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Dossier interinstitutionnel:  
2017/0003(COD)

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LIMITE

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COMPET 174  
MI 219  
DATAPROTECT 80  
CONSOM 66  
JAI 381  
DIGIT 61  
FREMP 64  
CYBER 91  
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#### NOTE

Origine:	la présidence
Destinataire:	Comité des représentants permanents
N° doc. préc.:	6871/22
N° doc. Cion:	5358/17
Objet:	Proposition de règlement concernant le respect de la vie privée et la protection des données à caractère personnel dans les communications électroniques et abrogeant la directive 2002/58/CE (règlement "vie privée et communications électroniques") - Préparation du trilogue

#### I. INTRODUCTION

1. La Commission a soumis sa proposition pour un règlement de la Protection de la vie privée dans le secteur des communications électroniques (dite « ePrivacy ») le 10 janvier 2017, avec l'objectif de remplacer la directive ePrivacy en vigueur. La proposition était l'une des actions prévues dans la stratégie du marché unique numérique, afin de renforcer la confiance et la sécurité dans le marché unique numérique.

2. Au sein du Parlement européen, la Commission des libertés civiles, de la justice et des affaires intérieures (LIBE) a été nommée Commission cheffe de file. Elle a adopté son rapport, ainsi que le mandat pour commencer les négociations interinstitutionnelles le 19 octobre 2017, ceci étant confirmé par une vote en plénière le 26 octobre 2017. Le rapporteur pour ce dossier est Mme Birigt SIPPEL.
3. Le Comité économique et social européen a adopté son avis le 5 juillet 2017.
4. Au Conseil, l'examen de la proposition a été mené par le Groupe de Travail Télécommunication et Société de l'Information. Les Conseils TTE des 9 juin et 4 décembre 2017, 8 juin et 4 décembre 2018, et 7 juin 2019 ont pris note du rapport de progrès sur ce dossier. Les Ministres ont également organisé un débat politique et échange de vues sur cette proposition lors des Conseils TTE des 8 juin et 4 décembre 2018.
5. La Présidence portugaise a réussi à obtenir un mandat du Coreper le 10 février 2021. Le Conseil Télécommunications a été informé du progrès des négociations avec le Parlement le 4 juin et le 3 décembre 2021.
6. Lors du deuxième trilogue sur le règlement ePrivacy le 18 novembre 2021, lors duquel les chapitres III, V et VI ont été discutés, les colégislateurs ont chargé le niveau technique d'engager des discussions concernant tous les chapitres restants de la proposition.
7. Les discussions au cours de la Présidence française ont porté jusqu'à présent sur les chapitres III et I. Ces discussions ont eu lieu au cours de six réunions techniques qui se sont tenues ces dernières semaines et, par conséquent, il semble désormais possible de trouver des solutions de compromis pour le chapitre III et le chapitre I.
8. Les colégislateurs prévoient de tenir le troisième trilogue le 31 mars 2021. L'objectif de ce trilogue est de conclure de façon provisoire les négociations sur les chapitres cités ci-dessus et sur autant de dispositions que possible.

9. La Présidence souhaiterait donc demander au Comité son soutien au mandat de négociations révisé, en Annexe de ce document. Les intentions de la Présidence, ainsi que les parties pour lesquelles elle demande de la flexibilité de la part des délégations sont indiquées à la section II ci-dessous, ainsi qu'en Annexe.

## II. AMENDEMENTS AU TEXTE

### CHAPITRE III

#### Article 13

10. Article 13(1), L148

La proposition de compromis consiste à préciser que l'Article 13, paragraphe 1 (ligne 148) ne peut être utilisé, en tant qu'exemption pour empêcher la présentation de l'identification de la ligne appelante, qu'aux fins de réponse et de traitement des communications d'urgence, mais que cette disposition est sans préjudice des exemptions fondées sur d'autres bases juridiques : cette clarification est obtenue par une nouvelle phrase ajoutée au considérant (28), L39 (voire partie II, considérants de l'Annexe).

11. Article 13 (1a), L148a

Les colégislateurs ont convenu de modifier le Considérant (27), L38 (voir partie II, Considérants de l'Annexe), afin de clarifier que les centres de réception des appels d'urgence qui affichent un numéro générique (afin qu'ils soient identifiables pour l'utilisateur final qui est appelé), quand ils répondent à des communications d'urgence, ne devraient pas être considérés comme une ligne non-identifiée. De tels appels ne seraient donc pas bloqués par les paramètres des utilisateurs. L'exception demandée à la ligne 148a du texte du Conseil deviendrait donc obsolète.

12. Article 13(2), L149

La proposition de compromis consisterait à supprimer la ligne L151a du Conseil et à la remplacer par la ligne L149 du mandat du PE, qui serait modifiée. Les questions encore ouvertes portent sur la question de savoir si les procédures et les circonstances dans lesquelles les fournisseurs sont autorisés à passer outre l'élimination de la présentation de l'identification de la ligne de l'appelant devraient être établies par les États membres ou par la Commission. La Présidence insistera sur le besoin de conserver cette compétence aux États membres.

13. Article 13(3), L149a

Les colégislateurs ont convenu que la question de l'accès aux données de localisation de l'équipement terminal serait abordée lors des discussions sur l'Article 8.

## **Article 16**

14. Article 16(2), L161

En préservant la référence aux produits "similaires", la proposition de compromis reflète le mandat modifié de novembre 2021.

La Présidence propose d'accepter l'utilisation du terme "client" dans la dernière phrase car la nature de la relation est plutôt commerciale et ne se limite pas au secteur des télécommunications.

Le PE a accepté d'abandonner son amendement à la ligne L160 élargissant le champ d'application de l'article 16, paragraphe 1, à la "présentation" de communications de marketing direct. Il insiste néanmoins, à la ligne L161, sur l'utilisation de "courrier électronique" au lieu de "message électronique" afin de permettre uniquement les e-mails à des fins de marketing direct, après la vente d'un produit ou d'un service, car ce contact peut être effectué par le fournisseur sans le consentement du client.



15. Article 16(2a), L161a

La proposition de compromis préserve la flexibilité pour les États membres d'introduire une période n'excédant pas 3 ans après la vente, pendant laquelle un « courrier électronique » ou des « messages électroniques » (voir la ligne L161) de marketing direct peuvent être envoyés au client. Cet amendement permet aux États membres de choisir s'ils introduisent dans leurs législations nationales une telle période ainsi que sa durée, tant qu'elle ne dépasse pas 36 mois.

Il existe un accord sur le fait que cette période doit commencer lorsque la vente est «conclue ».

16. Article 16(3), L162, 163, 164, 164b, 165

En ce qui concerne la question de la liste d'opposition au démarchage téléphonique ("Do Not Call Register"), le PE pourrait être convaincu que les États membres doivent conserver la possibilité de choisir une solution de "opt-in" (consentement préalable) ou "opt-out" (consentement a posteriori) mais pourrait proposer l'introduction d'une clause de droits acquis. La Présidence insistera sur le maintien de la possibilité d'avoir une solution de "opt-out" (consentement a posteriori) pour les États membres pour lesquels un tel système existe déjà.

La Présidence insistera sur l'exclusion de la création, au niveau européen, d'une liste d'opposition au démarchage téléphonique ("Do Not Call Register") ou toute obligation pour les États membres de créer une telle liste au niveau national.

La Présidence insistera sur l'exclusion de toute obligation pour les États membres d'introduire un préfixe au niveau national ou européen en ce qui concerne le démarchage téléphonique.

17. Article 16(7), L168

L'attribution à la Commission de pouvoirs d'exécution est liée au résultat de la question du préfixe et aux mesures d'exécution (le mandat du Conseil figure à la ligne L164b).

18. Article 17, Lignes 169-170c

En accord avec le PE, les discussions sur l'Article 17 sont reportées dans l'attente de l'adoption de la directive NIS2.

## **CHAPITRE I**

### **Article 1**

19. Article 1(1), (1a), Lignes 58, 58a

La ligne L58a n'apparaît que dans le mandat du Conseil. Dans un souci de clarté, le Conseil a séparé les personnes physiques et morales et a créé un nouveau paragraphe pour ces dernières. Il n'y a pas de différence entre le Conseil et le PE concernant le contenu, mais le PE préférerait revenir au texte de la proposition.

