



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Industry, Research and Energy

2013/0309(COD)

15.11.2013

*****I**

DRAFT REPORT

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

Committee on Industry, Research and Energy

Rapporteur: Pilar del Castillo Vera

Rapporteurs for the opinions (*):
Malcolm Harbour, Committee on Internal Market and Consumer Protection

(*) Associated committees – Rule 50 of the Rules of Procedure

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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, 2002/22/EC, and Regulations (EC) No 1211/2009 and (EU) No 531/2012 (COM(2013)0627 – C7-0267/2013 – 2013/0309(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0627),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0267/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on the Internal Market and Consumer Protection, the Committee on Regional Development, the Committee on Culture and Education, the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Title 1

Text proposed by the Commission

Amendment

Proposal for a
REGULATION OF THE EUROPEAN

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

PARLIAMENT AND OF THE COUNCIL

laying down measures concerning the European single market for electronic communications and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC, Regulations (EC) No 1211/2009 and (EU) No 531/2012 *and Decision 243/2012/EU.*

Or. en

Amendment 2

Proposal for a regulation

Recital 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 3

Proposal for a regulation

Recital 3

PE<NoPE>522.762</NoPE><Version>v01-00</Version>

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6/106

Text proposed by the Commission

(3) ***In a seamless single market in electronic communications***, the freedom to provide electronic communications networks and services to every customer in the Union and the right of each end-user to choose the best offer available on the market should be ensured and should not be hindered by the fragmentation of markets along national borders. The current regulatory framework for electronic communications does not fully address such fragmentation, with national, ***rather than Union-wide*** general authorisation regimes, national spectrum assignment schemes, ***differences of access products available for electronic communications providers in different*** Member States, ***and different sets of sector-specific consumer rules applicable***. ***The Union rules in many cases merely define a baseline, and are often implemented in diverging ways*** by the ***Member States***.

Amendment

(3) The freedom to provide electronic communications networks and services to every customer in the Union and the right of each end-user to choose the best offer available on the market should be ensured and should not be hindered by the fragmentation of markets along national borders. The current regulatory framework for electronic communications does not fully address such fragmentation, with ***diverging*** national ***implementation of the*** general authorisation ***regime***, national spectrum assignment schemes, and different sets of sector-specific consumer rules applicable. ***For example, while Authorisation Directive limits the type of information which may be required, 12 Member States demand additional detail such as a categorisation of the intended types of activities, the geographical scope of the activity, the targeted market, the company structure, including names of shareholders and of shareholders of shareholders, Chamber of Commerce certification and a criminal records of the representative of the undertaking. Additional requirements such as these underline the importance of a firm policy*** by the ***Commission regarding infringement procedures***.

Or. en

Amendment 4

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) A truly single market for electronic communications should promote competition, investment and innovation in new and enhanced networks and services

Amendment

(4) A truly single market for electronic communications should promote competition, investment and innovation in new and enhanced networks and services

by fostering market integration and cross-border service offerings. It should thus help to achieve the ambitious high-speed broadband targets set out in the DAE. The growing availability of digital infrastructures and services should in turn increase consumer choice, quality of service and diversity of content, and contribute to territorial and social cohesion, as well as facilitating mobility across the Union.

by fostering market integration and cross-border service offerings, **and should reduce to a minimum unnecessary regulatory burdens on undertakings**. It should thus help to achieve the ambitious high-speed broadband targets set out in the DAE. The growing availability of digital infrastructures and services should in turn increase consumer choice, quality of service and diversity of content, and contribute to territorial and social cohesion, as well as facilitating mobility across the Union.

Or. en

Amendment 5

Proposal for a regulation

Recital 5

Text proposed by the Commission

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

Amendment

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

and society that unjustified sector-specific burdens, whether regulatory or otherwise, should be avoided.

economy and society that unjustified sector-specific burdens, whether regulatory or otherwise, should be avoided.

Or. en

Amendment 6

Proposal for a regulation

Recital 6

Text proposed by the Commission

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

Amendment

(6) This Regulation aims at **moving further towards** the completion of the single electronic communications market through action on three broad, inter-related axes. First, it should **affirm** the freedom to provide electronic communications services across borders and networks in different Member States, **by harmonising the application of the general authorisation scheme**. Second, it is necessary to **address the conditions and procedures for granting spectrum licenses for wireless broadband communications, as well as the use of unlicensed spectrum**. Third, in the interests of aligning business conditions and building the digital confidence of citizens, this Regulation should **address** rules on the protection of end-users, especially consumers. This includes rules on non-discrimination, contractual information, termination of contracts and switching, in addition to rules on access to online content, applications and services and on traffic management which not only protect end-users but simultaneously guarantee the continued functioning of the Internet ecosystem as an engine of innovation. In addition, further reforms in the field of roaming should give end-users the confidence to stay connected when they travel in the Union, and should become over time a driver of convergent pricing and other conditions in the Union.

Internet ecosystem as an engine of innovation. In addition, further reforms in the field of roaming should give end-users the confidence to stay connected when they travel in the Union, and should become over time a driver of convergent pricing and other conditions in the Union.

Or. en

Amendment 7

Proposal for a regulation

Recital 7

Text proposed by the Commission

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

Amendment

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

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

¹⁵ Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, 24.4.2002, p. 21).

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

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

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

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

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

²¹ Regulation (EU) No 531/2012 of the

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

¹⁵ Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, 24.4.2002, p. 21).

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

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

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

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

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

²¹ Regulation (EU) No 531/2012 of the

European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10.)

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

European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10.)

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

Or. en

Amendment 8

Proposal for a regulation

Recital 9

Text proposed by the Commission

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

Amendment

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

electronic communications services and networks in the whole Union.

Or. en

Amendment 9

Proposal for a regulation Recital 10

Text proposed by the Commission

Amendment

(10) The provision of electronic communications services or networks across borders may take different forms, depending on several factors such as the kind of network or services provided, the extent of the physical infrastructure needed or the number of subscribers in the different Member States. The intention to provide electronic communications services cross-border or to operate an electronic communications network in more than one Member State may be demonstrated by activities such as negotiation of agreements on access to networks in a given Member State or marketing via an internet site in the language of the targeted Member State.

deleted

Or. en

Amendment 10

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(11) Irrespective of how the provider chooses to operate electronic communications networks or provide electronic communications services across borders, the regulatory regime applicable to a European electronic communications provider should be

deleted

neutral vis-à-vis the commercial choices which underlie the organisation of functions and activities across Member States. Therefore, regardless of the corporate structure of the undertaking, the home Member State of a European electronic communications provider should be considered to be the Member State where the strategic decisions concerning the provision of electronic communications networks or services are taken.

Or. en

Amendment 11

Proposal for a regulation

Recital 12

Text proposed by the Commission

Amendment

(12) The single EU authorisation should be based on the general authorisation in the home Member State. It should not be made subject to conditions which are already applicable by virtue of other existing national law which is not specific to the electronic communications sector. In addition, the provisions of this Regulation and Regulation (EU) No. 531/2012 should also apply to European electronic communications providers.

deleted

Or. en

Amendment 12

Proposal for a regulation

Recital 13

Text proposed by the Commission

Amendment

(13) Most sector-specific conditions, for example concerning access to or security and integrity of networks or access to

deleted

emergency services, are strongly linked to the place where such network is located or the service is provided. Consequently a European electronic communications provider may be subject to conditions applicable in the Member States where it operates, to the extent that this Regulation does not provide otherwise.

Or. en

Amendment 13

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) It is necessary to ensure that in similar circumstances there is no discrimination in the treatment of any European electronic communications provider by different Member States and that consistent regulatory practices are applied in the single market, in particular as regards measures falling within the scope of Articles 15 or 16 of Directive 2002/21/EC, or Articles 5 or 8 of Directive 2002/19/EC. ***European electronic communications providers should therefore have a right to equal treatment by the different Member States in objectively equivalent situations in order to enable more integrated multi-territorial operations. Furthermore, there should be specific procedures at Union level for the review of draft decisions on remedies within the meaning of Article 7a of Directive 2002/21/EC in such cases, in order to avoid unjustified divergences in obligations applicable to European electronic communications providers in different Member States.***

Amendment

(15) ***The principle of equal treatment is a general principle of European Union law enshrined in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union. According to settled case-law, that principle requires that comparable situations must not be treated differently and that different situations must not be treated in the same way unless such treatment is objectively justified.*** It is necessary to ensure that in similar circumstances there is no discrimination in the treatment of any electronic communications provider by different Member States and that consistent regulatory practices are applied in the single market, in particular as regards measures falling within the scope of Articles 15 or 16 of Directive 2002/21/EC, or Articles 5 or 8 of Directive 2002/19/EC.

Or. en

Amendment 14

Proposal for a regulation Recital 16

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 15

Proposal for a regulation Recital 17

Text proposed by the Commission

Amendment

(17) Radio spectrum is a public good and an essential resource for the internal market for mobile, wireless broadband and satellite communications in the Union. Development of wireless broadband communications contributes to the implementation of the Digital Agenda for

(17) Radio spectrum is a public good and an essential resource for the internal market for mobile, wireless broadband and satellite communications in the Union. Development of wireless broadband communications contributes to the implementation of the Digital Agenda for

Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens and of providing the Union with the highest possible broadband speed and capacity. **However, the Union has fallen behind other major global regions - North America, Africa and parts of Asia - in terms of the roll-out and penetration of the latest generation of wireless broadband technologies that are necessary to achieve those policy goals.** The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States *seeking* a derogation or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council²³, testifies to the urgency of action even within the term of the current RSPP. Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council²⁴ **have not been sufficient to address** this problem.

