

# EUROPEAN PARLIAMENT

2004



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*Committee on the Internal Market and Consumer Protection*

**2007/0248(COD)**

14.4.2008

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on consumer protection cooperation  
(COM(2007)0698 – C6-0420/2007 – 2007/0248(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Malcolm Harbour

Draftsman (\*):

Alexander Alvaro, Committee on Civil Liberties, Justice and Home Affairs

(\*) Associated committee – Rule 47 of the Rules of Procedure

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

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

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on consumer protection cooperation (COM(2007)0698 – C6-0420/2007 – 2007/0248(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0698),
  - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0420/2007),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Civil Liberties, Justice and Home Affairs, the Committee on Economic and Monetary Affairs, the Committee on Industry, Research and Energy, the Committee on Culture and Education and the Committee on Legal Affairs (A6-0000/2008),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

### **Amendment 1**

**Proposal for a directive – amending act**  
**Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) Without prejudice to Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity<sup>1</sup>, and in particular the disability requirements laid***

*down in Article 3(3)(f) thereof, certain aspects of terminal equipment, including equipment intended for disabled users, should be brought within the scope of Directive 2002/22/EC in order to facilitate access to networks and the use of services. Such equipment currently includes receive-only radio and television terminal equipment as well as special terminal devices for hearing-impaired users.*

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<sup>1</sup> OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

Or. en

### *Justification*

*This addition of a new recital is to explain the practical implications of including aspects of terminal equipment in this Directive and provide examples of the type of equipment concerned.*

## **Amendment 2**

### **Proposal for a directive – amending act Recital 13**

#### *Text proposed by the Commission*

(5) Definitions need to be adjusted so as to conform to the principle of technology neutrality and to keep pace with technological development. In particular, conditions for the provision of a service should be separated from the actual definitional elements of a publicly available telephone service, i.e. **a** service available to the public for originating and receiving, directly or indirectly via carrier selection or pre-selection or resale, national and/or international calls through a number or numbers in a national or international telephone numbering plan. A service which

#### *Amendment*

(5) Definitions need to be adjusted so as to conform to the principle of technology neutrality and to keep pace with technological development. In particular, conditions for the provision of a service should be separated from the actual definitional elements of a publicly available telephone service, i.e. **an electronic communications** service available to the public for originating and receiving, directly or indirectly via carrier selection or pre-selection or resale, national and/or international calls through a number or numbers in a national or international

does not fulfil all these conditions is not a publicly available telephone service.

telephone numbering plan, *whether such a service is based on circuit switched or packet switched technology. It is in the nature of such a service that it is bi-directional, enabling both parties to the call to communicate.* A service which does not fulfil all these conditions is not a publicly available telephone service.

Or. en

### *Justification*

*This serves to provide additional guidance on the definition of publicly available telephone service in Article 2. As a general rule, when NRAs consider whether a service is a publicly available telephone service, they should take due account of technological developments and in particular consider whether the service is perceived by users to be a substitute for traditional telephony service.*

### **Amendment 3**

#### **Proposal for a directive – amending act Recital 13**

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

(13) The right of subscribers to withdraw from their contracts without penalty refers to modifications in contractual conditions which are imposed by the providers of electronic communications networks and/or services.

##### *Amendment*

(13) The right of subscribers to withdraw from their contracts without penalty refers to modifications in contractual conditions which are imposed by the providers of electronic communications networks and/or services, *not to changes required by law. Under basic principles of contract law, any variation of a contract requires the agreement of both parties. Where the contract contains a clause enabling the provider to unilaterally vary the contract, Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts<sup>1</sup> applies. The right of subscribers to withdraw should not apply to variations that are clearly not to their detriment, such as a reduction of the price or increase of the capacity of a contracted service. If the provider bundles such a*

*variation with variations that are not clearly in the interests of the subscriber, then the right to withdraw should apply. The relevant authorities of the Member States monitor practices with respect to consumer contracts in the telecommunications field and in other fields and should take action against any abuse.*

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<sup>1</sup> OJ L 95, 21.4.1993, p. 29.

Or. en

### *Justification*

*To provide background and guidance on the changes to 20(7).*

#### **Amendment 4**

#### **Proposal for a directive – amending act Recital 14**

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

(14) A competitive market should ensure that end-users are able to access and distribute any lawful content and to use any lawful applications and/or services of their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of any restrictions and/or limitations imposed on the use of electronic communications services by the service and/or network provider. Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them in Directive 2002/19/EC to ensure that users' access to particular types of content or applications is not unreasonably restricted.

##### *Amendment*

(14) A competitive market should ensure that end-users are able to access and distribute any lawful content and to use any lawful applications and/or services of their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of any restrictions and/or limitations imposed on the use of electronic communications services by the service and/or network provider. Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them in Directive 2002/19/EC to ensure that users' access to particular types of content or applications is not unreasonably restricted. ***National regulatory authorities should be able to take action under Directive 2002/22/EC in case restrictions***



*are unreasonably imposed in circumstances other than a lack of effective competition. Management of networks, for example in order to address congestion and capacity constraints and to enable new services, should not per se be considered as examples of an unreasonable restriction.*

Or. en

### *Justification*

*To provide background and guidance on the changes to 22(3).*

## **Amendment 5**

### **Proposal for a directive – amending act Recital 15**

#### *Text proposed by the Commission*

(15) The availability of transparent, up-to-date and comparable tariffs is a key element for consumers in competitive markets with several providers offering services. Consumers of electronic communications services should be able to easily compare prices of various services offered on the market based on tariff information published in an easily accessible form. In order to allow them to make price comparisons easily, national regulatory authorities should have powers to require from operators better tariff transparency and to ensure that third parties have the right to use without charge publicly available tariffs published by undertakings providing electronic communications services. They should also make price guides available where the market has not provided them. Operators should not be entitled to any remuneration for such use of tariffs which had already been published and thus belong to the public domain. In addition, users should be

#### *Amendment*

(15) The availability of transparent, up-to-date and comparable tariffs is a key element for consumers in competitive markets with several providers offering services. Consumers of electronic communications services should be able to easily compare prices of various services offered on the market based on tariff information published in an easily accessible form. In order to allow them to make price comparisons easily, national regulatory authorities should have powers to require from operators better tariff transparency and to ensure that third parties have the right to use without charge publicly available tariffs published by undertakings providing electronic communications services. They should also make price guides available where the market has not provided them. Operators should not be entitled to any remuneration for such use of tariffs which had already been published and thus belong to the public domain. In addition, users should be

adequately informed of the price involved or the type of service offered before they purchase a service, in particular if a freephone number is subject to any additional charges. ***The Commission should be able to adopt technical implementing measures to ensure that end-users benefit from a consistent approach to tariff transparency in the Community.***

adequately informed of the price involved or the type of service offered before they purchase a service, in particular if a freephone number is subject to any additional charges.