La Présidence demande à faire preuve de souplesse sur ce point.

20. Article 1(2), Ligne 59

Comme pour la ligne L58a, l'amendement du Conseil est une simple amélioration du texte, séparant les droits des personnes physiques et morales. Il n'y a pas de différence entre le Conseil et le PE concernant le contenu. Le PE préférerait revenir au texte de la proposition. La Présidence demande à faire preuve de souplesse sur ce point.

## Article 2

### 21. Article 2(1), L62a

La Présidence propose d'accepter d'utiliser les « données de communication électronique », telles qu'elles sont définies à l'article 4, paragraphe 3, point a), de manière à ce que le « contenu » et les « métadonnées » soient tous deux couverts par les « données ».

Le PE tient à souligner que le paiement n'est pas une condition préalable pour que les services de communication électronique relèvent du champ d'application de ce règlement. La Présidence est d'accord sur le fond, mais préférerait continuer à s'appuyer sur la définition de ces services donnée dans le code européen des communications électroniques (CECE).

Un compromis pourrait consister à copier, dans le préambule de ce règlement, les passages pertinents du considérant 16 du CECE (qui souligne que « les services de communications électroniques sont souvent fournis à l'utilisateur final non seulement contre rémunération, mais de plus en plus et en particulier, pour la fourniture de données personnelles ou d'autres données. »)

### 22. Article 2(1) (b) L62b

Les colégislateurs conviennent que cette ligne devrait refléter le résultat des discussions sur l'Article 8.

Il en va de même pour le point (c) de L62c, car il doit être traité en liaison avec l'Article 10.

23. Article 2(1) (d), L62d

Ce point devrait faire référence aux annuaires de personnes physiques et morales utilisant des services de communications électroniques. La formulation exacte sera convenue lorsque la terminologie de l'utilisateur/ l'utilisateur final aura fait l'objet d'un accord.

24. Article 2(2) (a), L64

La Présidence insistera pour conserver la formulation du mandat du Conseil.

25. Article 2(2) (d), L 67

La Présidence insistera sur le besoin de conserver « incluant les activités de traitement de données » dans le texte, afin d'insister sur le fait que le règlement ePrivacy s'applique sans préjudice de la directive 2016/680 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel par les autorités compétentes à des fins de prévention et de détection des infractions pénales, d'enquêtes et de poursuites en la matière ou d'exécution de sanctions pénales, et à la libre circulation de ces données.

L'avis du PE est que l'Article 2(2)(a) et (b) devraient être traités en lien avec les dispositions relatives à la conservation des données au Chapitre II.

26. Article 2(2) e, L67a

Les colégislateurs conviennent que cette ligne devrait refléter le résultat des discussions sur l'Article 7 et L111.

### **Article 3**

27. La référence au "représentant" serait supprimée du titre de l'Article et un nouvel Article 3a (lignes 77-80) serait créé à la demande du PE pour couvrir la question de la désignation d'un représentant.

28. Le PE propose de préciser le champ d'application territorial du règlement à l'Article 3 (lignes 73-76b) en prévoyant que le règlement s'applique à :

(a) la prestation de services référencée à l'Article 2(1) :

i) Aux [utilisateurs/utilisateurs finaux] dans l'Union, et au traitement de leurs données de communications électroniques, ou

ii) Aux [utilisateurs/utilisateurs finaux] en dehors de l'Union, par des fournisseurs établis au sein de l'Union, dans la mesure où le traitement de leurs données de communications électronique a lieu au sein de l'Union.

(b) Le traitement des informations liées à ou traitées par l'équipement terminal des [utilisateurs/utilisateurs finaux] qui se trouve dans l'Union.

Le PE propose des nouveaux éléments à la Ligne 74.

Si cette approche est acceptée, les lignes L74a, 75, 76, 76a, 76b pourraient être supprimées.

29. Article 3(1) (b), L74

Le PE insiste sur l'utilisation du terme « offre » de services de communications électroniques et non sur leur « fourniture », car cette terminologie n'est pas utilisée dans le cadre du RGPD en lien avec les biens et services. Pour le PE, le terme « offre » couvrirait également la phase précontractuelle lorsque l'entreprise n'a pas de clients.

### **Nouvel Article 3a**

30. Les lignes 77 à 80 formeraient le nouvel Article 3a sur les représentants.

#### Article 4

31. Article 4(1), L84 liste les références qui peuvent être reprises directement du CECE.

32. Article 4(3), Lignes 87f et 87g

Le PE et le Conseil conviennent que cette régulation devrait de façon générale couvrir à la fois les personnes physique et morales. Le Conseil utilise les définitions d' « utilisateur » et d' « utilisateur final » du CECE, qui peuvent toutes deux désigner des personnes physiques ou morales. Dans le cadre du CECE, la base de la différenciation entre eux est que « l'utilisateur final » ne peut pas fournir des services de communication électronique, ainsi dans les passages où il est important de spécifier que la personne soit physique ou morale, le texte du Conseil le spécifie (« des personnes qui sont physiques/morales »)

L'avis du PE est que cette différenciation n'est pas pertinente du point de vue de ce règlement qui traite de questions concernant les droits fondamentaux.

Le PE souhaiterait utiliser les définitions de la directive ePrivacy, pour laquelle l' « utilisateur » désigne une personne physique. Il n'y aurait pas de définition couvrant à la fois les personnes physiques et morales.

Comme solution, le PE propose de :

- a) Importer la définition d' « utilisateur » du CECE pour les personnes physiques et morales, et
- b) Importer la définition d' « utilisateur » de la directive ePrivacy pour les personnes physiques, mais de le remplacer par la notion d' « utilisateur final » dans le cadre de ce règlement.

La référence à l'abonnement dans le texte vise à inclure les équipements utilisés mais non possédés par l'utilisateur (par exemple les équipements d'entreprises).

Dans ce cas, à la L87g le terme « utilisateur » serait remplacé par « utilisateur final » et la ligne L87f pourrait être supprimée.

33. Article 4(3), L89

L'amendement du PE vise à préciser que les métadonnées peuvent devenir des données de services de communication électronique en raison de leur retransmission ou distribution. La Présidence insistera sur la suppression de cet amendement de l'Article.

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**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
concerning the respect for private life and the protection of personal data in electronic communications  
and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) (Text with  
EEA relevance)  
2017/0003(COD)**

**I. ARTICLES**

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
CHAPTER I				
56	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS  Text Origin: Commission Proposal
Article 1				
57	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter  Text Origin: Commission Proposal
Article 1(1)				



	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Y	58	1. This Regulation lays down rules regarding the protection of fundamental rights and freedoms of natural and legal persons in the provision and use of electronic communications services, and in particular, the rights to respect for private life and communications and the protection of natural persons with regard to the processing of personal data.	1. This Regulation lays down rules regarding the protection of fundamental rights and freedoms of <del>natural and legal</del> persons in the provision and use of electronic communications services, and in particular, the rights to respect for private life and communications and the protection of natural persons with regard to the processing of personal data.	Y
Article 1(1a)				
Y	58a		<b>1a. This Regulation lays down rules regarding the protection of the fundamental rights and freedoms of legal persons in the provision and use of the electronic communications services, and in particular their rights to respect of communications.</b>	Y
Article 1(2)				
Y	59	2. This Regulation ensures free movement of electronic communications data and	2. <del>This Regulation ensures</del> The free movement of electronic communications data and	Y