²³ Decision 243/2012/EU of the European Parliament and the Council of 14 March 2012, establishing a multiannual radio

Europe and in particular to the aim of securing access to broadband at a speed of no less than 30 Mbps by 2020 for all Union citizens and of providing the Union with the highest possible broadband speed and capacity. However, **while some areas of the Union are far advanced, both with respect to the policy goals of the Digital Agenda for Europe and globally, other areas have been lagging behind. In particular, this is due to the fragmentation of the Union process for making available spectrum particularly suitable for high speed wireless broadband access, which jeopardises the achievement of those policy goals for the Union as a whole.** The piecemeal process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States *having been granted* a derogation **by the Commission** or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme (RSPP) Decision 243/2012 of the European Parliament and the Council²³, testifies to the urgency of action even within the term of the current RSPP. **It also indicates a need for improvement in the Commission's exercise of its powers, of crucial importance for the loyal implementation of Union measures and sincere cooperation between Member States. Stringent efforts by the Commission to enforce already adopted** Union measures to harmonise the conditions of availability and efficient use of radio spectrum for wireless broadband communications pursuant to Decision 676/2002/EC of the European Parliament and the Council²⁴ **should, by themselves, contribute substantially to addressing** this problem.

²³ Decision 243/2012/EU of the European Parliament and the Council of 14 March 2012, establishing a multiannual radio

spectrum policy programme, OJ L 81 of 21.3.2012.

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

spectrum policy programme, OJ L 81 of 21.3.2012.

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

Or. en

Amendment 16

Proposal for a regulation Recital 17 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 17

Proposal for a regulation Recital 19

Text proposed by the Commission

Amendment

(19) Electronic communications services providers, ***including mobile operators or consortia of such operators***, should be able to ***collectively*** organise the efficient and affordable coverage of a vast part of the Union's territory to the long-term benefit of end users, and therefore use radio spectrum across several Member States with similar conditions, procedures,

(19) Electronic communications services providers should be able to organise the efficient and affordable coverage of a vast part of the Union's territory to the long-term benefit of end users, and therefore use radio spectrum across several Member States with similar conditions, procedures, costs, timing, duration in harmonised bands, and with

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

complementary radio spectrum packages, such as a combination of lower and higher frequencies for coverage of densely and less densely populated areas. Initiatives in favour of greater coordination and consistency would also enhance the predictability of the network investment environment. Such predictability would also be greatly favoured by a clear policy in favour of long-term duration of rights of use related to radio spectrum, without prejudice to the indefinite character of such rights in some Member States, and linked in its turn to *improved* conditions for the transfer, lease or sharing of part of all of the radio spectrum subject to such an individual right of use.

Or. en

Amendment 18

Proposal for a regulation

Recital 20

Text proposed by the Commission

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

Amendment

(20) Coordination and consistency of rights of use for radio spectrum should be improved. This includes the bands identified at ITU level for International Mobile Telecommunications (IMT) Advanced systems, as well as bands used for radio local area networks (RLAN) such as 2.4 GHz and 5 GHz. It should also extend to bands that may be harmonised in the future for wireless broadband communications, as envisaged in Article 3(b) of the RSPP and in the RSPG Opinion on “Strategic challenges facing Europe in addressing the growing radio spectrum demand for wireless broadband” adopted on 13 June 2013, such as, in the near future, the 700 MHz, 1.5 GHz and 3.8-4.2 GHz bands.

future, the 700 MHz, 1.5 GHz and 3.8-4.2 GHz bands.

Or. en

Amendment 19

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) *As regards the other main substantive conditions which may be attached to rights of use of radio spectrum for wireless broadband*, the convergent application by individual Member States of the regulatory principles and criteria set down in ***this Regulation*** would be favoured by a coordination mechanism whereby the Commission and the competent authorities of the other Member States have an opportunity to comment in advance of the granting of rights of use by a given Member State and whereby the Commission has an opportunity, taking into account the views of the Member States, to forestall implementation of any proposal which appears to be non-compliant with Union law.

Amendment

(24) The convergent application by individual Member States of the regulatory principles and criteria set down in ***the Union regulatory framework*** would be favoured by a coordination mechanism whereby the Commission and the competent authorities of the other Member States have an opportunity to comment in advance of the granting of rights of use by a given Member State and whereby the Commission has an opportunity, taking into account the views of the Member States, to forestall implementation of any proposal which appears to be non-compliant with Union law.

Or. en

Amendment 20

Proposal for a regulation Recital 25

Text proposed by the Commission

(25) Considering the massive growth in radio spectrum demand for wireless broadband, solutions for alternative spectrally efficient access to wireless broadband should ***be promoted. This***

Amendment

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

includes the use of low-power wireless access systems with a small-area operating range such as so called ‘hotspots’ of radio local area networks (RLAN, also known as ‘Wi-Fi’), as well as networks of low-power small size cellular access points (also called femto-, pico- or metrocells).

currently includes the use of low-power wireless access systems with a small-area operating range such as so called ‘hotspots’ of radio local area networks (RLAN, also known as ‘Wi-Fi’), as well as networks of low-power small size cellular access points (also called femto-, pico- or metrocells).

Or. en

Amendment 21

Proposal for a regulation Recital 30

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 22

Proposal for a regulation Recital 31

Text proposed by the Commission

Amendment

(31) Experience in the implementation of the Union's regulatory framework indicates that existing provisions requiring the consistent application of regulatory measures together with the

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goal of contributing to the development of the internal market have not created sufficient incentives to design access products on the basis of harmonised standards and processes, in particular in relation to fixed networks. When operating in different Member States, operators have difficulties in finding access inputs with the right quality and network and service interoperability levels, and when they are available, such inputs exhibit different technical features. This increases costs and constitutes an obstacle to the provision of services across national borders.

Or. en

Amendment 23

Proposal for a regulation Recital 32

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 24

Proposal for a regulation Recital 33

Text proposed by the Commission

Amendment

(33) The operational needs served by various virtual products should be addressed. European virtual broadband access products should be available in cases where an operator with significant market power has been required under the terms of the Framework Directive and the Access Directive to provide access on regulated terms at a specific access point in its network. First, efficient cross-border entry should be facilitated by harmonised products that enable initial provision by cross-border providers of services to their end customers without delay and with a predictable and sufficient quality, including services to business customers with multiple sites in different Member States, where this would be necessary and proportionate pursuant to market analysis. These harmonised products should be available for a sufficient period in order to allow access seekers and providers to plan medium and long term investments.

deleted

Or. en

Amendment 25

Proposal for a regulation

Recital 34

Text proposed by the Commission

Amendment

(34) Secondly, sophisticated virtual access products that require a higher level of investment by access seekers and allow them a greater level of control and differentiation, particularly by providing access at a more local level, are key to creating the conditions for sustainable competition across the internal market. Hence, these key wholesale access products to next-generation access (NGA)

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networks should also be harmonised to facilitate cross-border investment. Such virtual broadband access products should be designed to have equivalent functionalities to physical unbundling, in order to broaden the range of potential wholesale remedies available for consideration by national regulatory authorities under the proportionality assessment pursuant to Directive 2002/19/EC.

Or. en

Amendment 26

Proposal for a regulation Recital 35

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 27

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

deleted

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

Or. en

Amendment 28

Proposal for a regulation

Recital 37

Text proposed by the Commission

Amendment

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

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the need for national regulatory authorities, following the adoption of this Regulation, to assess whether a European virtual broadband access product should be imposed instead of existing wholesale access remedies, and to assess the appropriateness of imposing a European virtual broadband access product in the context of future market reviews where they find significant market power, should not affect their responsibility to identify the most appropriate and proportionate remedy to address the identified competition problem in accordance with Article 16 of Directive 2002/21/EC.

Or. en

Amendment 29

Proposal for a regulation Recital 38

Text proposed by the Commission

Amendment

(38) In the interests of regulatory predictability, key elements of evolving decisional practice under the current legal framework which affect the conditions under which wholesale access products, including European virtual broadband access products, are made available for NGA networks, should also be reflected in the legislation. These should include provisions reflecting the importance, for the analysis of wholesale access markets and in particular of whether there is a need for price controls on such access to NGA networks, of the relationship between competitive constraints from alternative fixed and wireless infrastructures, effective guarantees of non-discriminatory access, and the existing level of competition in terms of price, choice and quality at retail level. The latter consideration ultimately

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determines the benefits to end users. For example, in the conduct of their case-by-case assessment pursuant to Article 16 of Directive 2002/21/EC and without prejudice to the assessment of significant market power and the application of EU competition rules, national regulatory authorities may consider that in the presence of two fixed NGA networks, market conditions are competitive enough to be able to drive network upgrades and to evolve towards the provision of ultra-fast services, which is one important parameter of retail competition.