Or. en

*Justification*

*The corresponding substantive text in 21(6) is deleted.*

**Amendment 6**

**Proposal for a directive – amending act  
Recital 16**

*Text proposed by the Commission*

(16) A competitive market should ensure that users are able to have the quality of service they require, but in particular cases it may be necessary to ensure that public communications networks attain minimum quality levels so as to prevent degradation of service, the blocking of access and the slowing of traffic over the networks. ***In particular, the Commission should be able to adopt implementing measures with a view to identifying the quality standards to be used by the national regulatory authorities.***

*Amendment*

(16) A competitive market should ensure that users are able to have the quality of service they require, but in particular cases it may be necessary to ensure that public communications networks attain minimum quality levels so as to prevent degradation of service, the blocking of access and the slowing of traffic over the networks.

Or. en

*Justification*

*The corresponding substantive text in 22(3) is deleted.*

## Amendment 7

### Proposal for a directive – amending act Recital 21

*Text proposed by the Commission*

*Amendment*

*(21) The countries to which the International Telecommunications Union assigned the international code “3883” have delegated administrative responsibility for the European Telephony Numbering Space (ETNS) to the electronic communications committee (ECC) of the European Conference of Postal and Telecommunications Administrations (CEPT). Technological and market developments show that ETNS represents an opportunity for pan-European services to develop, but that it is currently prevented from realising its potential by overly bureaucratic procedural requirements and a lack of coordination between national administrations. In order to foster the development of ETNS, its administration (which includes assignment, monitoring and development) should be transferred to the European Electronic Communications Market Authority established by Regulation (EC) No.../... of the European Parliament and of the Council of [...], hereinafter referred to as “the Authority”. The Authority should ensure coordination with those countries that share “3883” but are not Member States on behalf of the Member States to which “3883” has been assigned.*

*deleted*

Or. en

*Justification*

*The corresponding substantive text in 27(2) is deleted.*

## Amendment 8

### Proposal for a directive – amending act Recital 23

#### *Text proposed by the Commission*

(23) In order to take full advantage of the competitive environment, consumers should be able to make informed choices and to change providers when it is in their interest. It is essential to ensure that they can do so without being hindered by legal, technical or practical obstacles, including contractual conditions, procedures, charges etc. This does not preclude imposing reasonable minimum contractual periods in consumer contracts. Number portability is a key facilitator of consumer choice and effective competition in competitive markets for electronic communications, and should be implemented with the minimum of delay. In order to be able to adapt number portability to market and technological evolution, including the possible porting of subscriber's personal directories and profile information stored within the network, the Commission should be able to take technical implementing measures in this area. Assessment of whether technology and market conditions are such as to allow for porting of numbers between networks providing services at a fixed location and mobile networks should in particular take into account prices for users and switching costs for undertakings providing services at fixed locations and mobile networks.

#### *Amendment*

(23) In order to take full advantage of the competitive environment, consumers should be able to make informed choices and to change providers when it is in their interest. It is essential to ensure that they can do so without being hindered by legal, technical or practical obstacles, including contractual conditions, procedures, charges etc. This does not preclude imposing reasonable minimum contractual periods in consumer contracts. Number portability is a key facilitator of consumer choice and effective competition in competitive markets for electronic communications, and should be implemented with the minimum of delay, ***ordinarily within no more than one day from the request of the consumer. However, experience in certain Member States has shown that there is a risk of consumers being switched without consent. While that is a matter that should primarily be addressed by the judicial authorities, Member States should be able to impose the minimum proportionate measures regarding the switching process as are necessary to minimise such risks, without making the process less attractive for consumers.*** In order to be able to adapt number portability to market and technological evolution, including the possible porting of subscriber's personal directories and profile information stored within the network, the Commission should be able to take technical implementing measures in this area. Assessment of whether technology and market conditions are such as to allow for porting of numbers between networks providing services at a fixed location and mobile networks should in particular take into account prices for users and switching

costs for undertakings providing services at fixed locations and mobile networks.

Or. en

*Justification*

*To provide background and guidance on the changes to 30(4).*

**Amendment 9**

**Proposal for a directive – amending act  
Recital 33**

*Text proposed by the Commission*

*Amendment*

***(33) The Authority can contribute to the enhanced level of protection for personal data and privacy in the Community by, among other things, providing expertise and advice, promoting the exchange of best practices in risk management, and establishing common methodologies for risk assessment. In particular, it should contribute to harmonisation of appropriate technical and organisational security measures.***

***deleted***

Or. en

*Justification*

*The proposed authority will likely not have responsibility for these issues.*

**Amendment 10**

**Proposal for a directive – amending act  
Recital 39**

*Text proposed by the Commission*

*Amendment*

(39) In particular power should be conferred on the Commission to adopt implementing measures on tariff transparency, minimum quality of service

(39) In particular power should be conferred on the Commission to adopt implementing measures on tariff transparency, minimum quality of service

requirements, effective implementation of “112” services, effective access to numbers and services, improvement of accessibility by disabled end-users as well as amendments to adapt the Annexes to technical progress or changes in market demand. This power should also be conferred to adopt implementing measures concerning information and notification requirements as well as cross-border cooperation. Since those measures are of a general scope and are designed to supplement *Directive* by adding new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. ***When, on imperative grounds of urgency, the normal time-limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to use the urgency procedure provided for in Article 5a(6) of the Decision.***

requirements, effective implementation of “112” services, effective access to numbers and services, improvement of accessibility by disabled end-users as well as amendments to adapt the Annexes to technical progress or changes in market demand. This power should also be conferred to adopt implementing measures concerning information and notification requirements as well as cross-border cooperation. Since those measures are of general scope and are designed to supplement *Directive 2002/22/EC* by adding new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. ***Taking into account that the application of the regulatory procedure with scrutiny within the usual deadlines could, in certain exceptional situations, impede the timely adoption of implementing measures, the European Parliament, the Council and the Commission should act speedily in order to ensure the timely adoption of those measures.***

Or. en

*(This change would be applicable throughout in references to comitology, without further specific AMs)*

#### *Justification*

*Even in case of urgency European Parliament must have the possibility to study the draft implementing measure; cooperation of the institutions is, however, necessary in order adopt the implementing measure as speedily as possible.*

### **Amendment 11**

#### **Proposal for a directive – amending act**

##### **Article 1 – point 1**

Directive 2002/22/EC

Article 1 – paragraph 1

*Text proposed by the Commission*

1. Within the framework of Directive 2002/21/EC (Framework Directive), this Directive concerns the provision of electronic communications networks and services to end-users. The aim is to ensure the availability throughout the Community of good quality publicly available services through effective competition and choice and to deal with circumstances in which the needs of end-users are not satisfactorily met by the market. The Directive also includes provisions concerning **consumer premises** terminal equipment.