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural and legal persons and the protection of natural persons with regard to the processing of personal data.	electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural and legal persons and the protection of natural persons with regard to the processing of personal data.	electronic communications services within the Union, <del>which</del> shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural <del>and legal</del> persons and the protection of natural persons with regard to the processing of personal data, <b>and for protection of communications of legal persons.</b>	
	Article 1(3)			
y	60 3. The provisions of this Regulation particularise and complement Regulation (EU) 2016/679 by laying down specific rules for the purposes mentioned in paragraphs 1 and 2.	3. The provisions of this Regulation particularise and complement Regulation (EU) 2016/679 by laying down specific rules for the purposes mentioned in paragraphs 1 and 2.	3. The provisions of this Regulation particularise and complement Regulation (EU) 2016/679 by laying down specific rules for the purposes mentioned in paragraphs 1 <del>and</del> to 2.	3. The provisions of this Regulation particularise and complement Regulation (EU) 2016/679 by laying down specific rules for the purposes mentioned in paragraphs 1 <del>and</del> to 2.  Text Origin: Council Mandate
	Article 2			
g	61 Article 2 Material Scope	Article 2 Material Scope	Article 2 Material Scope	Article 2 Material Scope  Text Origin: Commission Proposal

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Article 2(1)				
62	1. This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to the terminal equipment of end-users.	1. This Regulation applies to <del>the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to the terminal equipment of end-users.</del>  AM 40	1. This Regulation applies to <del>the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to the terminal equipment of end-users.</del>	1. <del>This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to the terminal equipment of end-users.</del>
Article 2(1), point (a)				
62a		<i>(a) the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services, irrespective of whether a payment is required;</i>  AM 41	(a) the processing of electronic communications content and of electronic communications metadata carried out in connection with the provision and the use of electronic communications services;	
Article 2(1), point (b)				
62b		<i>(b) the processing of information related to or processed by the terminal equipment of end-users;</i>	(b) end-users' terminal equipment information	

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
		AM 42		
	Article 2(1), point (c)			
Y	62c	<p><i>(c) the placing on the market of software permitting electronic communications including the retrieval and presentation of information on the Internet;</i></p> <p>AM 43</p>		
	Article 2(1), point (d)			
Y	62d	<p><i>(d) the provision of publicly available directories of users of electronic communications;</i></p> <p>AM 44</p>	<p>(c) the offering of a publicly available directory of end-users of electronic communications services;</p> <p>Mandate Art 2(1) (c)</p>	<p><u>(d) the provision of publicly available directories of [users/end-users] of electronic communications services;</u></p> <p>Text Origin: EP Mandate</p>
	Article 2(1), point (e)			
G	62e	<p><i>(e) the sending of direct marketing electronic communications to end-users.</i></p> <p>AM 45</p>	<p>(d) the sending of direct marketing communications to end-users</p> <p>Mandate Art 2(1) (d)</p>	<p><u>(b) the sending of unsolicited communications for direct marketing purposes</u></p>
	Article 2(2), introductory part			

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement	
g	63	2. This Regulation does not apply to:	2. This Regulation does not apply to:	2. This Regulation does not apply to:  Text Origin: Commission Proposal	g
Article 2(2), point (a)					
y	64	(a) activities which fall outside the scope of Union law;	(a) activities which fall outside the scope of Union law;	(a) activities, which fall outside the scope of Union law, <b>and in any event measures, processing activities and operations concerning national security and defence, regardless of who is carrying out those activities whether it is a public authority or a private operator acting at the request of a public authority;</b>	y
Article 2(2), point (b)					
g	65	(b) activities of the Member States which fall within the scope of Chapter 2 of Title V of the Treaty on European Union;	(b) activities of the Member States which fall within the scope of Chapter 2 of Title V of the Treaty on European Union;	(b) activities of the Member States which fall within the scope of Chapter 2 of Title V of the Treaty on European Union;  Text Origin: Commission Proposal	g
Article 2(2), point (c)					

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
66	(c) electronic communications services which are not publicly available;	(c) electronic communications services which are not publicly available;	(c) electronic communications services which are not publicly available;	(c) electronic communications services which are not publicly available;  Text Origin: Commission Proposal
Article 2(2), point (d)				
67	(d) activities of competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;	(d) activities of competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;	(d) activities, <b>including data processing activities</b> , of competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;	
Article 2(2), point (e)				
67a			(e) <b>electronic communications data processed after receipt by the end-user concerned.</b>	
Article 2(2), point (e)				
68	(e) THIS POINT IS MISSING.			



	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	THANK YOU FOR USING ANOTHER LANGUAGE.	The point (e) does not exist in English language. It is a byproduct of XMLisation from MS Word, and should be disregarded.	deleted	
Article 2(3)				
69	3. The processing of electronic communications data by the Union institutions, bodies, offices and agencies is governed by Regulation (EU) 00/0000 [new Regulation replacing Regulation 45/2001].	3. The processing of electronic communications data by the Union institutions, bodies, offices and agencies is governed by Regulation (EU) 00/0000 [new Regulation replacing Regulation 45/2001].	3. The processing of electronic communications data by the Union institutions, bodies, offices and agencies is governed by Regulation (EU) <del>00/0000 [new Regulation replacing Regulation 45/2001]</del> 2018/1725 .	
Article 2(4)				
70	4. This Regulation shall be without prejudice to the application of Directive 2000/31/EC <sup>1</sup> , in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.  1. Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1–	4. This Regulation shall be without prejudice to the application of Directive 2000/31/EC <sup>1</sup> , in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.  1. Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1–	4. This Regulation shall be without prejudice to the application of Directive 2000/31/EC <sup>1</sup> , in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.  1. Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1–	4. This Regulation shall be without prejudice to the application of Directive 2000/31/EC <sup>1</sup> , in particular of the liability rules of intermediary service providers in Articles 12 to 15 of that Directive.  1. Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1–

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	16).	16).	16).	16). Text Origin: Commission Proposal
Article 2(5)				
71	5. This Regulation shall be without prejudice to the provisions of Directive 2014/53/EU.	5. This Regulation shall be without prejudice to the provisions of Directive 2014/53/EU.	5. This Regulation shall be without prejudice to the provisions of Directive 2014/53/EU.	5. This Regulation shall be without prejudice to the provisions of Directive 2014/53/EU. Text Origin: Commission Proposal
Article 3				
72	Article 3 Territorial scope and representative	Article 3 Territorial scope and representative	Article 3 Territorial scope and representative	Article 3 Territorial scope <u>and representative</u> Text Origin: Commission Proposal
Article 3(1), introductory part				
73	1. This Regulation applies to:	1. This Regulation applies to:	1. This Regulation applies to:	1. This Regulation applies to: Text Origin: Commission Proposal
Article 3(1), point (a)				



	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
74	(a) the provision of electronic communications services to end-users in the Union, irrespective of whether a payment of the end-user is required;	(a) the <del>provision</del> <i>offering</i> of electronic communications services, <i>software, publicly available directories, or direct marketing electronic communications</i> to end-users in the Union, irrespective of whether a payment of the end-user is required;  AM 46	(a) the provision of electronic communications services to end-users <b>who are</b> in the Union, <del>irrespective of whether a payment of the end-user is required;</del>	<p>1. This Regulation applies to:</p> <p>(a) the offering of services referred to in Article 2(1):</p> <p><del>i) by providers established in the Union to the extent that the processing takes place in the Union or</del></p> <p>ii) to [users/end-users] in the Union, and the processing of their electronic communications data, <u>or</u></p> <p>ii) to [users/end-users] outside the Union by providers established in the Union to the extent the processing of their electronic communications data takes place in the Union.</p> <p>(b) the processing of information related to or processed by the terminal equipment of [users/end-users] that is in the Union.</p>
Article 3(1), point (aa)				
74a				To delete

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			(aa) the processing of electronic communications content and of electronic communications metadata of end-users who are in the Union;	
Article 3(1), point (b)				
75	(b) the use of such services;	(b) the <del>use of such services</del> activities referred to in Article 2 that are provided from the territory of the Union;  AM 47	Deleted	To delete
Article 3(1), point (c)				
76	(c) the protection of information related to the terminal equipment of end-users located in the Union.	(c) the <del>protection</del> processing of information related to <del>or processed by</del> the terminal equipment of end-users <del>located that is</del> in the Union.  AM 48	(c) the protection of <del>information related to the</del> terminal equipment <del>information</del> of end-users <del>located who are</del> in the Union.	
Article 3(1), point (cb)				
76a			(cb) the offering of publicly available directories of end-users of electronic communications services who are in the Union;	