Or. en

Amendment 30

Proposal for a regulation Recital 44

Text proposed by the Commission

Amendment

(44) Very significant price differences continue to prevail, both for fixed and mobile communications, between domestic voice and SMS communications and those terminating in another Member State. While there are substantial variations between countries, operators and tariff packages, and between mobile and fixed services, this continues to affect more vulnerable customer groups and to pose barriers to seamless communication within the Union. This occurs in spite of a very significant reduction, and convergence in absolute terms, of termination rates in the different Member States, and low prices on transit markets. Moreover, the transition to an ‘all-IP’ electronic communications environment should in due course bring additional cost reductions. Any significant retail tariff differences between domestic fixed long-distance communications which are

deleted

communications other than those within one local area identified by a geographic area code in the national numbering plan, and fixed communications terminating in another Member State, should therefore be justified by reference to objective criteria. Retail tariffs for international mobile communications should not exceed the euro-voice and euro-SMS tariffs for regulated roaming calls and SMS messages, respectively, provided for in Regulation (EU) No 531/2012 unless justified by reference to objective criteria. Such criteria may include additional costs and a reasonable related margin. Other objective factors may include differences in related price elasticity and the easy availability to all end users of alternative tariffs from providers of electronic communications to the public which offer cross-border communications within the Union at little or no extra charge, or of information society services with comparable functionalities, provided that end users are actively informed of such alternatives by their providers.

Or. en

Amendment 31

Proposal for a regulation Recital 46

Text proposed by the Commission

(46) The freedom of end-users to access and distribute information and lawful content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation defines the limits for any restrictions to this freedom by providers of electronic communications to the public but is without prejudice to other Union legislation, including copyright rules *and*

Amendment

(46) The freedom of end-users to access and distribute information and lawful content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation defines the limits for any restrictions to this freedom by providers of electronic communications to the public but is without prejudice to other Union legislation, including copyright rules,

Directive 2000/31/EC.

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

Or. en

Amendment 32

Proposal for a regulation Recital 46 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 33

Proposal for a regulation Recital 47

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 34

Proposal for a regulation Recital 49

Text proposed by the Commission

(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health

Amendment

(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health

applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services.

applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services. ***Where such agreements are concluded with the provider of internet access, that provider should ensure that the enhanced quality service does not impair the general quality of internet access, except as may be necessary, considering the state of the art and technology deployed, to ensure the delivery of the enhanced quality service. Furthermore, traffic management measures should not be applied in such a way as to discriminate against services competing with those offered by the provider of internet access.***

Or. en

Amendment 35

Proposal for a regulation

Recital 50

Text proposed by the Commission

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on flexible quality parameters, including lower levels of priority for traffic which is not time-sensitive. The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public ***is necessary for the provision of specialised services and is expected to play an important role in the development of new*** services such as machine-to-machine (M2M) communications. At the same time such arrangements should allow providers of

Amendment

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on flexible quality parameters, including lower levels of priority for traffic which is not time-sensitive. ***There is nothing in current Union law preventing agreements for the provision of such transmission services.*** The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public ***may be*** necessary for the provision of ***certain*** services such as machine-to-machine (M2M) communications. At the same time such

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.

arrangements should allow providers of electronic communications to the public to better balance traffic and prevent network congestion. Providers of content, applications and services and providers of electronic communications to the public should therefore *continue to* be free to conclude specialised services agreements on defined levels of quality of service as long as such agreements do not impair the general quality of internet access services.

Or. en

Amendment 36

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

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. In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with ***enhanced quality*** services, and quality as perceived by end-users. National regulatory authorities should 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

the public if this is necessary to prevent general impairment/degradation of the quality of service of internet access services.

impairment/degradation of the quality of service of internet access services.

Or. en

Amendment 37

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

Or. en

Amendment 38

Proposal for a regulation

Recital 70

Text proposed by the Commission

Amendment

The implementing powers relating to the harmonisation and coordination of authorisation of radio spectrum, characteristics of small-area wireless access points, coordination between Member States regarding allocation of

The implementing powers relating to the harmonisation and coordination of authorisation of radio spectrum, characteristics of small-area wireless access points ***and*** coordination between Member States regarding allocation of

radio spectrum, ***more detailed technical and methodological rules concerning European virtual access products and the safeguarding of internet access and of reasonable traffic management and quality of service***, should be exercised in accordance with Regulation (EU) No182/2011 of the European Parliament and of the Council²⁵.

radio spectrum should be exercised in accordance with Regulation (EU) No182/2011 of the European Parliament and of the Council²⁵.

²⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

²⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

Amendment 39

Proposal for a regulation Recital 71

Text proposed by the Commission

(71) In order to ensure consistency between the objective and the measures needed to ***complete the single market for electronic communications pursuant to this Regulation and some specific existing legislative provisions and to reflect key elements of evolving decisional practice***, Directive 2002/21/EC, the Directives 2002/20/EC and 2002/22/EC and Regulation No 531/2012 should be amended. This includes ***making provision for Directive 2002/21/EC and the related Directives to be read in conjunction with this Regulation, the introduction of strengthened powers of the Commission in order to ensure consistency of remedies imposed on European electronic communications providers having significant market power in the context of***

Amendment

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

the European consultation mechanism, harmonisation of the criteria adopted in assessing the definition and competitiveness of relevant markets, the adaptation of the notification system under Directive 2002/20/EC *in view of the single EU authorisation* as well as the repeal of provisions on minimum harmonisation of end-users rights provided in Directive 2002/22/EC made redundant by the full harmonisation provided in this Regulation.

Or. en

Amendment 40

Proposal for a regulation Recital 72

Text proposed by the Commission

Amendment

(72) The mobile communications market remains fragmented in the Union, with no mobile network covering all Member States. As a consequence, in order to provide mobile communications services to their domestic customers travelling within the Union, roaming providers have to purchase wholesale roaming services from operators in a visited Member State. These wholesale charges constitute an important impediment to providing roaming services at price levels corresponding to domestic mobile services. Therefore further measures should be adopted to facilitate lowering these charges. Commercial or technical agreements among roaming providers which allow a virtual extension of their network coverage across the Union provide a means to internalise wholesale costs. To provide appropriate incentives, certain regulatory obligations laid down in Regulation (EC) No 531/2012 of the European Parliament and the Council²⁶ should be adapted. In particular, when roaming providers, through their own

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

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

Or. en

Amendment 41

Proposal for a regulation Recital 73

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 42

Proposal for a regulation Recital 74

Text proposed by the Commission

Amendment

(74) The Digital Agenda for Europe and Regulation No 531/2012 establish the policy objective that the difference between roaming and domestic tariffs should approach zero. In practical terms, this requires that consumers falling into any of the broad observable categories of domestic consumption, identified by reference to a party's various domestic retail packages, should be in a position to confidently replicate the typical domestic consumption pattern associated with their respective domestic retail packages while periodically travelling within the Union, without additional costs to those incurred in a domestic setting. Such broad categories may be identified from current commercial practice by reference, for example, to the differentiation in domestic retail packages between pre-paid and post-paid customers; GSM-only packages (i.e. voice, SMS); packages adapted for different volumes of consumption; packages for business and consumer use respectively; retail packages with prices per unit consumed and those which provide 'buckets' of units (e.g. voice minutes, megabytes of data) for a standard fee, irrespective of actual consumption. The diversity of retail tariff plans and packages available to customers in domestic mobile markets across the Union accommodates varying user demands associated with a competitive market. That flexibility in domestic markets should also be reflected in the intra-Union roaming environment, while bearing in mind that the need of roaming providers for wholesale inputs from independent network operators in different Member States may still justify

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

Or. en

Amendment 43

Proposal for a regulation Recital 75

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 44

Proposal for a regulation Recital 76

Text proposed by the Commission

Amendment

(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.

(76) In order to provide clarity and legal certainty, a date should be set for the final phasing out of retail roaming surcharges which began with Regulation (EC) No 717/2007. In addition, the Commission should, in advance of that final abolition of retail surcharges, report on any necessary changes to the wholesale rates, taking into account also termination rates throughout the Union.

Or. en

Amendment 45

Proposal for a regulation

Recital 77

Text proposed by the Commission

Amendment

(77) In order to provide stability and strategic leadership to BEREC activities, BEREC Board of Regulators should be represented by a full-time Chairperson appointed by the Board of Regulators, on the basis of merit, skills, knowledge of electronic communication market participants and markets, and of experience relevant to supervision and regulation, following an open selection procedure organised and managed by the Board of Regulators assisted by the Commission. For the designation of the first Chairperson of the Board of Regulators, the Commission should, inter alia, draw up a shortlist of candidates on the basis of merit, skills, knowledge of electronic communication market participants and markets, and of experience relevant to supervision and regulation. For the subsequent designations, the opportunity of having a shortlist drawn up by the Commission should be reviewed in a report to be

deleted

*established pursuant to this Regulation.
The Office of BEREC should therefore
comprise the Chairperson of the Board of
Regulators, a Management Committee
and an Administrative Manager.*

Or. en

Amendment 46

Proposal for a regulation Recital 78

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 47

Proposal for a regulation Recital 79

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 48

Proposal for a regulation Recital 79 a (new)

Text proposed by the Commission

Amendment

(79 a) The regulatory framework for electronic communications should be reviewed as called for in the European Parliament resolution on Implementation report on the regulatory framework for electronic communications^{26a}. The review should be based on ex-post assessments of the impact of the framework since 2009, a full consultation and a thorough ex-ante assessment of expected impacts of the proposals emanating from the review. The proposals should be presented in sufficient time to enable the legislator to analyse and debate them properly.

