Annex I to***

*Directive 2002/22/EC, provided the provider is an electronic communications provider in the Member State to which the national numbering plan relates or is a European electronic communications provider which has notified to the competent regulatory authority of the home Member State the fact that it provides or intends to provide such services in the Member State to which the national numbering plan relates.*

*2. Pricing between providers of electronic communications to the public related to the provision of number portability shall be cost-oriented, and direct charges to end-users, if any, shall not act as a disincentive for end-users against changing provider.*

*3. Porting of numbers and their activation shall be carried out within the shortest possible time. For end-users who have concluded an agreement to port a number to a new provider that number shall be activated within one working day from the conclusion of such agreement. Loss of service during the process of porting, if any, shall not exceed one working day.*

*4. The receiving provider of electronic communications to the public shall lead the switching and porting process. End-users shall receive adequate information on switching before and during the switching process, and also immediately after it is concluded. End-users shall not be switched to another provider against their will.*

*5. The end-users' contracts with transferring providers of electronic communications to the public shall be terminated automatically after conclusion of the switch. Transferring providers of electronic communications to the public shall refund any remaining credit to the consumers using pre-paid services.*

*6. Providers of electronic communications to the public which delay or abuse*

*switching, including by not making available information necessary for porting in a timely manner, shall be obliged to compensate end-users who are exposed to such delay or abuse.*

*7. In the event that an end-user switching to a new provider of internet access services has an email address provided by the transferring provider, the latter shall, upon request by the end-user, forward to any email address indicated by the end-user, free of charge, all email communications addressed to the end-user's previous email address for a period of 12 months. This email forwarding service shall include an automatic response message to all email senders alerting them about the end-user's new email address. The end-user shall have the option of requesting that the new email address should not be disclosed in the automatic response message.*

*Following the initial 12-month period, the transferring provider of electronic communications to the public shall give the end-user an option to extend the period for email forwarding, at a charge if required. The transferring provider of electronic communications to the public shall not allocate the end-users' initial email address to another end-user before a period of two years following contract termination, and in any case during the period for which the email forwarding has been extended.*

*8. The competent national authorities may establish the global processes of switching and porting, including provision of appropriate sanctions on providers and compensations for end-users. They shall take into account necessary end-user protection throughout the switching process and the need to ensure efficiency of such process.*



### *Justification*

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

### **Amendment 53**

#### **Proposal for a regulation**

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

Directive 2002/22/EC

Article 2 – point f a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) In the second subparagraph of Article 2, the following point is inserted:***

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

### *Justification*

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

### **Amendment 54**

#### **Proposal for a regulation**

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

Directive 2002/22/EC

Article 20 – title

*Present text*

*Amendment*

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

***‘Contracts’***

***‘Information requirements for contracts’;***

### **Amendment 55**

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

Directive 2002/22/EC  
Article 20 – paragraph –1 a (new)

*Text proposed by the Commission*

*Amendment*

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

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

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

---

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

**Amendment 56**  
**Proposal for a regulation**  
**Article 36 – paragraph 1 – point 1 d (new)**  
Directive 2002/22/EC  
Article 20 – paragraph 1

*Present text*

*Amendment*

***(1d) Article 20(1) is replaced by the***

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

(a) the identity and address of the undertaking;

(b) the services provided, including in particular,

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

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

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

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

***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,

(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,

*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*;

(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

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

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

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

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

*(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

respect to terminal equipment,

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

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

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

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

#### **Amendment 57**

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

Directive 2002/22/EC

Article 20 – paragraph 1 a (new)

*Text proposed by the Commission*

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.'