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	Article 3(1), point (cc)			
76b			(cc) the sending of direct marketing communications to end-users who are in the Union.	
	Article 3(2)			
77	2. Where the provider of an electronic communications service is not established in the Union it shall designate in writing a representative in the Union.	2. Where the provider of an electronic communications service, <i>provider of software permitting electronic communications, a person processing information related to or processed by the terminal equipment of users or end-users, a provider of a publicly available directory, or a person using electronic communications services to transmit direct marketing communications</i> is not established in the Union, it shall designate in writing a representative in the Union.  AM 49	2. Where the provider of an electronic communications service, <b>the provider of a publicly available directory, or a person using electronic communications services to send direct marketing communications, or a person using processing and storage capabilities or collecting information processed by or emitted by or stored in the end-users' terminal equipment</b> is not established in the Union it shall designate in writing, <b>within one month from the start of its activities</b> , a representative in the Union and communicate it to the competent Supervisory Authority.	2. <u>Article 3a (new)</u>  <u>Designation of a representative</u>  <u>1. Where the provider of <del>an</del> electronic communications service the services, referred to in Article 2(1),</u> is not established in the Union it shall designate in writing, <u>within one month from the start of its activities</u> , a representative in the Union <u>and communicate it to the competent supervisory authority.</u>
	Article 3(2a)			

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
77a			2a. The requirements laid down in paragraph 2 shall not apply if activities listed in paragraph 1 are occasional and are unlikely to result in a risk to the fundamental rights of end-users taking into account the nature, context, scope and purpose of those activities.	
Article 3(3)				
78	3. The representative shall be established in one of the Member States where the end-users of such electronic communications services are located.	3. The representative shall be established in one of the Member States where the end-users of such electronic communications services are located.	3. The representative shall be established in one of the Member States where the end-users of such electronic communications services are located.	2. The representative shall be established in one of the Member States where the <del>end-users of such electronic communications services</del> <u>users/end-users of the services referred to in Article 2(1)</u> are located.
Article 3(4)				
79	4. The representative shall have the power to answer questions and provide information in addition to or instead of the provider it represents, in particular, to supervisory authorities, and end-users, on all issues related to	4. The representative shall have the power to answer questions and provide information in addition to or instead of the provider it represents, in particular, to supervisory authorities, <i>courts</i> , and end-users, on all issues related to	4. The representative shall <del>have the power to answer questions and provide information</del> <b>be mandated by the provider or person it represents to be addressed</b> in addition to or instead of the provider it represents, in particular,	3. The representative shall <del>have the power to answer questions and provide information</del> <b>be mandated by the provider it represents to be addressed</b> in addition to, or instead of, the provider it represents, in particular, to supervisory

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	processing electronic communications data for the purposes of ensuring compliance with this Regulation.	<del>processing electronic communications data</del> the activities referred to in Article 2 for the purposes of ensuring compliance with this Regulation.  AM 50	to supervisory authorities, and end-users, on all issues related to processing electronic communications data for the purposes of ensuring compliance with this Regulation.	authorities, <u>courts, and fusers/end-users</u> and end-users, on all issues related to <del>processing electronic communications data</del> the services referred to in Article 2(1) for the purposes of ensuring compliance with this Regulation.
Article 3(5)				
80	5. The designation of a representative pursuant to paragraph 2 shall be without prejudice to legal actions, which could be initiated against a natural or legal person who processes electronic communications data in connection with the provision of electronic communications services from outside the Union to end-users in the Union.	5. The designation of a representative pursuant to paragraph 2 shall be without prejudice to legal actions, which could be initiated against a natural or legal person who <del>processes electronic communications data in connection with the provision of electronic communications services</del> undertakes the activities referred to in Article 2 from outside <del>the Union to end-users in</del> the Union.  AM 51	5. The designation of a representative pursuant to paragraph 2 shall be without prejudice to legal actions, which could be initiated against <del>a natural or legal</del> the provider or person who processes electronic communications data in connection with the provision of electronic communications services from outside the Union to end-users in the Union it represents.	<u>4.</u> The designation of a representative pursuant to paragraph <del>2</del> 1 shall be without prejudice to legal actions, which could be initiated against <del>a natural or legal person who processes electronic communications data in connection with the provision of electronic communications services from</del> the provider carrying out services referred to in Article 2(1) from outside the Union.
Article 3(5a)				
80a			5a. This Regulation applies to the processing of personal data	<u>5a. This Regulation applies to the processing of personal data by a</u>

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			by a provider not established in the Union, but in a place where Member State law applies by virtue of public international law.  Mandate Art 3 (6)	<u>provider not established in the Union, but in a place where Member State law applies by virtue of public international law.</u>  Text Origin: Council Mandate
Article 4				
81	Article 4 Definitions	Article 4 Definitions	Article 4 Definitions	Article 4 Definitions  Text Origin: Commission Proposal
Article 4(1), introductory part				
82	1. For the purposes of this Regulation, following definitions shall apply:	1. For the purposes of this Regulation, following definitions shall apply:	1. For the purposes of this Regulation, following definitions shall apply:	1. For the purposes of this Regulation, following definitions shall apply:  Text Origin: Commission Proposal
Article 4(1), point (a)				
83	(a) the definitions in Regulation (EU) 2016/679;	(a) the definitions in Regulation (EU) 2016/679;	(a) the definitions in Regulation (EU) 2016/679;	(a) the definitions in Regulation (EU) 2016/679;  Text Origin: Commission



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				Proposal
Article 4(1), point (b)				
84	(b) the definitions of ‘electronic communications network’, ‘electronic communications service’, ‘interpersonal communications service’, ‘number-based interpersonal communications service’, ‘number-independent interpersonal communications service’, ‘end-user’ and ‘call’ in points (1), (4), (5), (6), (7), (14) and (21) respectively of Article 2 of [Directive establishing the European Electronic Communications Code];	(b) the <del>definitions</del> <b>definition</b> of ‘ <del>electronic communications network</del> ’, ‘ <del>electronic communications service</del> ’, ‘ <del>interpersonal communications service</del> ’, ‘ <del>number-based interpersonal communications service</del> ’, ‘ <del>number-independent interpersonal communications service</del> ’, ‘ <del>end-user</del> ’ and ‘ <del>call</del> ’ in <del>points (1), (4), (5), (6), (7), (14) and (21) respectively</del> <b>point (21)</b> of Article 2 of [Directive establishing the European Electronic Communications Code];  AM 52	(b) the definitions of ‘electronic communications network’, ‘electronic communications service’, ‘interpersonal communications service’, ‘number-based interpersonal communications service’, ‘number-independent interpersonal communications service’, ‘end-user’ and ‘call’ in <del>points</del> <b>paragraphs</b> (1), (4), (5), (6), (7), (14) and <del>(21)</del> <b>(31)</b> respectively of Article 2 of <del>{Directive establishing the European Electronic Communications Code}(EU)</del> <b>2018/1972</b> ;	(b) the definitions of ‘electronic communications network’, ‘electronic communications service’, ‘interpersonal communications service’, ‘number-based interpersonal communications service’, ‘number-independent interpersonal communications service’, ‘end-user’ and ‘call’ <b>"public safety answering point", "emergency communication" and "emergency service" in paragraphs in points (1), (4), (5), (6), (7), (14) and (21), (21), (36), (38), and (39)</b> respectively of Article 2 of <del>[Directive establishing the European Electronic Communications Code](EU)</del> <b>2018/1972</b> ;  Commission proposal: There is a reference to "emergency services", which contains reference to definition of user (87f and 87g)  COM proposal on 29/06/2021.