*Amendment*

1. Within the framework of Directive 2002/21/EC (Framework Directive), this Directive concerns the provision of electronic communications networks and services to end-users. The aim is to ensure the availability throughout the Community of good quality publicly available services through effective competition and choice and to deal with circumstances in which the needs of end-users are not satisfactorily met by the market. The Directive also includes provisions concerning **certain aspects of terminal equipment, including terminal equipment for disabled users.**

Or. en

*Justification*

*The text is consistent with the change proposed by the Commission to Framework Directive and makes clear that the aspects of terminal equipment addressed in this Directive are those relating to disabled users.*

**Amendment 12**

**Proposal for a directive – amending act**

**Article 1 – point 2 – point b**

Directive 2002/22/EC

Article 2 – point (c)

*Text proposed by the Commission*

(c) "publicly available telephone service" means a service available to the public for originating and receiving, directly or indirectly **via carrier selection or pre-selection or resale**, national and/or international calls through a number or numbers in a national or international telephone numbering plan;

*Amendment*

(c) "publicly available telephone service" means a service available to the public for originating and receiving, directly or indirectly, national and/or international calls through a number or numbers in a national or international telephone numbering plan;

Or. en

### *Justification*

*The change is intended to simplify and clarify the definition by making it clear that the definition covers the provisions of the relevant service regardless of by what means the provider offers the service. Reselling, rebranding etc are all covered by the reference to indirect provision.*

#### **Amendment 13**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 5**

Directive 2002/22/EC

Article 7 – title

*Text proposed by the Commission*

*Amendment*

***Special*** measures for disabled users

Measures for disabled users

Or. en

### *Justification*

*The reference to "special" is deleted to avoid the impression that these measures are of extraordinary character as opposed to an integral part of the purpose of this Directive.*

#### **Amendment 14**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 5**

Directive 2002/22/EC

Article 7 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall take specific measures for disabled end-users in order to ensure access to and affordability of ***publicly available telephone service***, including access to emergency services, directory enquiry services and directories, equivalent to that enjoyed by other end-users.

1. Member States shall take specific measures for disabled end-users in order to ensure access to and affordability of ***electronic communications services***, including access to emergency services, directory enquiry services and directories, equivalent to that enjoyed by other end-users.

Or. en



### *Justification*

*The change would broaden the scope with respect to disabled end-users in order to not unnecessarily limit them to basic telephony services. "Electronic communications service" is defined in the Framework Directive to in principle cover any service consisting of the conveyance of signals, and includes publicly available telephone service.*

### **Amendment 15**

#### **Proposal for a directive – amending act**

#### **Article 1 – point 5**

Directive 2002/22/EC

Article 7 – paragraph 2

#### *Text proposed by the Commission*

2. Member States shall take specific measures, in the light of national conditions, to ensure that disabled end-users can *also* take advantage of the choice of undertakings and service providers available to the majority of end-users.

#### *Amendment*

2. Member States shall take specific measures, ***shown through an assessment by the national regulatory authorities to be needed*** in the light of national conditions ***and specific requirements***, to ensure that disabled end-users can take advantage of the choice of undertakings and service providers available to the majority of end-users, ***and to ensure that in any event the needs of specific groups of disabled users are met by at least one undertaking.***

Or. en

### *Justification*

*The obligation on Member States to take measures should depend on need ascertained by the NRAs to ensure that the measures are those necessary and appropriate. It may be that particular measures can not reasonably be offered by several providers, thus enabling choice, but in that case the Member States should ensure that they are offered by at least one provider.*

### **Amendment 16**

#### **Proposal for a directive – amending act**

#### **Article 1 – point 6**

Directive 2002/22/EC

Article 8 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**(6) In Article 8, the following paragraph 3 is added:** *deleted*

**'3. When an operator designated in accordance with paragraph 1 intends to dispose of a substantial part or all of its local access network assets to a separate legal entity under different ownership, it shall inform in advance the national regulatory authority in a timely manner, in order to allow the national regulatory authority to assess the effect of the intended transaction on the provision of access at a fixed location and of telephone services pursuant to Article 4. The national regulatory authority may impose conditions in accordance with Article 6 (2) of Directive 2002/20/EC (Authorisation Directive).'**

Or. en

*Justification*

*The proposal is unclear and does not, for example, specify whether an intended disposal needs approval by the relevant NRA before it can go ahead. The uncertainty that would be created might act to hamper investment in local access assets by a new owner. Legal certainty would require comprehensive redrafting, but in view of the fact that the Commission has not explained the need for the provision, and of the existing possibilities for NRAs to impose obligations, deletion is the better alternative.*

**Amendment 17**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 2 – subparagraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

2. Member States shall ensure that, where subscribing to services providing connection to a public communications

2. Member States shall ensure that, where subscribing to services providing connection to a public communications

network and/or **publicly available telephone** services, consumers have a right to a contract with an undertaking or undertakings providing such services and/or connection. The contract shall specify at least:

network and/or **electronic communications** services, consumers have a right to a contract with an undertaking or undertakings providing such services and/or connection. The contract shall specify **in a clear, comprehensive and easily accessible form** at least:

Or. en

### *Justification*

*This, together with the other amendments to Article 20, serves to simplify the Article. The reference here to electronic communications services (which includes publicly available telephone services) enables deletion of paragraph 3. The inclusion of the reference to clear and comprehensive information avoids repetition of that requirement in later paragraphs.*

## **Amendment 18**

### **Proposal for a directive – amending act**

#### **Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 2 – subparagraph 1 – point (b)

#### *Text proposed by the Commission*

(b) services provided, the service quality levels offered, **as well as** the time for the initial connection;

#### *Amendment*

(b) services provided, **including in particular:**

- **whether access to emergency services is included in the services subscribed to,**
- **information on any limitations imposed by the provider regarding a subscriber's ability to access or distribute lawful content or run lawful applications and services,**
- **information on inclusion of subscriber information in directories,**
- **the service quality levels and types of maintenance services offered,**
- **the time for the initial connection, and**
- **any limitations on the use of terminal equipment imposed by the provider;**

*Justification*

*This would gather in one place the information proposed by the Commission to be included at the time of contract in the proposed new paragraphs 4 and 5, address information on directories and limitations of the use of terminal equipment, such as SIM-locked handsets, and enable deletion of point (b) on maintenance as a separate point.*

**Amendment 19****Proposal for a directive – amending act****Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 2 – subparagraph 1 – point (c)

*Text proposed by the Commission**Amendment****(c) the types of maintenance service offered;******deleted****Justification*

*The reference to maintenance service is included under (b) above.*

**Amendment 20****Proposal for a directive – amending act****Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 2 – subparagraph 1 – point (d)

*Text proposed by the Commission**Amendment*

(d) particulars of prices and tariffs and the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;

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

### *Justification*

*To include basic information on available payment methods, in particular whether any particular methods involves a difference in costs to the subscriber, such as for example any reduction offered if the subscriber agrees to direct debit or electronic invoicing.*