^{26a} P7_TA(2013)0454

Or. en

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

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

1. This Regulation establishes rules necessary to:

Or. en

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) providers of electronic

(a) facilitate the practical exercise of the

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

right *of providers of electronic communications services and networks to* operate their networks and to provide services irrespective of where the provider is established or its customers are situated in the Union *through a harmonised and simplified authorisation system,*

Or. en

Amendment 51

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

Text proposed by the Commission

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

Amendment

(b) *facilitate the practical exercise of* the right *of citizens and businesses* to access competitive, secure and reliable electronic communications services, without being hampered by cross-border restrictions or unjustified additional costs,

Or. en

Amendment 52

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 53

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 54

Proposal for a regulation

Article 1 – paragraph 2 - point a

Text proposed by the Commission

Amendment

a) to secure simplified, predictable and convergent regulatory conditions regarding key administrative and commercial parameters, including as regards the proportionality of individual obligations which may be imposed pursuant to market analysis;

deleted

Or. en

Amendment 55

Proposal for a regulation

Article 1 – paragraph 2 – point b

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 56

Proposal for a regulation

Article 1 – paragraph 2 - point d

Text proposed by the Commission

Amendment

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

Or. en

Amendment 57

Proposal for a regulation

Article 1 – paragraph 2 – point e

Text proposed by the Commission

Amendment

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

Or. en

Amendment 58

Proposal for a regulation

Article 1 – paragraph 2 – point f

Text proposed by the Commission

Amendment

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

Or. en

Amendment 59

Proposal for a regulation Article 1 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

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

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

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

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

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

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

Or. en

Amendment 60

Proposal for a regulation

Article 2 – paragraph 2 – point 1

Text proposed by the Commission

Amendment

(1) ‘European electronic communications provider’ means an undertaking established in the Union providing or intending to provide electronic communications networks or services, whether directly or by means of one or more subsidiaries, directed to more than one Member State and which cannot be considered a subsidiary of another electronic communications provider; **deleted**

Or. en

Justification

These provisions introduce a massively complex edifice involving an unpredictable supervisory structure. Any such proposal should undergo a deep and thorough consultation process and should consequently be analysed during the review of the entire framework.

Amendment 61

Proposal for a regulation

Article 2 – paragraph 2 – point 3

Text proposed by the Commission

Amendment

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

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

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

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

Or. en

Amendment 62

Proposal for a regulation

Article 2 – paragraph 2 – point 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 63

Proposal for a regulation

Article 2 – paragraph 2 – point 5

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 64

Proposal for a regulation

Article 2 – paragraph 2 – point 6

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 65

Proposal for a regulation

Article 2 – paragraph 2 – point 7

Text proposed by the Commission

Amendment

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

Or. en

Amendment 66

Proposal for a regulation

Article 2 – paragraph 2 – point 11

Text proposed by the Commission

Amendment

(11) ‘virtual broadband access’ means a type of wholesale access to broadband networks that consists of a virtual access link to the customer premises over any access network architecture, excluding physical unbundling, together with a transmission service to a defined set of points of handover, and including specific network elements, specific network functionalities and ancillary IT systems; *deleted*

Or. en

Amendment 67

Proposal for a regulation

Article 2 – paragraph 2 – point 12

Text proposed by the Commission

Amendment

(12) ‘assured service quality (ASQ) connectivity product’ means a product that is made available at the internet *deleted*

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;

Or. en

Amendment 68

Proposal for a regulation

Article 2 – paragraph 2 – point 13

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 69

Proposal for a regulation

Article 2 – paragraph 2 – point 15

Text proposed by the Commission

Amendment

(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

(15) 'specialised service' means an electronic communications service or any other service that provides the capability to access specific content, applications or services, or a combination thereof **at a guaranteed capacity**, and whose technical characteristics are controlled from end-to-end or provides the capability to send or receive data to or from a determined number of parties or endpoints;

widely used as a substitute for internet access service;

and that is not marketed or widely used as a substitute for internet access service;

Or. en

Amendment 70

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.

Or. en

Amendment 71

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 72

Proposal for a regulation Article 3 – paragraph 3

Text proposed by the Commission

Amendment

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

Or. en

Amendment 73

Proposal for a regulation Article 3 – paragraph 4

Text proposed by the Commission

Amendment

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

Or. en

Amendment 74

Proposal for a regulation Article 3 – paragraph 5

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 75

Proposal for a regulation Article 3 – paragraph 6

Text proposed by the Commission

6. *In the event of a dispute between undertakings involving a European electronic communications provider regarding obligations applicable in accordance with Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC, this Regulation or Regulation (EU) No 531/2012 in a host Member State, the European electronic communications provider may consult the national regulatory authority in the home Member State, which may deliver an opinion with a view to ensuring the development of consistent regulatory practices. The national regulatory authority in the host Member State shall take utmost account of the opinion issued by the national regulatory authority of the home Member State when deciding the dispute.*

Amendment

deleted

Or. en

Amendment 76

Proposal for a regulation Article 3 – paragraph 7

Text proposed by the Commission

Amendment

7. European electronic communications providers who, at the date of entry into force of this Regulation, have the right to provide electronic communications networks and services in more than one Member State shall submit the notification provided for in Article 4 at the latest by 1 July 2016. *deleted*

Or. en

Amendment 77

Proposal for a regulation Article 4

Text proposed by the Commission

Amendment

[...] *deleted*

Or. en

Amendment 78

Proposal for a regulation Article 5

Text proposed by the Commission

Amendment

[...] *deleted*

Or. en

Amendment 79

Proposal for a regulation Article 6

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 80

Proposal for a regulation Article 7

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 81

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

Amendment

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

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

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

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

Or. en

Amendment 82

Proposal for a regulation Article 8 a (new)

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54/106

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Article 8a

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

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

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

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

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

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

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

charges imposed under this paragraph.

3. All rights of use of spectrum shall be granted with a minimum duration of 30 years. Member States may grant rights of use of indefinite duration.

4. The duration of all existing rights of use of spectrum is hereby extended to 30 years from their date of grant, without prejudice to other conditions attached to the right of use and to rights of use of indefinite duration.

Or. en

Justification

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

Amendment 83

Proposal for a regulation

Article 9 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 84

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 85

**Proposal for a regulation
Article 9 – paragraph 3**

Text proposed by the Commission

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

Amendment

When establishing authorisation conditions and procedures for the use of radio spectrum, national competent authorities shall have regard in particular to equal treatment between existing and potential operators.

Or. en

Amendment 86

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

Text proposed by the Commission

National competent authorities shall establish timetables for the granting or reassignment of rights of use, or for the

Amendment

Taking full account of Directive 2002/21/EC, in particular Articles 7, 8, 8a, 9 and 9a thereof, Decision No

renewal of those rights under the terms of existing rights, *which shall apply to radio spectrum harmonised for wireless broadband communications.*

676/2002/EU and Decision No 243/2012/EU, in particular Articles 2, 3, 5 and 6 thereof, national competent authorities shall establish timetables for the granting or reassignment of rights of use, or for the renewal of those rights under the terms of existing rights.

Or. en

Amendment 87

Proposal for a regulation

Article 12 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 88

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

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

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

adopted within one year from the date of entry into force of this Regulation:

Or. en

Amendment 89

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 90

Proposal for a regulation

Article 12 – paragraph 3 – subparagraph 1

Text proposed by the Commission

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

Amendment

Subject to the second subparagraph of Article 8a(3), the Commission ***shall*** also adopt implementing acts ***within one year from the date of entry into force of this Regulation***, harmonising the date of expiry or renewal of individual rights to use radio spectrum for wireless broadband in harmonised bands, which already exist at the date of adoption of such acts, with a view to synchronising throughout the Union the date for renewal or reassignment of rights of use for such bands, including possible synchronisation with the date of renewal or reassignment of other bands harmonised by implementing measures adopted in accordance with paragraph 2 or with this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in

Amendment 91

Proposal for a regulation

Article 12 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 92

Proposal for a regulation

Article 12 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Where the extension period granted in accordance with the second subparagraph is significant in comparison with the original duration of the rights of use, national competent authorities may subject the extension of rights to any adaptations of the previously applicable authorisation conditions which are necessary in the light of the changed circumstances, including the imposition of additional fees. These additional fees shall be based on an application pro rata

Amendment

deleted

temporis of any initial fee for the original rights of use which was expressly calculated by reference to the originally foreseen duration.

Or. en

Amendment 93

Proposal for a regulation

Article 12 – paragraph 5 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 94

Proposal for a regulation

Article 12 – paragraph 6 – subparagraph 1

Text proposed by the Commission

For the harmonised bands for which a common timetable for granting rights of use and allowing actual use has been established in an implementing act adopted in accordance with paragraph 2, national competent authorities shall provide timely and sufficiently detailed information to the

Amendment

For the harmonised bands for which a common timetable for granting rights of use and allowing actual use has been established in an implementing act adopted in accordance with paragraph 2, national competent authorities shall provide timely and sufficiently detailed information to the

Commission on their plans to ensure compliance. The Commission *may* adopt implementing *acts* defining the format and procedures for the provision of such information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Commission on their plans to ensure compliance. The Commission *shall* adopt *an* implementing *act* defining the format and procedures for the provision of such information *within one year from the date of entry into force of this Regulation*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

Or. en

Amendment 95

Proposal for a regulation

Article 13 – paragraph 1 – subparagraph 2 – point c

Text proposed by the Commission

Amendment

(c) the duration of the rights of use;

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

Or. en

Amendment 96

Proposal for a regulation

Article 13 – paragraph 1 – subparagraph 2 – point j

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 97

Proposal for a regulation

Article 13 – paragraph 2 – subparagraph 2 – point d

Text proposed by the Commission

Amendment

(d) *any* implementing *act* adopted in

(d) implementing *acts* adopted in

accordance with Article 12;

accordance with Article 12;