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
				To be discussed in detail.
Article 4(1), point (c)				
g	85  (c) the definition of 'terminal equipment' in point (1) of Article 1 of Commission Directive 2008/63/EC <sup>1</sup> .  1. Commission Directive 2008/63/EC of 20 June 2008 on competition in the markets in telecommunications terminal equipment (OJ L 162, 21.6.2008, p. 20–26).	(c) the definition of 'terminal equipment' in point (1) of Article 1 of Commission Directive 2008/63/EC <sup>1</sup> .  1. Commission Directive 2008/63/EC of 20 June 2008 on competition in the markets in telecommunications terminal equipment (OJ L 162, 21.6.2008, p. 20–26).	(c) the definition of 'terminal equipment' in point (1) of Article <del>1</del> <b>(1)</b> of Commission Directive 2008/63/EC <sup>1</sup> ;  <del>1. Commission Directive 2008/63/EC of 20 June 2008 on competition in the markets in telecommunications terminal equipment (OJ L 162, 21.6.2008, p. 20–26).</del>	(c) the definition of 'terminal equipment' in point (1) of Article 1 of Commission Directive 2008/63/EC <sup>1</sup> .  1. Commission Directive 2008/63/EC of 20 June 2008 on competition in the markets in telecommunications terminal equipment (OJ L 162, 21.6.2008, p. 20–26).  Text Origin: Commission Proposal
Article 4(1), point (d)				
y	85a		<b>(d) the definition of ‘information society service’ in point (b) of Article 1 (1) of Directive (EU) 2015/1535.</b>	
Article 4(2)				
y	86  2. For the purposes of point (b) of paragraph 1, the definition of ‘interpersonal communications service’ shall include services	<del>2. For the purposes of point (b) of paragraph 1, the definition of ‘interpersonal communications service’ shall include services</del>	2. For the purposes of point (b) of paragraph <del>1</del> <b>this Regulation</b> , the definition of ‘interpersonal communications service’ referred	



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	which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.	<del>which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.</del> AM 53 deleted	to in point (b) of paragraph 1 shall include services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.	
Article 4(2a)				
86a			2a. For the purposes of this Regulation, the definition of 'processing' referred to in Article 4 (2) of Regulation 2016/679 shall not be limited to processing of personal data.	
Article 4(3), introductory part				
87	3. In addition, for the purposes of this Regulation the following definitions shall apply:	3. In addition, for the purposes of this Regulation the following definitions shall apply:	3. In addition, for the purposes of this Regulation the following definitions shall apply:	3. In addition, for the purposes of this Regulation the following definitions shall apply:  Text Origin: Commission Proposal
Article 4(3), point (-a)				
87a		(-a) 'electronic communications network' means a transmission		(-a) Deleted

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
		<p><i>system, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit - and packet - switched including Internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed;</i></p> <p>AM 54</p>		
Article 4(3), point (-aa)				
g 87b		<p><i>(-aa) 'electronic communications service' means a service provided via electronic communications networks, whether for</i></p>		<p><u>(-b) deleted</u></p>

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
		<i>remuneration or not, which encompasses one or more of the following: an 'internet access service' as defined in Article 2(2) or Regulation (EU) 2015/2120; an interpersonal communications service; a service consisting wholly or mainly in the conveyance of the signals, such as a transmission service used for the provision of a machine-to-machine service and for broadcasting, but excludes information conveyed as part of a broadcasting service to the public over an electronic communications network or service except to the extent that the information can be related to the identifiable end-user receiving the information; it also includes services which are not publicly available, but provide access to a publicly available electronic communications network;</i>		
	Article 4(3), point (-ab)			
g	87c	(-ab) 'interpersonal		<u><del>(-c)</del></u> <u>deleted</u>

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
		<p><i>communications service' means a service, whether provided for remuneration or not, that enables direct interpersonal and interactive exchange of information between a finite number of persons whereby the persons initiating or participating in the communication determine the recipient(s);</i></p> <p>AM 56</p>		
Article 4(3), point (-ac)				
87d		<p><i>(-ac) 'number-based interpersonal communications service' means an interpersonal communications service which connects to the public switched telephone network, either by means of assigned numbering resources, i.e. number or numbers in national or international telephone numbering plans, or by enabling communication with a number or numbers in national or international telephone numbering plans;</i></p> <p>AM 57</p>		<u>(-d) deleted</u>

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Article 4(3), point (-ad)				
g	87e	<p><i>(-ad) 'number-independent interpersonal communications service' means an interpersonal communications service which does not connect with the public switched telephone network, either by means of assigned numbering resources, i.e. a number or numbers in national or international telephone numbering plans, or by enabling communication with a number or numbers in national or international telephone numbering plans;</i></p> <p>AM 58</p>		<u>(-e) deleted</u>
Article 4(3), point (-ae)				
y	87f	<p><i>(-ae) 'end-user' means a legal entity or a natural person using or requesting a publicly available electronic communications service;</i></p> <p>AM 59</p>		
Article 4(3), point (-af)				

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Y	87g	<i>(-af) 'user' means any natural person using a publicly available electronic communications service, for private or business purposes, without necessarily having subscribed to this service;</i>  AM 60		
Article 4(3), point (a)				
G	88	(a) 'electronic communications data' means electronic communications content and electronic communications metadata;	(a) 'electronic communications data' means electronic communications content and electronic communications metadata;	(a) 'electronic communications data' means electronic communications content and electronic communications metadata;  Text Origin: Commission Proposal
Article 4(3), point (b)				
Y	89	(b) 'electronic communications content' means the content exchanged by means of electronic communications services, such as text, voice, videos, images, and sound;  <i>transmitted, distributed or</i> exchanged by means of electronic communications services, such as text, voice, videos, images, and sound. <i>Where metadata of other electronic communications</i>	(b) 'electronic communications content' means the content exchanged by means of electronic communications services, such as text, voice, videos, images, and sound;	

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
		<p><i>services or protocols are transmitted, distributed or exchanged by using the respective service, they shall be considered electronic communications content for the respective service;</i></p> <p>AM 61</p>		
Article 4(3), point (c)				
90	<p>(c) ‘electronic communications metadata’ means data processed in an electronic communications network for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and the type of communication;</p>	<p>(c) ‘electronic communications metadata’ means data processed in an electronic communications network for the purposes of transmitting, distributing or exchanging electronic communications content ; including data used to trace and identify the source and destination of a communication, data on the location of the <del>device</del> <i>generated terminal equipment</i> <b>processed</b> in the context of providing electronic communications services, and the date, time, duration and the type of communication;</p> <p>AM 62</p>	<p>(c) ‘electronic communications metadata’ means data processed <del>in</del> <b>by means of</b> electronic communications <del>network</del> <b>services</b> for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and the type of communication;</p>	



	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Article 4(3), point (d)				
91	(d) ‘publicly available directory’ means a directory of end-users of electronic communications services, whether in printed or electronic form, which is published or made available to the public or to a section of the public, including by means of a directory enquiry service;	(d) ‘publicly available directory’ means a directory of end-users of electronic communications services, whether in printed or electronic form, which is published or made available to the public or to a section of the public, including by means of a directory enquiry service;	(d) ‘publicly available directory’ means a directory of end-users of <del>electronic</del> <b>number-based interpersonal</b> communications services, whether in printed or electronic form, which is published or made available to the public or to a section of the public, including by means of a directory enquiry service <b>and the main function of which is to enable identification of such end-users;</b>	(d) ‘publicly available directory’ means a directory of <del>end-users</del> <u>of number-based interpersonal-of electronic</u> communications services, whether in printed or electronic form, which is published or made available to the public or to a section of the public, including by means of a directory enquiry service <u>and the main function of which is to enable identification of such [end-users];</u>  - first part is alignment with Code (Art 112 of Code referred to "number based interpersonal" - Second part to be checked  [User/end-user]: needs to be double-checked against final definition of "user/ "end-user".  Text Origin: Council Mandate
Article 4(3), point (e)				
92	(e) ‘electronic mail’ means any electronic message containing information such as text, voice,	(e) ‘electronic mail’ means any electronic message containing information such as text, voice,	(e) ‘electronic <del>mail</del> <b>message</b> ’ means any <del>electronic</del> message containing information such as	(e) ‘electronic <del>mail</del> <b>message</b> ’ means any <del>electronic</del> message containing information such as