#### **Amendment 21**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 2 – subparagraph 1 – point (e)

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

(e) the duration of the contract, the conditions for renewal and termination of services and of the contract, including **direct costs for** portability of numbers and other identifiers;

##### *Amendment*

(e) the duration of the contract, the conditions for renewal and termination of services and of the contract, including **any charges related to** portability of numbers and other identifiers **and, where any terminal equipment offered on subsidised terms is included in the services, any cost for the consumer with respect to such terminal equipment in case of termination of the contract;**

Or. en

### *Justification*

*This would make costs related to any subsidised handset or other terminal equipment on termination of the contract (whether termination is premature or not) clear to the subscriber. It is without prejudice to national law that might prohibit such subsidies altogether.*

#### **Amendment 22**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 2 – subparagraph 1 – point (h)

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

(h) the action that might be taken by the undertaking providing connection and/or services in reaction to security or integrity

##### *Amendment*

(h) the **type of** action that might be taken by the undertaking providing connection and/or services in reaction to security or

incidents or threats and vulnerabilities.

integrity incidents or threats and vulnerabilities, **and any compensation arrangements which apply if security or integrity incidents occur.**

Or. en

*Justification*

*The limitation to the type of action should lead to information that is both shorter and more meaningful than what might otherwise be a long list of theoretically possible actions. Following the example set in point (f) regarding breach of agreed service levels, providers should also inform of any compensation arrangements they apply. Disclosure might stimulate competition in that respect.*

**Amendment 23**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***The contract shall also include any information on legally permissible uses of electronic communications networks and on means of protection against risks to privacy and personal data referred to in Article 21(4a) and relevant to the service provided.***

Or. en

*Justification*

*This new subparagraph would enable NRAs to require providers to include any current information on legal uses of communications in the contract, including where the relevant NRA has issued information with respect to copyright infringement.*

## Amendment 24

### Proposal for a directive – amending act

#### Article 1 – point 12

Directive 2002/22/EC

Article 20 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. The information listed in paragraph 2 shall also be included in contracts between consumers and electronic communications services providers other than those providing connection to a public communications network and/or publicly available telephone services. Member States may extend this obligation to cover other end-users.** **deleted**

Or. en

#### *Justification*

*See the justification to Article 20(2) above. The possibility to extend the obligation to other end-users is retained in the existing second subparagraph of Article 20(2).*

## Amendment 25

### Proposal for a directive – amending act

#### Article 1 – point 12

Directive 2002/22/EC

Article 20 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. Member States shall ensure that where contracts are concluded between subscribers and undertakings providing electronic communications services that allow voice communication, subscribers are clearly informed whether or not access to emergency services is provided. Providers of electronic communications services shall ensure that customers are clearly informed of the lack of access to emergency services in advance of the conclusion of a contract and regularly** **deleted**

*thereafter.*

Or. en

*Justification*

*See the justification to Article 20(2) point (b) above and the proposed changes to Article 21(4) relating to information separately from the contract.*

**Amendment 26**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 5

*Text proposed by the Commission*

*Amendment*

***5. Member States shall ensure that where contracts are concluded between subscribers and undertakings providing electronic communications services and/or networks, subscribers are clearly informed in advance of the conclusion of a contract and regularly thereafter of any limitations imposed by the provider on their ability to access or distribute lawful content or run any lawful applications and services of their choice.*** ***deleted***

Or. en

*Justification*

*See the justification to Article 20(2) point (b) above and the proposed changes to Article 21(4) relating to information separately from the contract.*

**Amendment 27**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 6



*Text proposed by the Commission*

*Amendment*

**6. Member States shall ensure that where contracts are concluded between subscribers and undertakings providing electronic communications services and/or networks, subscribers are clearly informed in advance of the conclusion of the contract and regularly thereafter of their obligations to respect copyright and related rights. Without prejudice to Directive 2000/31/EC on electronic commerce, this includes the obligation to inform subscribers of the most common acts of infringements and their legal consequences.**

**deleted**

Or. en

*Justification*

*See the justification to Article 20(2) subparagraph 1 a (new) above and to Article 21(4a) (new) relating to information separately from the contract. A possibility to inform on legal uses of communications should not be limited to copyright. To avoid problems regarding liability the information should be produced by the NRAs, on such topics they deem necessary. Providers could be requested to disseminate it to their customers.*

## **Amendment 28**

### **Proposal for a directive – amending act**

#### **Article 1 – point 12**

Directive 2002/22/EC

Article 20 – paragraph 7

*Text proposed by the Commission*

*Amendment*

7. Subscribers shall have a right to withdraw from their contracts without penalty upon notice of modifications in the contractual conditions proposed by operators. Subscribers shall be given adequate notice, not shorter than one month, ahead of any such modifications and shall be informed at the same time of their right to withdraw, without penalty,

7. Subscribers shall have a right to withdraw from their contracts without penalty upon notice of modifications **to the detriment of the subscriber** in the contractual conditions proposed by operators **in reliance on a term in the contract allowing unilateral changes**. Subscribers shall be given adequate notice, not shorter than one month, ahead of any

from such contracts, if they do not accept the new conditions.

such modifications and shall be informed at the same time of their right to withdraw, without penalty, from such contracts, if they do not accept the new conditions. ***If the contract does not contain a term enabling the operator to unilaterally alter the contract the notice shall inform the subscriber of the right to refuse to accept the proposed modification and to instead maintain the contract unchanged.***

Or. en

### *Justification*

*The changes would enable the provider to apply a provision in the contract enabling unilateral changes in order to modify contract terms in favour of the subscriber. The provision would otherwise provide a disincentive on the provider to formally apply such better terms, and thus risk segregation between new and old customers and possible reduction of competition. If the contract does not allow unilateral changes, the subscriber can refuse the change under contract law.*

### **Amendment 29**

#### **Proposal for a directive – amending act**

#### **Article 1 – point 12**

Directive 2002/22/EC

Article 21 – paragraph 1

*Text proposed by the Commission*

*Amendment*

***1. Member States shall ensure that transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, and on standard terms and conditions, in respect of access to and use of the services identified in Articles 4, 5, 6 and 7 is available to end-users and consumers, in accordance with the provisions of Annex II.***

***deleted***

Or. en

*Justification*

*Proposed merged into Article 21(2), below.*

**Amendment 30**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2002/22/EC

Article 21 – paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that undertakings providing public electronic communications networks and/or services publish comparable, adequate and up-to-date information on applicable prices and tariffs in respect of access and use of their services provided to consumers. Such information shall be published in **an** easily accessible form.

*Amendment*

2. Member States shall ensure that **national regulatory authorities are able to oblige** undertakings providing **connection to a** public electronic communications network and/or **electronic communications** services **to** publish comparable, adequate and up-to-date information on applicable prices and tariffs, **and information on standard terms and conditions**, in respect of access and use of their services provided to **end-users and consumers in accordance with Annex II**. Such information shall be published in **a clear, comprehensive and** easily accessible form.