*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) .../...<sup>\*</sup>;*

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

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

*and services.*

---

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

## **Amendment 58**

### **Proposal for a regulation**

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

Directive 2002/22/EC

Article 20 – paragraph 2

*Present text*

*Amendment*

*(1f) Article 20 (2) is deleted*

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

*Justification*

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

## **Amendment 59**

### **Proposal for a regulation**

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

Directive 2002/22/EC

Article 20 – paragraph 2 a (new)

*Present text*

*Amendment*

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

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

## **Amendment 60**

### **Proposal for a regulation**

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

Directive 2002/22/EC

Article 20 – paragraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

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

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

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

## **Amendment 61**

### **Proposal for a regulation**

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

Directive 2002/22/EC

Article 20 a (new)



***(1i) The following Article is inserted:***

***‘Article 20a***

***Contract duration and termination***

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

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

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

***4. Member States shall ensure that consumers have the right to terminate their contract without incurring any costs upon receiving notice of changes in the contractual conditions proposed by the provider of electronic communications to the public unless the proposed changes are exclusively to the benefit of the end-user. Providers shall give consumers adequate notice, not less than one month,***

*of any such change, and shall inform them at the same time of their right to terminate their contract without incurring any costs if they do not accept the new contractual conditions. Paragraph 2 shall apply mutatis mutandis.*

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

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

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

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

*9. Member States may maintain or introduce additional requirements to ensure a higher level of consumer protection in relation to contracts to*

*which this Article applies.’;*

## Amendment 62

### Proposal for a regulation

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

Directive 2002/22/EC

Article 21

#### *Present text*

##### ‘Article 21

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

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

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

***authorities, in advance of its publication.***

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

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

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

(a) provide ***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) 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;*

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*

(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.

*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 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**

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.’

*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 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 63**  
**Proposal for a regulation**  
**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 64**

**Proposal for a regulation**



## Article 36 – paragraph 1 – point 2

*Text proposed by the Commission*

*Amendment*

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

(2) *Article 22 is deleted.*

*Justification*

*Deletion necessary to maintain / amend the concerned articles.*

## Amendment 65

### Proposal for a regulation

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

Directive 2002/22EC

Article 26

*Present text*

*Amendment*

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

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

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

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

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

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

plan provide access to emergency services.

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

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

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

plan provide access to emergency services.

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

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

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

5. Member States shall ensure that undertakings concerned make caller location information available free of charge to the authority handling emergency calls as soon as the call reaches that authority. This shall apply to all calls to the single European emergency call number "112". Member States may extend this

obligation to cover calls to national emergency numbers. Competent regulatory authorities shall lay down criteria for the accuracy and reliability of the location information provided.

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

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

obligation to cover calls to national emergency numbers. ***The Commission shall ensure that*** competent regulatory authorities shall lay down criteria for the accuracy and reliability of the location information provided ***in accordance with paragraph 7 and taking utmost account of the BEREC guidelines.***

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

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

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

***7a. The Commission shall maintain a database of E.164 numbers of European emergency services to ensure that they are***

*able to contact each other from one Member State to another.’;*

**Amendment 66**  
**Proposal for a regulation**  
**Article 36 – paragraph 1 – point 2 b (new)**  
Directive 2002/22/EC  
Article 26 a (new)

*Text proposed by the Commission*

*Amendment*

***(2b) The following Article is inserted:***

***‘Article 26 a***

***Reverse EU “112” communication system***

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

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

**Amendment 67**  
**Proposal for a regulation**  
**Article 36 – paragraph 1 – point 2 c (new)**

*Present text*

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

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

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

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

Without prejudice to the first subparagraph, competent national authorities may establish the global process of porting of numbers, **taking into account national provisions on contracts, technical feasibility** and the need to maintain continuity of service to the **subscriber**. In any event, loss of service during the process of porting shall not exceed one working day. **Competent national authorities shall also take into**

*Amendment*

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

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

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

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

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

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

*account, where necessary, measures ensuring that subscribers are protected throughout the switching process and are not switched to another provider against their will.*

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

**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**

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

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

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

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

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

*ensure that undertakings offer users the possibility to subscribe to a contract with a maximum duration of 12 months.*

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

## **Amendment 68**

### **Proposal for a regulation**

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

Directive 2002/22/EC

#### **Article 34 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

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

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

---

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

**Amendment 69**  
**Proposal for a regulation**  
**Article 36 – paragraph 1 – point 2 e (new)**  
Directive 2002/22/EC  
Article 37a (new)