	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	video, sound or image sent over an electronic communications network which can be stored in the network or in related computing facilities, or in the terminal equipment of its recipient;	video, sound or image sent over an electronic communications network which can be stored in the network or in related computing facilities, or in the terminal equipment of its recipient;	text, voice, video, sound or image sent over an electronic communications network which can be stored in the network or in related computing facilities, or in the terminal equipment of its recipient, <b>including e-mail, SMS, MMS and functionally equivalent applications and techniques;</b>	text, voice, video, sound or image sent over an electronic communications network which can be stored in the network or in related computing facilities, or in the terminal equipment of its recipient, <u>including e-mail, SMS, MMS and functionally equivalent applications and techniques;</u>  Recital 17 Telecom Code  Text Origin: Council Mandate
Article 4(3), point (f)				
93	(f) ‘direct marketing communications’ means any form of advertising, whether written or oral, sent to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc.;	(f) ‘direct marketing communications’ means any form of advertising, whether <i>in</i> written, <i>oral or video format, sent, served or presented or oral, sent</i> to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and <del>communication</del> <i>communications</i> systems with or without human interaction, electronic mail, SMS, <i>fax machines</i> etc.;  AM 63	(f) ‘direct marketing communications’ means any form of advertising, whether written or oral, sent <b>via a publicly available electronic communications service directly</b> to one or more <del>identified or identifiable end-users of electronic communications services, including specific end-users, including the placing of voice-to-voice calls,</del> the use of automated calling and communication systems with or without human interaction, electronic <del>mail, SMS, message</del> etc.;	(f) ‘direct marketing communications’ means any form of advertising, whether written or oral, <u>that is sent directly</u> <del>sent</del> to one or more <del>identified or identifiable end-users of electronic specific</del> <u>[end-users/users], by making use of a publicly available electronic communications services</u> <del>service,</del> including the <u>placing of voice-to-voice calls, the</u> use of automated calling and communication systems with or without human interaction, electronic <del>mail, SMS, message</del> etc.;

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				COM proposal 29/06/2021
Article 4(3), point (g)				
94	(g) 'direct marketing voice-to-voice calls' means live calls, which do not entail the use of automated calling systems and communication systems;	(g) 'direct marketing voice-to-voice calls' means live calls, which do not entail the use of automated calling systems and <del>communication</del> <b>communications</b> systems, <i>including calls made using automated calling and communications systems which connect the called person to an individual</i> ;  AM 64	(g) 'direct marketing voice-to-voice calls' means live calls, which do not entail the use of automated calling systems and communication systems;	
Article 4(3), point (h)				
95	(h) 'automated calling and communication systems' means systems capable of automatically initiating calls to one or more recipients in accordance with instructions set for that system, and transmitting sounds which are not live speech, including calls made using automated calling and communication systems which	(h) 'automated calling and <del>communication</del> <b>communications</b> systems' means systems capable of automatically initiating calls to one or more recipients in accordance with instructions set for that system, and transmitting sounds which are not live speech; <del>including calls made using automated calling and</del>	(h) 'automated calling and communication systems' means systems capable of automatically initiating calls to one or more recipients in accordance with instructions set for that system, and transmitting sounds which are not live speech, including calls made using automated calling and communication systems which	

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	connect the called person to an individual.	<del>communication systems which connect the called person to an individual.</del> AM 65	connect the called person to an individual-;	
	Article 4(3), point (i)			
Y	95a		(i) 'direct marketing calls' means direct marketing voice-to-voice calls and calls made via automated calling and communication systems for the purpose of direct marketing.	Y
	Article 4(3), point (j)			
Y	95b		(j) 'location data' means data processed by means of an electronic communications network or service, indicating the geographic position of the terminal equipment of a user of a publicly available electronic communications service;	Y
	CHAPTER III			
G	137	CHAPTER III	CHAPTER III	CHAPTER III

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	NATURAL AND LEGAL PERSONS' RIGHTS TO CONTROL ELECTRONIC COMMUNICATIONS	NATURAL AND LEGAL PERSONS' RIGHTS TO CONTROL ELECTRONIC COMMUNICATIONS	<del>NATURAL AND LEGAL PERSONS</del> END-USERS' RIGHTS TO CONTROL ELECTRONIC COMMUNICATIONS	NATURAL AND LEGAL PERSONS' RIGHTS TO CONTROL ELECTRONIC COMMUNICATIONS
Article 12				
138	Article 12 Presentation and restriction of calling and connected line identification	Article 12 Presentation and restriction of calling and connected line identification	Article 12 Presentation and restriction of calling and connected line identification	Article 12 Presentation and restriction of calling and connected line identification
Article 12(1), introductory part				
139	1. Where presentation of the calling and connected line identification is offered in accordance with Article [107] of the [Directive establishing the European Electronic Communication Code], the providers of publicly available number-based interpersonal communications services shall provide the following:	1. Where presentation of the calling and connected line identification is offered in accordance with Article [107] of the [Directive establishing the European Electronic Communication Code], the providers of publicly available number-based interpersonal communications services shall provide the following:	1. Where presentation of the calling and connected line identification is offered in accordance with Article [407115] of the {Directive establishing the European Electronic Communication Code}(EU) 2018/1972, the providers of publicly available number-based interpersonal communications services shall provide the following:	1. Where presentation of the calling and connected line identification is offered in accordance with Article <del>[107]</del> 115 of the <del>{Directive establishing the European Electronic Communication Code}</del> (EU) 2018/1972, the providers of publicly available number-based interpersonal communications services shall provide the following:
Article 12(1), point (a)				

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140	(a) the calling end-user with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis;	(a) the calling end-user with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis;	(a) the calling end-user with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis;	(a) the calling end-user with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis;
Article 12(1), point (b)				
141	(b) the called end-user with the possibility of preventing the presentation of the calling line identification of incoming calls;	(b) the called end-user with the possibility of preventing the presentation of the calling line identification of incoming calls;	(b) the called end-user with the possibility of preventing the presentation of the calling line identification of incoming calls;	(b) the called end-user with the possibility of preventing the presentation of the calling line identification of incoming calls;
Article 12(1), point (c)				
142	(c) the called end-user with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling end-user;	(c) the called end-user with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling end-user;	(c) the called end-user with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling end-user;	(c) the called end-user with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling end-user;
Article 12(1), point (d)				
143	(d) the called end-user with the possibility of preventing the presentation of the connected line identification to the calling end-user.	(d) the called end-user with the possibility of preventing the presentation of the connected line identification to the calling end-user.	(d) the called end-user with the possibility of preventing the presentation of the connected line identification to <b>which</b> the calling end-user <b>is connected</b> .	(d) the called end-user with the possibility of preventing the presentation of the connected line identification to <u>which</u> the calling end-user <u>is connected</u> .



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Article 12(2)				
144	2. The possibilities referred to in points (a), (b), (c) and (d) of paragraph 1 shall be provided to end-users by simple means and free of charge.	2. The possibilities referred to in points (a), (b), (c) and (d) of paragraph 1 shall be provided to end-users by simple means and free of charge.	2. The possibilities referred to in <del>points (a), (b), (c) and (d)</del> of paragraph 1 shall be provided to end-users by simple means and free of charge.	2. The possibilities referred to in <del>points (a), (b), (c) and (d)</del> of paragraph 1 shall be provided to <u>end-users</u> by simple means and free of charge.
Article 12(3)				
145	3. Point (a) of paragraph 1 shall also apply with regard to calls to third countries originating in the Union. Points (b), (c) and (d) of paragraph 1 shall also apply to incoming calls originating in third countries.	3. Point (a) of paragraph 1 shall also apply with regard to calls to third countries originating in the Union. Points (b), (c) and (d) of paragraph 1 shall also apply to incoming calls originating in third countries.	3. Point (a) of paragraph 1 shall also apply with regard to calls to third countries originating in the Union. Points (b), (c) and (d) of paragraph 1 shall also apply to incoming calls originating in third countries.	3. Point (a) of paragraph 1 shall also apply with regard to calls to third countries originating in the Union. Points (b), (c) and (d) of paragraph 1 shall also apply to incoming calls originating in third countries.
Article 12(4)				
146	4. Where presentation of calling or connected line identification is offered, providers of publicly available number-based interpersonal communications services shall provide information to the public regarding the options set out in points (a), (b), (c) and (d)	4. Where presentation of calling or connected line identification is offered, providers of publicly available number-based interpersonal communications services shall provide information to the public regarding the options set out in points (a), (b), (c) and (d)	4. Where presentation of calling or connected line identification is offered, providers of <del>publicly available number-based</del> interpersonal communications services shall provide information to the public regarding the options set out in <del>points (a), (b), (c) and (d)</del>	4. Where presentation of calling or connected line identification is offered, providers of publicly available number-based interpersonal communications services shall provide information to the public regarding the options set out in <del>points (a), (b), (c) and (d)</del>