Or. en

*Justification*

*This merger and amendment of Article 21 paragraphs (1) and (2) serves to broaden, simplify and clarify the provisions. Also, the standard terms as a whole would be excluded from the comparability requirement as comparisons between those terms in general, over and above the specific information required under Annex II in any event, would add little to the consumer interest.*

**Amendment 31**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2002/22/EC

Article 21 – paragraph 4

*Text proposed by the Commission*

4. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing electronic communications services to provide applicable tariff information to *customers at the time and point of purchase to ensure that customers are fully informed of pricing conditions.*

*Amendment*

4. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing ***connection to a public electronic communications network and/or*** electronic communications services to:

***(a) provide applicable tariff information to subscribers prior to connecting to any number or service subject to particular pricing conditions for that number or service;***

***(b) regularly inform subscribers of any lack of access to emergency services in the service they have subscribed to;***

***(c) inform subscribers of any change to any limitations imposed by the undertaking on their ability to access or distribute lawful content or run lawful applications and services of their choice;***

***(d) inform subscribers of their right to be included in a directory; and***

***(e) regularly inform disabled subscribers of details of current products and services aimed at them.***

Or. en

## *Justification*

*This provision would gather the recurring information requirements proposed for Article 20 into Article 21, where they fit the structure of the Directive better, and provide some clarifications, in particular with respect to point (a) regarding individual calls to premium services.*

### **Amendment 32**

#### **Proposal for a directive – amending act**

##### **Article 1 – point 12**

Directive 2002/22/EC

Article 21 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. Member States shall ensure that national regulatory authorities are able to oblige the undertakings referred to in paragraph 4 to distribute information provided by them to existing and new subscribers, with respect to subscribers':***

***(a) legally permissible usage of electronic communications services, including respect for protection of copyright and related rights; and***

***(b) means of protection against risks to privacy and personal data in using electronic communications services.***

***Any additional costs incurred by an undertaking in complying with these obligations shall be reimbursed by the national regulatory authority.***

Or. en

## *Justification*

*This new paragraph would give NRAs a general right to require undertakings to disseminate information provided by the NRAs on legal uses of communications and on means of protection against risks to privacy and personal data both to existing and, in connection with entering into a contract, new subscribers, compare 20(2a) (new) above. Extra costs for the undertakings should be reimbursed by the NRA, as this concerns information relating to law enforcement and in the general interest.*

### **Amendment 33**

#### **Proposal for a directive – amending act**

##### **Article 1 – point 12**

Directive 2002/22/EC

Article 21 – paragraph 5

*Text proposed by the Commission*

*Amendment*

***5. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing electronic communications services and/or networks to provide information required in accordance with Article 20(5) to customers in a clear, comprehensive and easily accessible form.***

***deleted***

Or. en

## *Justification*

*See justification to Article 20(2) above.*

### **Amendment 34**

#### **Proposal for a directive – amending act**

##### **Article 1 – point 12**

Directive 2002/22/EC

Article 21 – paragraph 6

*Text proposed by the Commission*

*Amendment*

**6. In order to ensure that end-users can benefit from a consistent approach to tariff transparency, as well as to the provision of information in accordance with Article 20(5) in the Community, the Commission may, having consulted the European Electronic Communications Market Authority (hereinafter referred to as "the Authority"), take the appropriate technical implementing measures in this area, such as specify the methodology or procedures. Those measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(3).**

*deleted*

Or. en

*Justification*

*The need for harmonised tariff transparency across the Community does not seem such as to require technical implementing measures. Tariff transparency should be dealt with on a national basis by the NRAs.*

## **Amendment 35**

### **Proposal for a directive – amending act**

#### **Article 1 – point 13– point a**

Directive 2002/22/EC

Article 22 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that national regulatory authorities are, after taking account of the views of interested parties, able to require undertakings that provide

1. Member States shall ensure that national regulatory authorities are, after taking account of the views of interested parties, able to require undertakings that provide

publicly available electronic communications networks and/or services to publish comparable, adequate and up-to-date information for end-users on the quality of their services, **including** equivalent access for disabled end-users. The information shall, on request, also be supplied to the national regulatory authority in advance of its publication.

publicly available electronic communications networks and/or services to publish comparable, adequate and up-to-date information for end-users on the quality of their services, **and on measures taken to ensure** equivalent access for disabled end-users. The information shall, on request, also be supplied to the national regulatory authority in advance of its publication.

Or. en

### *Justification*

*The text as proposed by the Commission connected the somewhat disparate aspects of information on quality of services with equivalent access for disabled end-users. The proposed change intends to clarify.*

### **Amendment 36**

**Proposal for a directive – amending act**  
**Article 1 – point 13 – point a a (new)**  
Directive 2002/22/EC  
Article 22 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(aa) paragraph 2 shall be replaced by the following::***

**"2. National regulatory authorities may specify, inter alia, the quality of service parameters to be measured, and the content, form and manner of information to be published, *including possible quality certification mechanisms*, in order to ensure that end-users, *including disabled end-users*, have access to comprehensive, comparable, *reliable* and user-friendly information. Where appropriate, the parameters, definitions and measurement methods given in Annex III could be used."**



### Justification

*This change of existing text left untouched by the Commission introduces the concept of quality certification mechanisms and makes limited other improvements to the existing text.*

### Amendment 37

#### Proposal for a directive – amending act

#### Article 1 – point 13 – point b

Directive 2002/22/EC

Article 22 – paragraph 3

#### *Text proposed by the Commission*

3. In order to prevent degradation of service and slowing of traffic over networks, ***the Commission*** may, ***having consulted the Authority***, adopt ***technical implementing measures concerning minimum quality of service requirements to be set by the national regulatory authority on undertakings providing public communications networks. These measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(3).***

#### *Amendment*

3. In order to prevent degradation of service and slowing of traffic over networks, ***and to ensure that users' ability to access or distribute lawful content or to run lawful applications and services of their choice is not unreasonably restricted, national regulatory authorities*** may adopt minimum quality of service requirements. ***A national regulatory authority may consider a limitation imposed by the operator on users' ability to access or distribute lawful content or to run lawful applications and services of their choice as unreasonable if it discriminates according to source, destination, content, or type of application and is not duly justified by the operator.***

## *Justification*

*This resolves what appears to be a contradiction in the proposal between on the one hand the right for operators to limit access if disclosed, and on the other the obligation on NRAs in the proposed 28(1)(a) to ensure that access is not limited and the new policy objective in 8(4)(g) of the Framework Directive. Instead, NRAs would be able to take action where limitations imposed by operators are unreasonable. Article 28(1)(a) is deleted, below.*

### **Amendment 38**

#### **Proposal for a directive – amending act**

##### **Article 1 – point 14**

Directive 2002/22/EC

Article 23

#### *Text proposed by the Commission*

Member States shall take all necessary steps to ensure the availability of publicly available telephone services ***provided over public communications networks*** in the event of catastrophic network breakdown or in cases of force majeure. Member States shall ensure that undertakings providing publicly available telephone services take all reasonable steps to ensure uninterrupted access to emergency services.