*Text proposed by the Commission*

*Amendment*

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

***‘Article 37a***

***Exercise of the delegation***

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

---

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

**Amendment 70**  
**Proposal for a regulation**



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

*Present text*

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

*Amendment*

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

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

**Amendment 71**

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

*Present text*

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

*Amendment*

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

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

**Amendment 72**

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

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

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

#### **Amendment 73**

##### **Proposal for a regulation**

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

Directive 2002/22/EC

Annex II – point 2.5

##### *Present text*

‘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 74**

##### **Proposal for a regulation**

##### **Article 37 – point 4**

Regulation 531/2012

Article 4 a – paragraph 3

**3. Individual end-users served by a roaming provider availing of this Article may, upon their own request, make a deliberate and explicit choice to renounce the benefit of the application to regulated roaming services of the applicable domestic service rate under a given retail package in return for other advantages offered by that provider. The roaming provider shall remind those end users of the nature of the roaming advantages which would thereby be lost. National regulatory authorities shall monitor in particular whether roaming providers availing of this Article engage in business practices which would amount to circumvention of the default regime.**

**deleted**

**Amendment 75**

**Proposal for a regulation**

**Article 37 – point 4 a (new)**

Regulation (EU) No 531/2012

Article 7 – paragraphs 1 and 2

*Present text*

*Amendment*

‘1. The average wholesale charge that the visited network operator may levy on the customer's roaming provider for the provision of a regulated roaming call originating on that visited network, inclusive, inter alia, of origination, transit and termination costs, shall not exceed EUR **0,14** per minute as of 1 July **2012**.

2. The average wholesale charge referred to in paragraph 1 shall apply between any pair of operators and shall be calculated over a 12-month period or any such shorter period as may remain before the end of the

**(4a) In Article 7, paragraphs 1 and 2 are replaced by the following:**

‘1. The average wholesale charge that the visited network operator may levy on the customer's roaming provider for the provision of a regulated roaming call originating on that visited network, inclusive, inter alia, of origination, transit and termination costs, shall not exceed EUR **0,05** per minute as of 1 July **2014**.

2. The average wholesale charge referred to in paragraph 1 shall apply between any pair of operators and shall be calculated over a 12-month period or any such shorter period as may remain before the end of the

period of application of a maximum average wholesale charge as provided for in this paragraph or before 30 June 2022. The maximum average wholesale charge shall decrease to EUR **0,10 on 1 July 2013 and to EUR 0,05** on 1 July 2014 and shall, **without prejudice to Article 19**, remain at EUR 0,05 until 30 June 2022.

period of application of a maximum average wholesale charge as provided for in this paragraph or before 30 June 2022. The maximum average wholesale charge shall decrease to EUR **0,01** on 1 July 2016 and shall remain until 30 June 2022.

**2a. Mobile termination rates for roaming voice calls shall not exceed EUR 0,005 from 1 July 2016 and shall remain until 30 June 2022.'**

#### *Justification*

*In a number of Member States average domestic price is below EUR 0,05. Keeping wholesale price for voice roaming at current level - EUR 0,05 after 1/07/2016, when operators will be obliged to charge roaming customers identically as domestic ones, would create serious distortions on the market. Therefore the wholesale prices for voice should be further decreased in order to allow for a greater competition.*

#### **Amendment 76**

##### **Proposal for a regulation**

##### **Article 37 – point 4 b (new)**

Regulation (EU) No 531/2012

Article 7 a (new)

*Text proposed by the Commission*

*Amendment*

**(4b) The following Article is inserted:**

**'Article 7a**

***Abolition of retail roaming charges***

***With effect from 1 July 2016, roaming providers shall not levy any surcharge in comparison to the charges for mobile communications services at national level on roaming customers for any regulated roaming call made or received, for any regulated roaming SMS message sent or for any regulated data roaming services used, without prejudice to measures taken to prevent anomalous or fraudulent usage.'***

### *Justification*

*Surcharges for voice, SMS and data roaming should be abolished. After, gradually, decreasing caps telecom operator can charge consumers for roaming services, it is time to allow consumers to roam like at home. This obligation on operators should not come into force before the 1st of July 2016 in order not hinder the principle of legal certainty. Before 1st of July 2016 the wholesale prices should be further decreased and mobile termination rates harmonised in order to allow for a level playing field for all telecom operators in the EU*