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	of paragraph 1.	of paragraph 1.	<del>of paragraph 1</del> paragraph 1 and the exceptions set forth in Article 13.	<del>of paragraph 1</del> paragraph 1 and the exceptions set forth in Article 13.
Article 13				
147	Article 13 Exceptions to presentation and restriction of calling and connected line identification	Article 13 Exceptions to presentation and restriction of calling and connected line identification	Article 13 Exceptions to presentation and restriction of calling and connected line identification <b>in relation to emergency communications</b>	Article 13 Exceptions to presentation and restriction of calling and connected line identification
Article 13(1)				
148	1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of an end-user for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering	1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of <del>an end-user</del> a user for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering	1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where <del>a call is made to emergency communications are</del> made to emergency services, providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of an end-user for the processing of metadata, on a per-line basis for organisations dealing with emergency	1. Regardless of whether the calling <del>end-user</del> <u>[end-user/user]</u> has prevented the presentation of the calling line identification, where <del>a call is made to emergency services</del> <u>an emergency communications is set up</u> , providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of an <del>end-user</del> <u>[end-user/user]</u> for the processing of metadata, on a per-

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	points, for the purpose of responding to such communications.	points, for the purpose of responding to such communications.  AM 123	communications, including public safety answering points, for the purpose of responding to such communications.	line basis <del>for organisations dealing with emergency communications, including</del> <u>for the purpose of enabling the</u> public safety answering <del>points, for the purpose of responding to such</del> <u>point to answer and handle emergency</u> communications.
Article 13(1a)				
148a			1a. Regardless whether the called end-user rejects incoming calls where the presentation of the calling line identification has been prevented by the calling end-user, providers of number-based interpersonal communications services shall override this choice, where technically possible, when the calling end-user is an organisation dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.	Text deleted see Recital (27)
Article 13(2)				



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149	2. Member States shall establish more specific provisions with regard to the establishment of procedures and the circumstances where providers of publicly available number-based interpersonal communication services shall override the elimination of the presentation of the calling line identification on a temporary basis, where end-users request the tracing of malicious or nuisance calls.	2. <del>Member States</del> <i>The Commission shall establish more specific provisions</i> <i>be empowered to adopt implementing measures in accordance with Article 26(1)</i> with regard to the establishment of procedures and the circumstances where providers of publicly available number-based interpersonal communication services shall override the elimination of the presentation of the calling line identification on a temporary basis, where <del>end-users</del> <i>users</i> request the tracing of malicious or nuisance calls.  AM 124	Deleted	2. <u>[</u> Member States shall establish more specific provisions <u>/ The Commission shall be empowered to adopt implementing measures in accordance with Article 26]</u> with regard to the establishment of procedures and the circumstances where providers of publicly available number-based interpersonal communication services shall override the elimination of the presentation of the calling line identification on a temporary basis, where <del>end-users</del> <u>[end-users/users]</u> request the tracing of <u>unwanted</u> , malicious or nuisance calls.
Article 13(3)				
149a			3. Notwithstanding Article 8(1), regardless of whether the end-user has prevented access to the terminal equipment's Global Navigation Satellite Systems (GNSS) capabilities or other types of terminal equipment based location data through the terminal equipment settings,	

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			when a call is made to emergency services, such settings may not prevent access to such location data to determine and provide the calling end-user's location to an organisation dealing with emergency communications, including public safety answering points, for the purpose of responding to such calls.	
Article 14				
150	Article 14 Incoming call blocking	Article 14 Incoming call blocking	Article 14 <del>Incoming call blocking</del> Blocking unwanted, malicious or nuisance calls	Article 14 <del>Incoming call blocking</del> <u>Blocking of unwanted calls</u>
Article 14, first paragraph, introductory part				
151	Providers of publicly available number-based interpersonal communications services shall deploy state of the art measures to limit the reception of unwanted calls by end-users and shall also provide the called end-user with the following possibilities, free of charge:	Providers of publicly available number-based interpersonal communications services <del>shall deploy state of the art measures to limit the reception of unwanted calls by end users and shall also</del> provide the called end-user with the following possibilities, free of charge:	<b>1</b> Providers of publicly available number-based interpersonal communications services shall deploy state of the art measures to limit the reception of unwanted calls by end-users and shall also provide the called end user with the following possibilities, free of charge; malicious or nuisance	<u>1.</u> Providers of publicly available number-based interpersonal communications services shall deploy state of the art measures to limit, <u>upon the called end-user's request, the reception of, malicious or nuisance or other unwanted calls by providing</u> <del>the reception of unwanted calls by</del>

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		AM 125	calls by end-users.	<del>end users and shall also provide the called end user with</del> the following possibilities, free of charge:
Article 14(1a)				
151a			1a Member States shall establish more specific provisions with regard to the establishment of transparent procedures and the circumstances where providers of number-based interpersonal communication services shall override, or otherwise address, the elimination of the presentation of the calling line identification on a temporary basis, where end-users request the tracing of unwanted, malicious or nuisance calls.	TEXT DELETED HERE - see LINE 149
Article 14(2)				
151b			2. Providers of number-based interpersonal communications services shall also provide the called end-user with the following possibilities, free of charge:	TEXT DELETED HERE - See Line 151

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	Article 14, first paragraph, point (a)			
152	(a) to block incoming calls from specific numbers or from anonymous sources;	(a) to block incoming calls from specific numbers, <i>or numbers having a specific code or prefix identifying the fact that the call is a marketing call referred to in Article 16(3)(b)</i> , or from anonymous sources;  AM 126	(a) to block, <b>where technically feasible</b> , incoming calls from specific numbers or from anonymous sources <b>or from numbers using a specific code or prefix referred to in Article 16(3a); and</b>	(a) to block, <u>where technically feasible</u> , incoming calls from specific numbers or from anonymous sources <u>or from numbers having a specific code or prefix referred to in Article 16(3)(b)/(3a)</u> ;
	Article 14, first paragraph, point (b)			
153	(b) to stop automatic call forwarding by a third party to the end-user's terminal equipment.	(b) to stop automatic call forwarding by a third party to the <del>end-user</del> user's terminal equipment.  AM 127	(b) to stop automatic call forwarding by a third party to the end-user's terminal equipment.	(b) to stop automatic call forwarding by a third party to the <del>end-user's</del> <u>user's/end-user's</u> terminal equipment.
	Article 15			
154	Article 15 Publicly available directories	Article 15 Publicly available directories	Article 15 Publicly available directories	Article 15 Publicly available directories
	Article 15(1)			
155	1. The providers of publicly	1. <del>The providers of publicly</del>	1. The providers of publicly	1. <u>Without prejudice to Articles</u>

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	<p>available directories shall obtain the consent of end-users who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.</p>	<p><del>available directories</del> Without prejudice to Articles 12 to 22 of Regulation (EU) 2016/679, the electronic communication services providers shall obtain the consent of <del>end-users who are natural persons</del> users to include their personal data in the publicly available directory and, consequently, shall obtain consent from these <del>end-users</del> users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory. Electronic communication service providers shall give users the means to verify, correct, update, supplement and delete such data as determined by the provider of the directory. When electronic communication service providers obtain consent of users, they shall <del>give end-users who are natural persons the means to verify, correct and delete such data</del> make users' data available for public directory providers in an immediate, non-discriminatory and fair manner.</p> <p>AM 128</p>	<p><del>available directories</del> number-based interpersonal communications services shall obtain the consent of end-users who are natural persons to include their personal data in the directory and, <del>consequently, shall obtain consent from these end-users</del> for inclusion of such data per category of personal data, to the extent that such data are relevant for the purpose of the directory. <del>Providers shall give end-users who are natural persons the means to verify, correct and delete such data.</del></p>	<p><u>12 to 22 of Regulation (EU) 2016/679</u>, the providers of <del>publicly available directories</del> <u>number-based interpersonal communications services</u> shall obtain the consent of <del>end-users who are natural persons</del> <u>[end-users/users]</u> to include their personal data in <del>the directory and, consequently, shall obtain consent from these end-users</del> <u>publicly available directories and</u>, for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory. <u>When providers of number-based interpersonal communications services obtain consent of [end-users/users], they shall make the relevant data available for publicly available</u> <del>as determined by the provider of the directory</del> <u>providers</u>. Providers <del>shall give end-users who are natural persons</del> <u>of publicly available directories and number-based interpersonal communications services shall give [end-users/users]</u> the means to verify, <del>correct and delete such data</del> <u>rectify, update, supplement and erase</u></p>