Or. en

Amendment 98

Proposal for a regulation

Article 15 – paragraph 2 – subparagraph 1

Text proposed by the Commission

For the purposes of the uniform implementation of the general authorisation regime for the deployment, connection and operation of small-area wireless access points pursuant to paragraph 1, the Commission *may*, by means of an implementing act, specify technical characteristics for the design, deployment and operation of small-area wireless access points, compliance with which shall ensure their unobtrusive character when in use in different local contexts. The Commission shall specify those technical characteristics by reference to the maximum size, power and electromagnetic characteristics, as well as the visual impact, of the deployed small-area wireless access points. Those technical characteristics for use of small-area wireless access points shall at a minimum comply with the requirements of Directive 2013/35/EU³⁰ and with the thresholds defined in Council Recommendation No 1999/519/EC.³¹

³⁰ Directive 2013/35/EU of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) and

Amendment

For the purposes of the uniform implementation of the general authorisation regime for the deployment, connection and operation of small-area wireless access points pursuant to paragraph 1, the Commission *shall*, by means of an implementing act *to be adopted by within one year from the date of entry into force of this Regulation*, specify technical characteristics for the design, deployment and operation of small-area wireless access points, compliance with which shall ensure their unobtrusive character when in use in different local contexts. The Commission shall specify those technical characteristics by reference to the maximum size, power and electromagnetic characteristics, as well as the visual impact, of the deployed small-area wireless access points. Those technical characteristics for use of small-area wireless access points shall at a minimum comply with the requirements of Directive 2013/35/EU³⁰ and with the thresholds defined in Council Recommendation No 1999/519/EC³¹.

³⁰ Directive 2013/35/EU of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) and

repealing Directive 2004/40/EC (OJ L 179, 29.6.2013, p. 1).

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

repealing Directive 2004/40/EC (OJ L 179, 29.6.2013, p. 1).

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

Or. en

Amendment 99

Proposal for a regulation Article 16

Text proposed by the Commission

[...]

Amendment

deleted

Or. en

Amendment 100

Proposal for a regulation Chapter 3 – section 2

Text proposed by the Commission

[...]

Amendment

deleted

Or. en

Justification

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

Amendment 101

Proposal for a regulation Article 21 – paragraph 3

Text proposed by the Commission

Amendment

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

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.

Or. en

Justification

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

Amendment 102

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

Text proposed by the Commission

Amendment

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.

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

Or. en

Justification

ISPs should not only be required to meet the basic needs of users; they should also be allowed to meet more specific user demand such as: broadcasting via Internet Protocol

(IP-TV), video-conferencing and certain health applications.

Amendment 103

Proposal for a regulation

Article 23 – paragraph 2 – subparagraph 1

Text proposed by the Commission

End-users shall also be free to agree with 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.

Amendment

End-users shall also be free to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service. ***Where such agreements are concluded with the provider of internet access, that provider shall ensure that the enhanced quality service does not impair the general quality of internet access, except as may be necessary taking into account the state of the art and technology deployed, in order to ensure the delivery of the enhanced quality service.***

Or. en

Amendment 104

Proposal for a regulation

Article 23 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

continuous manner the general quality of internet *access* services.

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

Or. en

Justification

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

Amendment 105

Proposal for a regulation

Article 23 – paragraph 5 – subparagraph 1 – point a

Text proposed by the Commission

a) implement a legislative provision or a court order, ***or prevent or impede serious crimes***;

Amendment

a) implement a legislative provision or a court order;

Or. en

Justification

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

Amendment 106

Proposal for a regulation

Article 24 – paragraph 1

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

Amendment

1. ***In exercising their powers under Article 30a with respect to Article 23, national regulatory authorities shall closely monitor*** the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology. They shall, in cooperation with other competent national authorities, also monitor the effects on cultural diversity and innovation. National

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*.

regulatory authorities shall *publish reports* on an annual basis *regarding their monitoring and findings, and provide those reports to the Commission and BEREC*.

Or. en

Amendment 107

Proposal for a regulation Article 24 – paragraph 3

Text proposed by the Commission

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

Amendment

3. *BEREC shall, after consulting stakeholders and in cooperation with the Commission, lay down guidelines* defining uniform conditions for the implementation of the obligations of national competent authorities under this Article.

Or. en

Justification

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

Amendment 108

Proposal for a regulation Article 30 a (new)

Text proposed by the Commission

Amendment

Article 30a

Supervision and enforcement

1. National regulatory authorities shall monitor and supervise compliance with this Regulation within their territories.

2. National regulatory authorities shall make up-to-date information on the application of this Regulation publicly available in a manner that enables interested parties to have easy access to it.

3. National regulatory authorities shall have the power to require undertakings subject to obligations under this Regulation to supply all information relevant to the implementation and enforcement of this Regulation. Those undertakings shall provide such information promptly on request and in accordance with time limits and the level of detail required by the national regulatory authority.

4. National regulatory authorities may intervene on their own initiative in order to ensure compliance with this Regulation.

5. Where a national regulatory authority finds that a breach of the obligations set out in this Regulation has occurred, it may require the immediate cessation of such a breach.

Or. en

Amendment 109

Proposal for a regulation Article 31 – paragraph 2

Text proposed by the Commission

With regard to European electronic communications providers, penalties shall be imposed in accordance with Chapter II regarding the respective competences of national regulatory authorities in the home and host Member States.

Amendment

deleted

Or. en

Amendment 110

Proposal for a regulation Article 32

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 111

Proposal for a regulation Article 34 – point 1 Directive 2002/20/EC Article 3

Text proposed by the Commission

Amendment

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

(1) Article 3 is amended as follows:

Or. en

Amendment 112

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

Present text

Amendment

2. The provision of electronic communications networks or the provision of electronic communications services may, without prejudice to the specific obligations referred to in Article 6(2) or rights of use referred to in Article 5, only be subject to a general authorisation. *The undertaking concerned may be required to submit a notification but may not be required to obtain an explicit decision or*

(a) paragraph 2 is replaced by the following:

'2. The provision of electronic communications networks or the provision of electronic communications services may, without prejudice to the specific obligations referred to in Article 6(2) or rights of use referred to in Article 5, only be subject to a general authorisation. *Where a Member State deems that a notification requirement is justified, that Member State may require undertakings*

any other administrative act by the national regulatory authority before exercising the rights stemming from the authorisation. Upon notification, when required, an undertaking may begin activity, where necessary subject to the provisions on rights of use in Articles 5, 6 and 7.

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

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

Or. en

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

Justification

A standardised notification to BEREC would ensure that carriers don't suffer discrimination in similar circumstances in the treatment by different Member States and that consistent regulatory practices are applied in the single market.

Amendment 113

Proposal for a regulation

Article 34 - point 1 - point b (new)

Directive 2002/20/EC

Article 3 – paragraph 3

Present text

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

Amendment

(b) paragraph 3 is replaced by the following:

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

regulatory authority to keep a register or list of providers of electronic communications networks and services. ***This information must be limited to what is necessary for the identification of the provider, such as company registration numbers, and the provider's contact persons, the provider's address, a short description of the network or service, and an estimated date for starting the activity.***

which is required to allow ***BEREC and*** the national regulatory authority to keep a register or list of providers of electronic communications networks and services. ***Member States may not impose any additional or separate notification requirements.'***

Or. en

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

Amendment 114

Proposal for a regulation

Article 34 - point 1 - point c (new)

Directive 2002/20/EC

Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(c) the following paragraph is added:

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

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

Amendment 115

Proposal for a regulation

Article 34 - point 1 a (new)

Directive 2002/20/EC

Annex – part D (new)

Text proposed by the Commission

Amendment

(1a). In the Annex, the following part D is added:

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

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

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

Amendment 116

Proposal for a regulation

Article 34 a (new)

Decision No 243/2012/EU
Article 6 - paragraph 8 - subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Article 34a

**Amendments to Decision No
243/2012/EU**

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

the following subparagraph is added:

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

Or. en

Amendment 117

Proposal for a regulation

Article 35 – point 1

Directive 2002/21/EC

Article 1

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 118

Proposal for a regulation

Article 35 – point 1 a (new)

Directive 2002/21/EC

Article 2 – point g

Present text

Amendment

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

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

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

Or. en

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

Amendment 119

Proposal for a regulation

Article 35 – point 1 b (new)

Directive 2002/21/EC

Article 3 – paragraph 3a

Present text

Amendment

3a. Without prejudice to the provisions of paragraphs 4 and 5, national regulatory *authorities* responsible for ex-ante market regulation *or* for the resolution of disputes between undertakings in accordance with Article **20 or 21** of this Directive shall act independently and shall not seek or take instructions from any other body in relation to the exercise of these tasks assigned to them under national law implementing Community law. This shall not prevent supervision in accordance with national constitutional law. Only appeal bodies set up in accordance with Article 4 shall have the power to suspend or overturn decisions by the national regulatory authorities.

(1b) In Article 3, paragraph 3a is replaced by the following:

'3a. Without prejudice to the provisions of paragraphs 4 and 5, *each* national regulatory *authority shall be* responsible *at least* for ex-ante market regulation *under Articles 7, 7a, 15 and 16 of this Directive and Articles 9 to 13b of Directive 2002/19/EC; for numbering, naming and addressing, co-location and sharing of network elements and associated facilities and* for the resolution of disputes between undertakings in accordance with *Articles 10, 12, 20 and 21* of this Directive *and for affordability of tariffs, quality of service of designated undertakings, costing of universal service obligation, regulatory controls on retail services, contracts, transparency and publication of information, quality of service, ensuring equivalence in access and choice for disabled end-users, emergency services*

and the single European emergency call number, access to numbers and services, provision of additional facilities and facilitating change of provider under Articles 9, 11, 12, 17, 20, 21, 2, 23a, 26, 28, 29 and 30 of Directive 2002/22/EC, as well as for Directive 2002/58/EC.