#### *Amendment*

Member States shall take all necessary steps to ensure the ***fullest possible*** availability of publicly available telephone services in the event of catastrophic network breakdown or in cases of force majeure. Member States shall ensure that undertakings providing publicly available telephone services take all reasonable steps to ensure uninterrupted access to emergency services.

Or. en

## *Justification*

*Clarification to address the fact that any delivery of service might be excluded in case of truly catastrophic events or force majeure, i.e. impossibility to perform.*

### **Amendment 39**

#### **Proposal for a directive – amending act**

##### **Article 1 – point 15 – point b a (new)**

Directive 2002/22/EC

Article 25 – paragraph 4

*Text proposed by the Commission*

*Amendment*

*(ba) paragraph 4 shall be replaced by the following:*

**"4. Member States shall not maintain any regulatory restrictions which prevent end-users in one Member State from accessing directly the directory enquiry service in another Member State by voice call or SMS, and shall take measures to ensure such access pursuant to Article 28."**

Or. en

*Justification*

*This change of existing text left untouched by the Commission is to address problems observed in practice in accessing cross-border directory services.*

#### **Amendment 40**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 16**

Directive 2002/22/EC

Article 26 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Member States shall ensure that undertakings providing **a** service for originating national and/or international calls through a number or numbers in a national or international telephone numbering plan provide access to emergency services.

2. Member States shall ensure that undertakings providing **an electronic communications** service for originating national and/or international calls through a number or numbers in a national or international telephone numbering plan provide access to emergency services.

Or. en

*Justification*

*Clarification by way of using the defined term from the Framework Directive. The obligation to provide access to emergency services would remain dependent on whether the actual*

*service offered is for origination of calls.*

#### **Amendment 41**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 16**

Directive 2002/22/EC

Article 26 – paragraph 4

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

4. Member States shall ensure that disabled end-users **are able to** access emergency services. In order to ensure that disabled end-users are able to access emergency services while travelling in other Member States, the measures taken **may** include ensuring compliance with relevant standards or specifications published in accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework Directive).

##### *Amendment*

4. Member States shall ensure that disabled end-users **have** access **to** emergency services **equivalent to that enjoyed by other end-users**. In order to ensure that disabled end-users are able to access emergency services while travelling in other Member States, the measures taken **shall** include ensuring compliance with relevant standards or specifications published in accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework Directive).

Or. en

##### *Justification*

*Change to bring the text into conformity with the provisions of Article 7, and to make use of applicable standards mandatory.*

#### **Amendment 42**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 16**

Directive 2002/22/EC

Article 26 – paragraph 5

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

5. Member States shall ensure that caller location information is made available free of charge **to authorities** handling **emergencies** for all calls to the single European emergency call number “112”.

##### *Amendment*

5. Member States shall ensure that, **to the extent that it is technically feasible**, caller location information is made available free of charge, **and as soon as the emergency call reaches the authority** handling **the emergency**. **This shall also apply to** all

calls to the single European emergency call number "112".

***Member States shall require that caller location information is automatically provided as soon as the emergency call reaches the authority dealing with the emergency.***

Or. en

#### *Justification*

*A need for a technical feasibility qualification remains, due to certain types of services and to the capabilities of emergency centres, as well as due to technical developments that may impact particular methods used. The obligation should refer equally to remaining national emergency numbers and "112".*

#### **Amendment 43**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 16**

Directive 2002/22/EC

Article 26 – paragraph 6

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

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

***Member States shall submit a yearly report to the Commission and the Authority on the measures taken in that respect.***

##### *Amendment*

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

Or. en

#### *Justification*

*A separate yearly report appears unnecessarily burdensome. Instead, measures taken with respect to "112" should be included in the broader annual reporting provided for in 33(3),*

below.

#### **Amendment 44**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 16**

Directive 2002/22/EC

Article 26 – paragraph 7

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

7. In order to ensure the effective implementation of “112” services in the Member States, including access for disabled end-users when travelling in other Member States, the Commission, having consulted **the Authority**, may adopt technical implementing measures.

Those measures designed to amend non-essential elements of this Directive, by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2).

***On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(3).***

##### *Amendment*

7. In order to ensure the effective implementation of “112” services in the Member States, including access for disabled end-users when travelling in other Member States, the Commission, having consulted **[xxx]**, may adopt technical implementing measures.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2).

Or. en

*(This amendment, both in terms of replacing the reference to the proposed Authority and in deleting the reference to the urgency procedure, applies throughout the text. Adoption will necessitate corresponding changes throughout)*

### *Justification*

*The decision on the establishment of an authority is the subject of a separate report. For reasons of coherence, all references to the authority should therefore be deleted for present purposes. Also in cases of urgency the European Parliament should have the possibility to review the draft measure. The need for cooperation between the institutions is addressed proposed changes to Recital 39, above.*

#### **Amendment 45**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 16**

Directive 2002/22/EC

Article 27 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**2. Those Member States to which the ITU assigned the international code "3883" shall entrust the Authority with sole responsibility for management of the European Telephony Numbering Space.** **deleted**

Or. en

### *Justification*

*This proposal should be deleted as unnecessary as it addresses a numbering space that is not used now and unlikely to be used in future due to lack of demand. It also connects it to the proposed authority, see justification to 26(7) above.*

#### **Amendment 46**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 16**

Directive 2002/22/EC

Article 27 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. Member States shall ensure that all undertakings that provide publicly** **deleted**

*available telephone services handle all calls to and from the European telephony numbering space, at rates that do not exceed the maximum rate they apply for calls to and from other Member States.*

Or. en

*Justification*

*See the justification to 27(2) above. This deletion affects not only the changes proposed by the Commission but the paragraph as a whole. Article 27 would consist of paragraph 1 only.*

**Amendment 47**

**Proposal for a directive – amending act**

**Article 1 – point 16**

Directive 2002/22/EC

Article 28 – paragraph 1 – subparagraph 1 – introductory part

*Text proposed by the Commission*

1. Member States shall ensure that national regulatory authorities take all necessary steps to ensure that:

*Amendment*

1. Member States shall ensure that, ***where technically and economically feasible, and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas,*** national regulatory authorities take all necessary steps to ensure that:

Or. en



### *Justification*

*The current qualification relating to technical and economical feasibility and the ability, for example for an operator of a freephone number, to avoid incurring expense due to calls from remote areas, should both be retained to avoid unnecessarily burdensome regulation and a measure of national discretion.*