### **Amendment 77**

#### **Proposal for a regulation**

#### **Article 37 – point 5 a (new)**

Regulation (EU) No 531/2012

Article 12 – paragraph 1

#### *Present text*

‘1. With effect from 1 July **2012**, the average wholesale charge that the visited network operator may levy on the roaming customer's home provider for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR **0,25** per megabyte of data transmitted. The safeguard limit shall decrease to EUR **0,15** per megabyte of data transmitted on 1 July **2013** and to EUR **0,05** per megabyte of data transmitted on 1 July **2014** and shall, **without prejudice to Article 19**, remain at EUR **0,05** per megabyte of data transmitted until 30 June 2022.’

#### *Amendment*

***(5a) Article 12(1) is replaced by the following:***

‘1. With effect from 1 July **2013**, the average wholesale charge that the visited network operator may levy on the roaming customer's home provider for the provision of regulated data roaming services by means of that visited network shall not exceed a safeguard limit of EUR **0,15** per megabyte of data transmitted. The safeguard limit shall decrease to EUR **0,05** per megabyte of data transmitted on 1 July **2014** and to EUR **0,0050** per megabyte of data transmitted on 1 July **2015** and shall remain at EUR **0,0050** per megabyte of data transmitted until 30 June 2022.’

### **Amendment 78**

#### **Proposal for a regulation**

#### **Article 37 – point 8**

Regulation (EU) No 531/2012

Article 19

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

**(a) Paragraph 1 is amended as follows:**

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

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

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

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

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

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

**(b) Paragraph 2 is amended as follows:**

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

*If the report shows that tariff options, in which the domestic service rate applies both to domestic and regulated roaming services, are not provided in all retail packages for reasonable use by at least one roaming provider in each Member State, or that the offers by alternative roaming providers have not made substantially equivalent retail roaming tariffs easily available to consumers throughout the Union, the Commission*

*shall by the same date make appropriate proposals to the European Parliament and the Council to address the situation and ensure that there is no difference between national and roaming tariffs within the internal market.*

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

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

## **Amendment 79**

### **Proposal for a regulation**

#### **Article 37 – point 8 a (new)**

Regulation (EU) No 531/2012

Article 19

#### *Present text*

‘Article 19

Review

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

#### *Amendment*

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

‘Article 19

Review

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

*1a. The Commission shall, by 31 September 2015, after a public*

***consultation, report to the European Parliament and the Council on whether to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12. The Commission shall also, after consulting BEREC, make appropriate legislative proposal in order to harmonise mobile termination rates throughout the Union by 31 December 2015.***

***1b. The Commission shall, by 30 June 2016, after a public consultation, report to the European Parliament and the Council on, inter alia:***

- (a) whether competition has sufficiently developed in order to justify the expiry of maximum retail charges;
- (b) whether competition will be sufficient for the removal of maximum wholesale charges;
- (c) the developments and expected future trends in wholesale and retail charges for the provision to roaming customers of voice, SMS and data communication services, in comparison to the charges for mobile communications services at domestic level in the Member States, both for pre-paid and post-paid customers separately, and in the quality and speed of these services;
- (d) the availability and quality of services including those which are an alternative to voice, SMS and data roaming services, in particular in the light of technological developments;
- (e) the extent to which consumers have benefited through real reductions in the price of roaming services, the variety of tariffs and products which are available to consumers with different calling patterns, and the difference between roaming and national tariffs, including the availability of offers providing a single tariff for national and roaming services;
- (f) the degree of competition in both the

- (a) whether competition has sufficiently developed in order to justify the expiry of maximum retail charges;
- (b) whether competition will be sufficient for the removal of maximum wholesale charges;
- (c) the developments and expected future trends in wholesale and retail charges for the provision to roaming customers of voice, SMS and data communication services, in comparison to the charges for mobile communications services at domestic level in the Member States, both for pre-paid and post-paid customers separately, and in the quality and speed of these services;
- (d) the availability and quality of services including those which are an alternative to voice, SMS and data roaming services, in particular in the light of technological developments;
- (e) the extent to which consumers have benefited through real reductions in the price of roaming services, the variety of tariffs and products which are available to consumers with different calling patterns, and the difference between roaming and national tariffs, including the availability of offers providing a single tariff for national and roaming services;
- (f) the degree of competition in both the



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

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

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

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

*(a) to lay down additional technical and structural measures;*

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

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

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

2. If the report *referred to in paragraph 2 shows that there is a need to change the duration or revise the level of maximum wholesale charges, the Commission shall, by 31 December 2015, and after consulting BEREK, make appropriate proposal* to the European Parliament and the Council to address this situation.