Member States shall ensure that the head of a national regulatory authority, or where applicable, members of the collegiate body fulfilling that function within a national regulatory authority referred to in the first subparagraph or their replacements may be dismissed only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law. The decision to dismiss the head of the national regulatory authority concerned, or where applicable members of the collegiate body fulfilling that function shall be made public at the time of dismissal. The dismissed head of the national regulatory authority, or where applicable, members of the collegiate body fulfilling that function shall receive a statement of reasons and shall have the right to request its publication, where this would not otherwise take place, in which case it shall be published.

Each national regulatory authority shall act independently and shall not seek or take instructions from any other body in relation to the exercise of these tasks assigned to them under national law implementing Community law. This shall not prevent supervision in accordance with national constitutional law. Only appeal bodies set up in accordance with Article 4 shall have the power to suspend or overturn decisions by the national regulatory authorities. Member States shall ensure that the head of a national regulatory authority, or where applicable, members of the collegiate body fulfilling that function within a national regulatory authority referred to in the first subparagraph or their replacements may be dismissed only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law. The decision to dismiss the head of the national regulatory authority concerned, or where applicable members of the collegiate body fulfilling that function shall be made public at the time of dismissal. The dismissed head of the national regulatory authority, or where applicable, members of the collegiate body fulfilling that function shall receive a statement of reasons and shall have the right to request its publication, where this would not otherwise take place, in which case it shall be published.

Member States shall ensure that national regulatory authorities referred to in the first subparagraph have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to

Member States shall ensure that national regulatory authorities referred to in the first subparagraph have separate annual budgets *and that the budgets are sufficient for the performance of their tasks*. The budgets *and audited annual accounts* shall be made public *by each national regulatory*

enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC)¹.

authority. Each national regulatory authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities and shall have a number of competent personnel at its disposal for the proper performance of its tasks. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC)*.

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

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

Or. en

Justification

To have one NRA per MS and to harmonise their core competences and strengthen their resources will not only be directly beneficial for the supervision and enforcement of the framework in the MS, but will also indirectly further support the work of the NRAs together in BEREC.

Amendment 120

Proposal for a regulation

Article 35 – point 2 – point b

Directive 2002/21/EC

Article 7a

Text proposed by the Commission

Amendment

– (b) paragraph 2 is replaced by the following:

deleted

'2. Within the three-month period referred to in paragraph 1, the Commission, BEREC and the national regulatory authority concerned shall cooperate closely to identify the most appropriate and effective measure in the

light of the objectives laid down in Article 8, whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice. When the intended measure aims at imposing, amending or withdrawing an obligation on a European electronic communications provider within the meaning of Regulation [XXX/2014] in a host Member State, the national regulatory authority of the home Member State may also participate in the cooperation process.'

Or. en

Amendment 121

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

Text proposed by the Commission

Amendment

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

'(aa) take a decision requiring the national regulatory authority concerned to withdraw the draft measure, together with specific proposals for amending it, when the intended measure aims at imposing, amending or withdrawing an obligation on a European electronic communications provider within the meaning of Regulation [XXX/2014]'.

Or. en

Amendment 122

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

Text proposed by the Commission

Amendment

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

deleted

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

Or. en

Amendment 123

Proposal for a regulation

Article 35 – point 2 a (new)

Directive 2002/21/EC

Article 8 – paragraph 4

Text proposed by the Commission

Amendment

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

Or. en

Amendment 124

Proposal for a regulation

Article 35 – point 2 b (new)

Directive 2002/21/EC

Article 9b – paragraph 3 – subparagraph 1

Present text

Amendment

The Commission *may* adopt appropriate implementing measures to *identify the bands for which* rights to use radio frequencies *may be transferred or leased between undertakings*. *These* measures shall not cover frequencies which are used for broadcasting.

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

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

broadcasting.

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

Or. en

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

Amendment 125

Proposal for a regulation

Article 35 – point 4

Directive 2002/21/EC

Article 19 - paragraph 1

Amendment 126

Proposal for a regulation

Article 37 - point 1

Regulation (EU) No 531/2012

Article 1

Text proposed by the Commission

Amendment

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

deleted

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

Or. en

Amendment 127

Proposal for a regulation

Article 37 - point 2

Regulation (EU) No 531/2012

Article 2

Text proposed by the Commission

Amendment

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

deleted

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

Or. en

Justification

The Commission proposal on tackling roaming through voluntary agreements, as an alternative to the current obligations of the Roaming III regulation, generates a high degree of uncertainty.

Amendment 128

Proposal for a regulation

Article 37 - point 3

Regulation (EU) No 531/2012

Article 4

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 129

Proposal for a regulation

Article 37 - point 4

Regulation (EU) No 531/2012

Article 4 a (new)

Text proposed by the Commission

Amendment

(4) The following Article 4a is inserted: *deleted*

Article 4a

[...]

Or. en

Amendment 130

Proposal for a regulation

Article 37 – point 4 a (new)

Regulation (EU) No 531/2012

Article 6 a (new)

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82/106

(4a) The following Article is inserted:

'Article 6a

Abolition of retail roaming charges

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

Or. en

Justification

After three regulations, in a six year period, the Rapporteur proposes to finally abolish retail roaming charges for voice, SMS and data. This obligation on operators should not come into force before the 1st of July 2016 in order not hinder the principle of legal certainty.

Amendment 131

Proposal for a regulation

Article 37 - point 5 - point a

Regulation (EU) No 531/2012

Article 8 - paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

(a) the first subparagraph is replaced by the following:

'2. With effect from 1 July 2013, the retail charge (excluding VAT) for a euro-voice tariff which a roaming provider may levy on its roaming customer for the provision of a regulated roaming call may vary for any roaming call but shall not exceed EUR **0,24** per minute for any call made or EUR **0,07** per minute for any call received. The maximum retail charge for calls made shall decrease to EUR 0,19 on 1 July 2014. **As of 1 July 2014, roaming providers shall not levy any charge on their roaming**

(a) the first subparagraph is replaced by the following

'2. With effect from 1 July 2012, the retail charge (excluding VAT) for a euro-voice tariff which a roaming provider may levy on its roaming customer for the provision of a regulated roaming call may vary for any roaming call but shall not exceed EUR **0,29** per minute for any call made or EUR **0,08** per minute for any call received. The maximum retail charge for calls made shall decrease to EUR **0,24 on 1 July 2013 and to EUR 0,19 on 1 July 2014 and the maximum retail charge for calls received**

customers for calls received, without prejudice to measures taken to prevent anomalous or fraudulent usage. Without prejudice to Article 19 those maximum retail charges for the euro-voice tariff shall remain valid until 30 June 2017.'

shall decrease to EUR 0,07 on 1 July 2013 and to EUR 0,05 on 1 July 2014. Those maximum retail charges for the euro-voice tariff shall remain valid until 30 June 2016.'

Or. en

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:172:0010:01:EN:HTML>)

Amendment 132

Proposal for a regulation

Article 37 - point 5 - point b

Regulation (EU) No 531/2012

Article 8

Text proposed by the Commission

Amendment

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

deleted

[...]

Or. en

Amendment 133

Proposal for a regulation

Article 37 – point 5 a (new)

Regulation (EU) No 531/2012

Article 10 – paragraph 2

Present text

Amendment

2. With effect from 1 July 2012, the retail charge (excluding VAT) for a euro-SMS tariff which a roaming provider may levy on its roaming customer for a regulated roaming SMS message sent by that roaming customer may vary for any regulated roaming SMS message but shall

(5a) In Article 10, paragraph 2 is replaced by the following:

'2. With effect from 1 July 2012, the retail charge (excluding VAT) for a euro-SMS tariff which a roaming provider may levy on its roaming customer for a regulated roaming SMS message sent by that roaming customer may vary for any regulated roaming SMS message but shall

not exceed EUR 0,09. That maximum charge shall decrease to EUR 0,08 on 1 July 2013 and to EUR 0,06 on 1 July 2014 and shall, *without prejudice to Article 19, remain at EUR 0,06 until 30 June 2017.*

not exceed EUR 0,09. That maximum charge shall decrease to EUR 0,08 on 1 July 2013 and to EUR 0,06 on 1 July 2014 and shall *remain at EUR 0,06 until 30 June 2016.'*

Or. en

Amendment 134

Proposal for a regulation
Article 37 – point 5 b (new)
Regulation (EU) No 531/2012
Article 13 – paragraph 2

Present text

2. With effect from 1 July 2012, the retail charge (excluding VAT) of a euro-data tariff which a roaming provider may levy on its roaming customer for the provision of a regulated data roaming service shall not exceed EUR 0,70 per megabyte used. The maximum retail charge for data used shall decrease to EUR 0,45 per megabyte used on 1 July 2013 and to EUR 0,20 per megabyte used on 1 July 2014 and shall, *without prejudice to Article 19, remain at EUR 0,20 per megabyte used until 30 June 2017.*

Amendment

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

'2. With effect from 1 July 2012, the retail charge (excluding VAT) of a euro-data tariff which a roaming provider may levy on its roaming customer for the provision of a regulated data roaming service shall not exceed EUR 0,70 per megabyte used. The maximum retail charge for data used shall decrease to EUR 0,45 per megabyte used on 1 July 2013 and to EUR 0,20 per megabyte used on 1 July 2014 and shall, remain at EUR 0,20 per megabyte used until 30 June **2016.'**

Or. en

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:172:0010:01:EN:HTML>)

Amendment 135

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

Text proposed by the Commission

Amendment

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

'1a. When the consumption of regulated retail roaming services at the applicable domestic service rate is limited by reference to a reasonable use criterion in accordance with Article 4a(2), roaming providers shall alert roaming customers when the consumption of roaming calls and SMS messages has reached the reasonable use limit and at the same time shall provide roaming customers with basic personalised pricing information on the roaming charges applicable to making a voice call or sending an SMS message outside the domestic service rate or package in accordance with the second, fourth and fifth sub-paragraphs of paragraph 1 of this Article.'