#### **Amendment 48**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 16**

Directive 2002/22/EC

Article 28 – paragraph 1 – subparagraph 1 – point (a)

*Text proposed by the Commission*

*Amendment*

*(a) end-users are able to access and use services, including information society services, provided within the Community; and* *deleted*

Or. en

### *Justification*

*See the justification to 22(3). The text as proposed appears to run contrary to the principle that, in a competitive environment, operators should be able to restrict access as long as it is disclosed. The amendment to 22(3) would enable NRAs to take action also in cases where there is competition but access is unreasonably restricted.*

#### **Amendment 49**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 16**

Directive 2002/22/EC

Article 28 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

National regulatory authorities shall be able to block on a case-by-case basis access to numbers or services where this is

National regulatory authorities shall be able to block on a case-by-case basis access to numbers or services where this is

justified by reasons of fraud or misuse.

justified by reasons of fraud or misuse, **and to ensure that in such cases, including where an investigation is pending, providers of electronic communications services withhold relevant interconnection or other service revenues.**

Or. en

#### *Justification*

*The measure most likely to effectively block fraud and misuse is withholding of revenues.*

#### **Amendment 50**

#### **Proposal for a directive – amending act**

#### **Article 1 – point 18**

Directive 2002/22/EC

Article 30 – paragraph 4

#### *Text proposed by the Commission*

4. Porting of numbers and their subsequent activation shall be executed within the shortest possible delay, no later than one working day from the initial request by the subscriber.

#### *Amendment*

4. Porting of numbers and their subsequent activation shall be executed within the shortest possible delay, no later than one working day from the initial request by the subscriber. ***National regulatory authorities may extend the one day period and prescribe appropriate measures where necessary to ensure that subscribers are not switched against their will. National regulatory authorities may impose appropriate sanctions on providers, including an obligation to compensate customers, in case of delay in porting or abuse of porting by them or on their behalf.***

Or. en

#### *Justification*

*Porting within one day is technologically feasible and in the consumer interest. It should therefore be the default rule. However, there have been instances of abuse with customers being switched against their will, as described i.a. in the Commission's 13th implementation*

report. NRAs should therefore be able to make exceptions from the one day rule and prescribe other appropriate measures if necessary, as well as to impose appropriate sanctions.

## Amendment 51

### Proposal for a directive – amending act

#### Article 1 – point 18

Directive 2002/22/EC

Article 30 – paragraph 5

*Text proposed by the Commission*

*Amendment*

**5. The Commission may, having consulted the Authority and taking into account technology and market conditions, amend Annex I in accordance with the procedure referred to in Article 37(2).**

*deleted*

**Such amendment may, in particular provide for:**

**(a) the portability of numbers between fixed and mobile networks;**

**(b) the portability of subscriber identifiers and related information, in which case the provisions of paragraphs 2, 3 and 4 shall also apply to these identifiers.**

Or. en

### *Justification*

*Amendments of the Annex should be dealt with by the normal legislative procedure.*

## Amendment 52

### Proposal for a directive – amending act

#### Article 1 – point 18

Directive 2002/22/EC

Article 30 – paragraph 6

*Text proposed by the Commission*

*Amendment*

6. Without prejudice to any minimum contractual period, ***national regulatory***

6. Without prejudice to any minimum contractual period, ***Member States*** shall

**authorities** shall ensure that **conditions and** procedures for termination of **contract** do not act as a disincentive for changing suppliers or services.

ensure that procedures for termination of **contracts** do not act as a disincentive for changing suppliers or services.

Or. en

#### *Justification*

*This obligation should rest on the Member States, as national bodies other than NRAs may be responsible. The conditions relating to contracts are addressed in Article 20, as well as by consumer protection law, which means that this provision should be limited to any procedures employed to dissuade from a change of provider.*

#### **Amendment 53**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 20 – point -a (new)**

Directive 2002/22/EC

Article 33 – paragraph 1

*Text proposed by the Commission*

*Amendment*

***(-a) paragraph 1 shall be replaced by the following:***

**"1. Member States shall ensure as far as appropriate that national regulatory authorities take account of the views of end-users, [...] consumers, [...] manufacturers *and* undertakings that provide electronic communications networks and/or services on issues related to all end-user and consumer rights concerning publicly available electronic communications services, in particular where they have a significant impact on the market."**

Or. en

#### *Justification*

*The text of paragraph 1 relates to all end-users and consumers, without specific mentioning of disabled en-users being necessary in view of the specific reference to disabled end-users in*

*the new subparagraph 2 of 33(1), below.*

#### **Amendment 54**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 20 – point a**

Directive 2002/22/EC

Article 33 – paragraph 1 – subparagraph 2

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

In particular, Member States shall ensure that national regulatory authorities establish *a* consultation ***mechanism*** ensuring that in their decision-making ***process*** due consideration is given to ***consumer interests in electronic communications.***

##### *Amendment*

In particular, Member States shall ensure that national regulatory authorities establish consultation ***mechanisms*** ensuring that in their decision-making, due consideration is given to ***issues related to end-users, including, in particular, disabled end-users.***

Or. en

##### *Justification*

*Change for reasons of consistency.*

#### **Amendment 55**

##### **Proposal for a directive – amending act**

##### **Article 1 – point 20 – point b**

Directive 2002/22/EC

Article 33 – paragraph 3

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

***3. Member States shall submit a yearly report to the Commission and the Authority on the measures taken and the progress towards improving interoperability and use of, and access to, electronic communications services and terminal equipment by disabled end-users.***

##### *Amendment*

***deleted***

Or. en

*Justification*

*This additional reporting requirement is unnecessarily burdensome. The information can be included in existing other reporting, for example under the Framework Directive.*

**Amendment 56**

**Proposal for a directive – amending act**

**Article 1 – point 25**

Directive 2002/22/EC

Annex I – title

*Text proposed by the Commission*

DESCRIPTION OF FACILITIES AND SERVICES REFERRED TO IN ARTICLE 10 (CONTROL OF EXPENDITURE) **AND** ARTICLE 29 (ADDITIONAL FACILITIES)

*Amendment*

DESCRIPTION OF FACILITIES AND SERVICES REFERRED TO IN ARTICLE 10 (CONTROL OF EXPENDITURE), ARTICLE 29 (ADDITIONAL FACILITIES) **AND ARTICLE 30 (FACILITATING CHANGE OF SUPPLIER)**

Or. en

*Justification*

*To reflect the addition of Part C of Annex I*

**Amendment 57**

**Proposal for a directive – amending act**

**Article 4 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

(1) Member States shall adopt and publish by [...] at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

*Amendment*

1. Member States shall adopt and publish by [...] at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the **European Parliament and the** Commission the text of those provisions and a correlation table between those provisions and this Directive.