*If the report, referred to in paragraph 3, shows that the structural measures provided for by this Regulation have not been sufficient to promote competition in the internal market for roaming services for the benefit of all European consumers or that the differences between roaming tariffs and national tariffs have not approached zero, the Commission shall, by 31 December 2015, make appropriate*

*proposals to the European Parliament and the Council to address this situation and thus achieve an internal market for mobile communication services, ultimately with there being no difference between national and roaming tariffs.*

*(b) to modify the structural measures;*

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

*(d) to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12;*

*(e) to introduce any other necessary requirements, including non-differentiation of roaming and national tariffs.*

3. In addition, the Commission shall submit a report to the European Parliament and the Council every two years after the report referred to in paragraph 1. Each report shall include a summary of the monitoring of the provision of roaming services in the Union and an assessment of the progress towards achieving the objectives of this Regulation, including by reference to the matters referred to in paragraphs **1 and 2**.

4. In order to assess the competitive developments in the Union-wide roaming markets, BEREC shall regularly collect data from national regulatory authorities on the development of retail and wholesale charges for voice, SMS and data roaming 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

3. In addition, the Commission shall submit a report to the European Parliament and the Council every two years after the report referred to in paragraph 1. Each report shall include a summary of the monitoring of the provision of roaming services in the Union and an assessment of the progress towards achieving the objectives of this Regulation, including by reference to the matters referred to in paragraphs **2 and 3**.

4. In order to assess the competitive developments in the Union-wide roaming markets, BEREC shall regularly collect data from national regulatory authorities on the development of retail and wholesale charges for voice, SMS and data roaming services. Those data shall be notified to the Commission at least twice a year. The Commission shall make them public.

BEREC shall also annually collect information from national regulatory authorities on transparency and comparability of different tariffs offered by operators to their customers. The Commission shall make those data and

findings public.’

findings public.’

## **Amendment 80**

### **Proposal for a regulation**

#### **Article 40 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***However, Articles 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 shall apply from 1 July 2016.***

***deleted***

## PROCEDURE

<b>Title</b>	European single market for electronic communications			
<b>References</b>	COM(2013)0627 – C7-0267/2013 – 2013/0309(COD)			
<b>Committee responsible</b> Date announced in plenary	ITRE 12.9.2013			
<b>Opinion by</b> Date announced in plenary	IMCO 12.9.2013			
<b>Associated committee(s) - date announced in plenary</b>	21.11.2013			
<b>Rapporteur</b> Date appointed	Malcolm Harbour 25.9.2013			
<b>Discussed in committee</b>	17.10.2013	4.11.2013	27.11.2013	9.1.2014
	22.1.2014			
<b>Date adopted</b>	23.1.2014			
<b>Result of final vote</b>	+: 35 -: 1 0: 0			
<b>Members present for the final vote</b>	Claudette Abela Baldacchino, Pablo Arias Echeverría, Adam Bielan, Preslav Borissov, Sergio Gaetano Cofferati, Lara Comi, Anna Maria Corazza Bildt, Christian Engström, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Małgorzata Handzlik, Eduard-Raul Hellvig, Sandra Kalniete, Edvard Kožušník, Toine Manders, Hans-Peter Mayer, Franz Obermayr, Sirpa Pietikäinen, Zuzana Roithová, Heide Rühle, Andreas Schwab, Róza Gräfin von Thun und Hohenstein, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler			
<b>Substitute(s) present for the final vote</b>	Regina Bastos, María Irigoyen Pérez, Morten Løkkegaard, Emma McClarkin, Tadeusz Ross, Marc Tarabella, Patricia van der Kammen, Sabine Verheyen, Josef Weidenholzer			
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Vital Moreira, Oreste Rossi			