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

Or. en

Amendment 136

Proposal for a regulation

Article 37 – point 7

Regulation (EU) No 531/2012

Article 15

Text proposed by the Commission

Amendment

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

deleted

2a. When the consumption of regulated retail roaming services at the applicable domestic service rate is limited by reference to a reasonable use criterion in accordance with Article

4a(2), roaming providers shall alert roaming customers when the consumption of data roaming services has reached the reasonable use limit and at the same time shall provide roaming

customers with basic personalised pricing information on the roaming charges applicable to data roaming outside the domestic service rate or package in accordance with paragraph 2 of this Article. Paragraph 3 of this Article shall apply to data roaming services consumed outside the applicable domestic service rates or packages referred to in Article 4a(2).

Or. en

Amendment 137

Proposal for a regulation

Article 37 – point 7 a (new)

Regulation (EU) No 531/2012

Article 15

Present text

Transparency and safeguard mechanisms for retail data roaming services

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

Where appropriate, roaming providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic

Amendment

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

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

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

Where appropriate, roaming providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic

and uncontrolled data roaming connection and download. Furthermore, roaming providers shall notify to their customers, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

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

Such basic personalised tariff information shall be delivered to the roaming customer's mobile device, for example by an SMS message, an e-mail or a pop-up window on the mobile device, every time the roaming customer enters a *Member State other than that of his domestic provider* and initiates for the first time a data roaming service in that *particular Member State*. It shall be provided free of charge at the moment the roaming customer initiates a *regulated* data roaming service, by an appropriate means adapted to facilitate its receipt and easy comprehension.

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

3. Each roaming provider shall grant to all their roaming customers the opportunity to opt deliberately and free of charge for a facility which provides information on the

and uncontrolled data roaming connection and download. Furthermore, roaming providers shall notify to their customers, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

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

Such basic personalised tariff information shall be delivered to the roaming customer's mobile device, for example by an SMS message, an e-mail or a pop-up window on the mobile device, every time the roaming customer enters a *country outside the Union* and initiates for the first time a data roaming service in that *country*. It shall be provided free of charge at the moment the roaming customer initiates a data roaming service, by an appropriate means adapted to facilitate its receipt and easy comprehension.

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

3. *With respect to visited network operators in countries outside the Union who allow the roaming provider to monitor its customers' usage on a*

accumulated consumption expressed in volume or in the currency in which the roaming customer is billed for *regulated* data roaming services and which guarantees that, without the customer's explicit consent, the accumulated expenditure for *regulated* data roaming services over a specified period of use, excluding MMS billed on a per-unit basis, does not exceed a specified financial limit.

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

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

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

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

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

With respect to visited network operators in countries outside the Union that do not allow the roaming provider to monitor its customers' usage on a real-time basis, the customer shall be notified by an SMS message when entering such a country, without undue delay and free of charge, that information on accumulated consumption and the guarantee not to exceed a specified financial limit are not available.

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

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

maximum monthly financial limits.

The default limits referred to in the second and *third* subparagraphs shall be applicable to all customers who have not opted for another limit.

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

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

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

4. Paragraphs 2 and 3 shall not apply to machine-to-machine devices that use mobile data communication.

maximum monthly financial limits.

The default limits referred to in the second and *fourth* subparagraphs shall be applicable to all customers who have not opted for another limit.

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

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

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

4. Paragraphs 2 and 3 shall not apply to machine-to-machine devices that use mobile data communication.'

5. Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for inadvertently accessed roaming services while situated in their home Member State. This shall include informing customers on how to avoid inadvertent roaming in border regions.

6. This Article, with the exception of paragraph 5, and subject to the second and third subparagraph of this paragraph, shall also apply to data roaming services used by roaming customers travelling outside the Union and provided by a roaming provider.

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

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

Or. en

Amendment 138

Proposal for a regulation

Article 37 – point 8

Regulation (EU) No 531/2012

Article 19

Text proposed by the Commission

Amendment

(8) Article 19 is amended as follows:

deleted

(a) Paragraph 1 is amended as follows:

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

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

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

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

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

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

(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.'

Or. en

Amendment 139

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

Present text

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

(a) whether competition has sufficiently developed in order to justify the expiry of maximum retail charges; (b) whether competition will be sufficient for the removal of maximum wholesale charges;

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

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

(e) the extent to which consumers have benefited through real reductions in the price of roaming services, the variety of tariffs and products which are available to consumers with different calling patterns, and the difference between roaming and national tariffs, including the availability of offers providing a single tariff for national and roaming services;

(f) the degree of competition in both the retail and wholesale markets, in particular

Amendment

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

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

2. The Commission shall, ***by 31 December 2015, after a public consultation, report to the European Parliament and the Council on whether to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12, also taking into account termination rates.***

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

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

(b) the degree of competition in both the retail and wholesale markets, in particular

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

(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;

(b) to modify the structural measures;

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

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

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

4. If the report referred to in paragraph 2 shows that there is a need to change the duration or revise the level of maximum wholesale charges, the Commission shall make appropriate proposals to the European Parliament and the Council to address this situation.

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

In both cases, proposals for any appropriate measures shall be presented simultaneously with the reports.

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

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

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

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

6. In order to assess the competitive 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.'

Or. en

Amendment 140

Proposal for a regulation Article 38 – point 1 a (new)

Regulation (EU) No 1211/2009
Article 3 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(1a) In Article 3(1), the following point (ma) is inserted:

'(ma) to receive notifications submitted pursuant to Article 3 of Directive 2002/20/EC, to maintain an inventory of those notifications and to inform the national regulatory authorities concerned about notifications received;'

Or. en

Amendment 141

Proposal for a regulation

Article 38 – point 2

Regulation (EU) No 1211/2009

Article 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 142

Proposal for a regulation

Article 38 – point 3

Regulation (EU) No 1211/2009

Article 4a (new)

Text proposed by the Commission

Amendment

(3) The following Article 4a is inserted:

deleted

[...]

Or. en

Justification

In order to safeguard its independence from Member States and the Commission alike, it is critical to ensure that BEREC is led by one of its members.

Amendment 143

Proposal for a regulation

Article 38 – point 4

Regulation (EU) No 1211/2009

Article 6

Text proposed by the Commission

Amendment

(4) Article 6 is amended as follows: ***deleted***

[...]

Or. en

Amendment 144

Proposal for a regulation

Article 38 – point 5

Regulation (EU) No 1211/2009

Article 7

Text proposed by the Commission

Amendment

(5) Article 7 is amended as follows: ***deleted***

[...]

Or. en

Amendment 145

Proposal for a regulation

Article 38 – point 6

Regulation (EU) No 1211/2009

Article 8

Text proposed by the Commission

Amendment

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

[...]

Amendment 146

Proposal for a regulation

Article 38 – point 7

Regulation (EU) No 1211/2009

Article 9

Text proposed by the Commission

Amendment

(7) Article 9 paragraph 2 is amended as follows: **deleted**

[...]

Or. en

Amendment 147

Proposal for a regulation

Article 38 – point 8

Regulation (EU) No 1211/2009

Article 10

Text proposed by the Commission

Amendment

(8) Article 10 is amended as follows: **deleted**

[...]

Or. en

Amendment 148

Proposal for a regulation

Article 38 – point 9

Regulation (EU) No 1211/2009

Article 10 a (new)

Text proposed by the Commission

Amendment

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

[...]

Or. en

Amendment 149

Proposal for a regulation Article 39 – paragraph 1

Text proposed by the Commission

The Commission shall **submit reports on the** evaluation and review of **this Regulation** to the European Parliament and the Council **at regular intervals. The first report shall be submitted no later than 1 July 2018. Subsequent reports shall be submitted every four years thereafter.** The Commission shall, **if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning other legal instruments,** taking account **in particular of** developments in information **technology and of the state of progress in the** information society. **The reports shall be made public.**

Amendment

The Commission shall **perform a comprehensive** evaluation and review of **the entire regulatory framework for electronic communications, and shall submit a report with appropriate proposals** to the European Parliament and the Council **by 30 June 2016 in order to allow sufficient time for the legislator to analyse and debate the proposals properly.**

The review shall be based on a full public consultation as well as on ex-post assessments of the impact of the regulatory framework since 2009 and a thorough ex-ante assessment of the expected impact of the options emanating from the review.