Or. en

## Justification

*In order for Parliament to be able to monitor the transposition of this Directive on an equal basis with the Council and the Commission and independently of them, Parliament should be given the same information at the same time as the Commission of the national transposition measures.*

### Amendment 58

#### Proposal for a directive – amending act

##### Annex I – Part A– point (e)

Directive 2002/22/EC

Annex I – part A – point (e)

#### *Text proposed by the Commission*

Member States are to authorise specified measures, which are to be proportionate, non-discriminatory and published, to cover non-payment of telephone bills of operators designated in accordance with Article 8. These measures are to ensure that due warning of any consequent service interruption or disconnection is given to the subscriber beforehand. ***Any service interruption shall normally be confined to the service concerned. Exceptionally, in cases of fraud, persistent late payment or non-payment, Member States shall ensure that national regulatory authorities are able to authorise disconnection from the network as a result of non-payment of bills for services provided over the network.*** Disconnection for non-payment of bills should take place only after due warning is given to the subscriber. Member States may allow a period of limited service prior to complete disconnection, during which only calls that do not incur a charge to the subscriber (e.g. "112" calls) are permitted.

#### *Amendment*

Member States are to authorise specified measures, which are to be proportionate, non-discriminatory and published, to cover non-payment of telephone bills of operators designated in accordance with Article 8. These measures are to ensure that due warning of any consequent service interruption or disconnection is given to the subscriber beforehand. ***Except*** in cases of fraud, persistent late payment or non-payment, ***these measures*** shall ensure, ***as far as is technically feasible, that any service interruption is confined to the service concerned.*** Disconnection for non-payment of bills should take place only after due warning is given to the subscriber. Member States may allow a period of limited service prior to complete disconnection, during which only calls that do not incur a charge to the subscriber (e.g. "112" calls) are permitted.

Or. en

## *Justification*

*It would be disproportionate and unnecessarily bureaucratic to require NRAs to authorise disconnection in case of fraud, persistent late payment or non-payment.*

### **Amendment 59**

#### **Proposal for a directive – amending act**

#### **Annex II – introductory part**

Directive 2002/22/EC

Annex II – introductory part

#### *Text proposed by the Commission*

The national regulatory authority has a responsibility to ensure that the information in this Annex is published, in accordance with Article 21. It is for the national regulatory authority to decide which information is to be published by the undertakings providing public communications networks and/or publicly available telephone services and which information is to be published by the national regulatory authority itself, so as to ensure that consumers are able to make informed choices. ***Where information is published by the undertakings providing public communications networks and/or publicly available telephone services, the national regulatory authority may specify the manner in which the information is published, in order to ensure that consumers are fully informed.***

#### *Amendment*

The national regulatory authority has a responsibility to ensure that the information in this Annex is published, in accordance with Article 21. It is for the national regulatory authority to decide which information is to be published by the undertakings providing public communications networks and/or publicly available telephone services and which information is to be published by the national regulatory authority itself, so as to ensure that consumers are able to make informed choices.

Or. en



*Justification*

*The deleted text is covered by Article 21(2)*

**Amendment 60**

**Proposal for a directive – amending act**

**Annex II – point 2.2**

Directive 2002/22/EC

Annex II – point 2.2

*Text proposed by the Commission*

2.2. Standard tariffs ***with an indication of what is included in*** each tariff element (e.g. charges for access, all types of usage charges, maintenance charges), ***and including details*** of standard discounts applied ***and*** special and targeted tariff schemes.

*Amendment*

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

Or. en

*Justification*

*Clarification, and to include costs related to terminal equipment.*

## EXPLANATORY STATEMENT

### The Directive in Context

The Commission proposal for Amendments to Consumer Rights aspects of the 2002 Electronic Communications Legislative package is one of three legislative reform proposals to amend the current regulatory framework which entered into force in 2002. The bulk of the reforms affect the Universal Services and Users' Rights Directive, with a smaller number of changes to the E-Privacy Directive, and one minor change to the Consumer Protection Co-operation Regulation.

There are two additional related reform proposals which cover changes to the other three Electronic Communication Directives (Authorisation, Access and Framework)<sup>1</sup> and the proposed creation of a European Electronic Communications Market Authority (Authority)<sup>2</sup>. Your Rapporteur has therefore collaborated closely with the Rapporteurs of these reform proposals, to ensure a consistent regulatory approach.

In its 2001 Report (for which your Rapporteur was also responsible), the Legal Affairs and Internal Market Committee amended and approved the original proposal for a Universal Services and Users' Rights Directive, adding a number of additional provisions to enhance consumer protection and access to communications services for disabled users. The Rapporteur therefore welcomes the further enhancements made in this reform proposal which reinforce the line that the Committee previously followed.

This proposal to amend the Universal Services and Users' Rights Directive does not alter the current scope or concept of universal service in the European Union, which will be subject to a separate consultation in 2008. Your Rapporteur has, therefore, not proposed any changes in these areas.

The two objectives of the current proposal, against which it should be considered, are as follows:

- 1) Strengthening and improving consumer protection and user rights in the electronic communication sector, through – among other aspects – providing consumers with more information about prices and supply conditions, and facilitating access to and use of e-communications, including services for disabled users.
- 2) Enhancing the protection of individuals' privacy and personal data in the electronic communication sector, in particular through a new data breach notification requirement and improved enforcement mechanisms. In these aspects, your

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<sup>1</sup> Proposal for a Directive of the European Parliament and of the Council amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and services, and 2002/20/EC on the authorisation of electronic communications networks and services (COM(2007) 697 final)

<sup>2</sup> Proposal for a Regulation of the European Parliament and of the Council establishing the European Electronic Communications Market Authority (COM(2007) 699 final)

Rapporteur has worked closely with the Civil Liberties, Justice and Home Affairs Committee, which has the status of associated Committee under Rule 47 of Parliament's Rules of Procedure, as it is directly responsible for data protection legislative proposals. Your Rapporteur has therefore not, at this stage, proposed amendments on these issues in his draft Report.

#### The main approach taken by your Rapporteur

Your Rapporteur has proposed a number of amendments to the following areas of the proposals, with the broad aim of simplifying, clarifying and strengthening the provisions.

In particular:

- Clarified the pre contractual information requirements
- Broadened the information and transparency provisions
- Added new provisions for consumers to be given information on their legal obligations in using a service (especially respect of copyright) and the adoption of security safeguards
- Reinforced the service provisions for disabled users
- Made detailed amendments related to “112” emergency number availability and caller location
- Clarified and simplified the quality of service requirements
- More clearly defined the responsibility of National Regulators for day to day market enforcement of consumer rights, removing some of the proposed Commission responsibilities in these areas.
- Removed provisions for support of the “3883” numbering space, for which very limited consumer demand is now foreseen with the evolution of nomadic “Voice over Network” services.

Your Rapporteur commends these proposals to the Committee, and is open to receive further suggestions to enhance these useful reforms.