The review shall include:

- (i) the universal service obligation, including the obligation to offer broadband internet access at a fair price ;**
- (ii) the competence of national regulatory authorities for all issues, including spectrum, that are addressed by the framework; the powers granted to the national regulatory authorities in the Member States and the scope of the requirement of independence of national regulatory authorities ;**
- (iii) cooperation between the national regulatory authorities and national competition authorities;**
- (iv) the symmetric obligations relating to**

network access;

(v) the rules on leverage effects and joint dominance;

(vi) the market review processes;

(vii) the impact of services that are fully substitutable to those provided by traditional providers; including whether clarifications are needed regarding the reach of the regulatory framework's technological neutrality and regarding the dichotomy between services in the 'information society' bracket and those in the 'electronic communications' bracket;

(viii) the necessity of abolishing redundant regulation;

(ix) the lifting of regulation where a market analysis has shown the market concerned to be truly competitive;

(x) the experience with non-discrimination obligations and remedies;

(xi) the effectiveness and functioning of the procedures established in Articles 7 and 7a of Directive 2002/21/EC;

(xii) the effectiveness and functioning of the procedure established in Article 19 of Directive 2002/21/EC;

(xiii) pan-European services and operators, taking into account the possibility for the Commission to identify transnational markets under Article 15(4) of Directive 2002/21/EC;

(xiv) identification of transnational markets, initially at least with respect to business services; enabling providers to notify BEREC of their intention to serve such markets, and supervision of providers serving such markets by BEREC;

(xv) a single Union authorisation and the supervisory structure for the framework as a whole;

(xvi) active and passive inputs, including assured service quality products;

(xvii) the recommendation on relevant markets;

(xviii) the regulation of equipment, including bundling of equipment and operating systems;

(xix) the impact of the internet having become a crucial infrastructure for conducting a wide array of economic and social activities;

The main goals of the review shall include:

(i) ensuring that fully substitutable services are subject to the same rules, taking into consideration the definition of electronic communications services in Article 2(c) of Directive 2002/21/EC ;

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

(iii) ensuring that users of digital services are able to control their digital life and data by removing obstacles to switching operating systems without losing their applications and data;

(iv) further promoting effective and sustainable competition;

(v) providing a stable and sustainable framework for investment;

(vi) ensuring a harmonised, consistent and effective application;

(vii) facilitating the development of pan-European providers and the provision of cross-border business services;

(viii) ensuring that the regulatory framework is adequate for the digital age and delivers an internet ecosystem that

*supports the entire economy, and
(ix) increasing user confidence in the
internal market for electronic
communications, including through
measures to implement the future
regulatory framework for the protection
of personal data and measures to increase
the security of electronic communications
in the internal market.*

Or. en

Amendment 150

Proposal for a regulation Article 39 a (new)

Text proposed by the Commission

Amendment

Article 39a

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 34, 35 and 36 by 12 months after the date of entry into force of this Regulation. They shall forthwith communicate to the Commission the text of those provisions.

2. When Member States adopt those provisions, they shall contain a reference to this Regulation or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by Articles 34, 35 and 36.

Or. en

Amendment 151

Proposal for a regulation

Article 40 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

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

Or. en

Amendment 152

Proposal for a regulation

Annex I

Text proposed by the Commission

Amendment

[...] *deleted*

Or. en

Amendment 153

Proposal for a regulation

Annex II

Text proposed by the Commission

Amendment

[...] *deleted*

Or. en

EXPLANATORY STATEMENT

The single market for electronic communications is at the heart of the Digital Economy. In order for Europe to fully seize the growth, competitiveness and employment potential that the Digital Single Market has to offer, the role of telecommunications in providing innovation and connectivity across all sectors of the economy must be enhanced.

Indeed, the economies of scale of a telecoms market with 500 million inhabitants would allow the strengthening of the electronic communications sector and provide high-quality connectivity and innovative services to Europeans and all economic sectors, making Europe a strong global competitive player.

In March 2013 the European Council stressed the importance of the telecommunications sector for growth and employment, and entrusted the European Commission to present concrete measures for the establishment of a single market for electronic communications. The European Council conclusions the following October insisted in the “urgent need for an integrated single digital and telecoms market, benefiting consumers and companies”. The Commission’s proposal, presented in September, aimed at achieving that goal.

In the Rapporteur’s view the completion of the digital single market is a process that needs to move up a gear and the Commission proposal is an important step forward in that direction.

Nevertheless, taking utmost account of the stakeholder views received by the Rapporteur, she believes that some of the proposed measures should be subject to a deeper, structured public consultation and thorough ex-ante assessment of the expected impact and consequently be included in the next review of the framework for electronic communications.

The main proposals developed by the Rapporteur are:

Roaming

After three regulations, in a six year period, the Rapporteur proposes to finally abolish retail roaming charges for voice, SMS and data. This obligation on operators should come into force by the 1st of July 2016 and consequently does not hinder the principle of legal certainty.

In addition, the Rapporteur considers that the Commission proposal on tackling roaming through voluntary agreements, as an alternative to the current obligations of the Roaming III regulation, generates a high degree of uncertainty. We must not forget that the implementation of the Roaming III structural measures, such as decoupling (for which investment is already being made) must be implemented in less than 5 months.

Open Internet

The Rapporteur believes that enshrining into a Regulation the principle that internet should be open and available to all, as it was made clear in the 2007-2009 review of the framework, is crucial for the uniform application of this freedom throughout the Union. The Internet is open and should remain that way. Openness means accessible for all, individuals and businesses, buyers and sellers, providers and consumers at competitive prices. Consequently ISPs should not only be required to meet the basic needs of users; they should also be allowed to meet

more specific user demand (services such as: broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications), and to develop their own services and innovate themselves.

While the open internet provisions in the proposal are in line with current practices regarding reasonable traffic management, and that there is nothing in current Union law preventing agreements amongst end users and internet service providers on specialised services, the Rapporteur is of the opinion that the provisions in this regulation must ensure the transparency and non-discrimination principles. Consequently the rapporteur, while supporting the proposal from the Commission, has introduced certain clarifications and entrusted BEREC with the obligation of drafting proper guidelines for the uniform application of the open internet principle across the entire European Union.

Spectrum Policy

Taking into account that according to recent studies, by 2017: 85 % of the world's population will have 3G coverage, 50% will be covered by 4G, smartphone subscriptions are expected to reach 3 billion, and global data traffic to grow 15 times in comparison to today, it is clear that Radio spectrum is a critical resource for the internal market for mobile, wireless broadband and satellite communications in the Union and essential for the future competitiveness of the European Union. Consequently the Rapporteur welcomes the Commission's proposals on spectrum policy. Indeed the Rapporteur firmly believes that it is crucial to address the conditions and procedures for granting spectrum licenses for wireless broadband communications, as well as the use of unlicensed spectrum. Furthermore, the process of authorising and making available the 800 MHz band for wireless broadband communications, with over half of the Member States having been granted a derogation by the Commission or otherwise failing to do so by the deadline laid down in the Radio Spectrum Policy Programme testifies to the urgency of action and also indicates a need for improvement in the Commission's exercise of its powers.

Complementing the Commission proposal, the Rapporteur believes that trading and leasing of spectrum harmonised for wireless broadband communications increases flexibility and leads to more efficient allocation of spectrum resources and consequently has proposed measures to further facilitate and stimulate the dynamism of spectrum use.

Nevertheless the Rapporteur is of the opinion that additional clarity is needed regarding some of the new proposed guiding principles regarding the coordination and use of radio spectrum. The rapporteur suggests that possible inconsistencies with the already existing principles in the Framework and RSPP are further addressed in the parliamentary debate.

Freedom to provide electronic communications across the Union

Regarding the proposed provisions on "European providers for electronic communications" the Rapporteur believes they introduce a massively complex edifice involving an unpredictable supervisory structure. Any such proposal should undergo a deep and thorough consultation process and should consequently be analysed during the review of the entire framework. Nevertheless the Rapporteur has introduced a simple standardised notification to BEREC in order to ensure that carriers, that already benefit from a general authorisation scheme to provide services in another Member State, don't suffer discrimination in similar

circumstances in the treatment by different Member States and that consistent regulatory practices are applied in the single market.

BEREC

After thorough consideration of the Commission's proposals to amend BEREC's governance structure, and taking into account the professional work BEREC has performed since its establishment two years ago, the Rapporteur continues to believe, as she did when drafting the Regulation establishing BEREC in 2009, that in order to safeguard its independence from Member States and the Commission alike, it is critical to ensure that BEREC is led by one of its members.

The Rapporteur's proposals have focused on ensuring the continued effective work of BEREC by harmonising a minimum set of NRA competences, allowing all NRAs to be adequately equipped to fully participate in BEREC, and by extension improving BEREC's ability to effectively fulfil its role.

Wholesale access products, ASQs and fixed and mobile international calls

Regarding the proposals on wholesale access products and ASQs, after carefully considering stakeholder views, the Rapporteur addresses these issues by requiring the Commission to conduct a comprehensive consultation and present proposals in the review of the entire framework.

In relation to fixed and mobile international calls the Rapporteur stresses that these are currently deregulated competitive markets that do not require regulation through EU intervention and consequently proposes to delete the related provisions.

Framework review

The Rapporteur believes that the Commission must perform a comprehensive evaluation and review of the entire framework for electronic communications, and shall submit a report with appropriate proposals to the European Parliament and the Council by 30 June 2016 in order to allow sufficient time for the co-legislators to analyse and debate the proposals properly.

The review shall be based on a full public consultation as well as on ex-post assessments of the impact of the framework since 2009 and a thorough ex-ante assessment of expected impacts of the options emanating from the review.

In addition, the Rapporteur believes that some of the proposed measures by the Commission should be subject to a deeper, structured public consultation and thorough ex-ante assessment of the expected impact and consequently be included in the next review of the framework for electronic communications.