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				<u>such data.</u> <u>The providers of publicly available directories and number-based interpersonal communications services shall provide [end-users/users] with the possibility to withdraw their consent to data related to them being included in the directory.</u>
Article 15(1a)				
155a			1a. Notwithstanding paragraph 1, Member States may provide by law that the inclusion of personal data of an end-user who is a natural person in a publicly available directory can take place provided that he end-user who is a natural person shall have the right to object to such inclusion.	<u>1a. Notwithstanding paragraph 1, Member States that on ... [the date of entry into force of this Regulation] provide by law that the personal data of [end-users/users] who are natural persons may be included in a publicly available directory may maintain such law provided that [end-users/users] who are natural persons have the right to object to their personal data being included.</u>  Text Origin: Comments
Article 15(2)				
156				

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	2. The providers of a publicly available directory shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory and obtain end-users' consent before enabling such search functions related to their own data.	2. The providers of a publicly available directory shall inform <del>end-users who are natural persons</del> <i>users</i> whose personal data are in the directory of the available search functions of the directory and <del>obtain end-users' consent before enabling</del> <i>provide the users the option to disable</i> such search functions related to their own data.  AM 129	2. The providers of a <del>publicly available directory</del> <i>number-based interpersonal communications services</i> shall inform end-users who are natural persons whose personal data are in the directory of <del>the available search functions</del> <i>of any search function that is not based on name or number in</i> the directory and obtain <del>end-users'</del> <i>the consent of end-users'</i> before enabling such search functions related to their own data.	2. The providers of <del>a</del> <i>publicly available</i> <del>directory</del> <i>directories</i> shall inform <del>end-users who are natural persons</del> <i>[end-users/users]</i> whose personal data are in the directory of <del>the available search functions</del> <i>of any search function that is not based on the name in</i> the directory and obtain <i>[end-users'/users']</i> consent before enabling such search functions related to their own data.
Article 15(3)				
157	3. The providers of publicly available directories shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.	3. The <del>providers of publicly available directories</del> <i>electronic communication service providers</i> shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. <i>Electronic communication service</i> providers shall give such end-users that are legal persons the means to verify, correct and delete such data. <i>For the purposes of this Article, natural persons acting in a professional capacity, such as independent professionals,</i>	3. The providers of <del>publicly available directories</del> <i>number-based interpersonal communications services</i> shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. <del>Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.</del>	3. The <del>providers of publicly available directories</del> <i>number-based interpersonal communications services providers</i> shall provide <i>[end-users-that are legal persons]</i> with the possibility to object to data related to them being included in the directory. Providers <i>of publicly available directories and number-based interpersonal communications services</i> shall give such <i>[end-users-that are legal persons]</i> the means to verify, correct and delete such data. <i>For the purposes of this Article,</i>

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		<i>operators of small businesses or freelancers, shall be equated with legal persons, as regards their data related to their professional capacity.</i>  AM 130		<u><i>natural persons acting in a professional capacity, such as independent professionals, operators of small businesses or freelancers, shall be treated as legal persons, as regards their data related to their professional capacity.</i></u>
Article 15(3a)				
157a			<b>3a. The providers of number-based interpersonal communications services shall give end-users the means to verify, correct and delete data included in a publicly available directory.</b>	TEXT Deleted here- see Line 155
Article 15(3aa)				
157b			<b>3aa. Notwithstanding paragraphs 1aa to 3a, Member States may provide by law that the requirements under those paragraphs apply to providers of publicly available directories, in addition to or instead of, providers of number-based interpersonal communications</b>	TEXT Deleted here- see Line 155



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			services.	
Article 15(4)				
158	4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.	4. <i>Without prejudice to Article 12(5) of Regulation (EU) 2016/679, the information to the users and the possibility</i> <del>The possibility for end-users</del> not to be included in a publicly available directory, or to verify, correct, <i>update, supplement</i> and delete any data related to them shall be provided free of charge <i>and in an easily accessible manner by the electronic communication services providers.</i>  AM 131	4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.	4. The possibility for <del>end-users</del> <u>[end-users/users]</u> not to be included in a publicly available directory, or to verify, <del>correct and delete</del> <u>rectify, update, supplement and erase</u> any data related to them shall be provided free of charge, <u>at any time, and in an easily accessible manner. It shall be as easy to withdraw as to give consent</u>
Article 15(4a)				
158a		4a. <i>Where the personal data of the users of number-based interpersonal communications services have been included in a publicly available directory before this Regulation enters into force, the personal data of such users may remain included in a publicly</i>	4a. Where the personal data of the end-users of number based interpersonal communications services have been included in a publicly available directory before this Regulation enters into force, the personal data of such end-users may remain included	<u>4a. Where the personal data of the [end-users/users] of number-based interpersonal communications services have been included in a publicly available directory before this Regulation enters into force, the personal data of such [end-users]</u>

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		<p><i>available directory, including versions with search functions, unless the users have expressed their objection against their data being included in the directory or against available search functions related to their data.</i></p> <p>AM 132</p>	<p>in a publicly available directory, including version with search functions, unless the end-users have expressed their objection against their data being included in the directory or against the use of available search functions related to their data.</p>	<p><u>may remain included in a publicly available directory, including data in addition to the name of the [end-users], unless the [end-users/users] have expressed their objection against their data being included in the directory or against the use of available search functions related to their data.</u></p>
Article 16				
159	Article 16 Unsolicited communications	Article 16 Unsolicited communications	Article 16 Unsolicited <b>and direct marketing</b> communications	Article 16 Unsolicited <u>communications for direct marketing purposes</u> <del>communications</del>
Article 16(1)				
160	1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent.	1. <i>The use by</i> natural or legal persons <del>may use</del> <i>of electronic communications services, including automated calling, communications systems, semi-automated systems that connect the call person to an individual, faxes, e-mail or other use of</i> electronic communications services for the purposes of <i>presenting or</i>	1. Natural or legal persons <del>may use</del> <b>shall be prohibited from using</b> electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons <del>that</del> <b>unless</b> they have given their <b>prior</b> consent.	1. <u>1. Natural or legal persons <del>may use</del> shall be prohibited from using electronic communications services including automated calling, communications systems, semi-automated systems that connect the call person to an individual, faxes, e-mail or other use of</u> electronic communications services for the purposes of

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		<p>sending direct marketing communications to <del>end users who are natural persons that</del>users, shall be allowed only in respect of users who have given their prior consent.</p> <p>AM 133</p>		<p>sending direct marketing communications to <del>end users who are natural persons that</del><u>end-users/users/</u> unless they have given their <u>prior</u> consent.</p>
Article 16(2)				
161	<p>2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.</p>	<p>2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own <del>similar</del> products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. <i>The customer shall be informed about</i> the right to object <i>and shall be given an easy way to exercise it</i> at the time of collection and each time a message is sent.</p> <p>AM 134</p>	<p>2. <b>Notwithstanding paragraph 1,</b> where a natural or legal person obtains <del>electronic</del> contact details for electronic mail from its <del>customer</del><b>message from end-users who are natural persons,</b> in the context of the <del>sale</del><b>purchase</b> of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these <del>electronic</del> contact details for direct marketing of its own similar products or services only if <del>customers</del><b>such end-users</b> are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection of <b>such end-users' contact details</b></p>	<p>2. <u>2. Notwithstanding paragraph 1,</u> where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. <u>The customer shall be informed about</u> the right to object <u>and shall be given an easy way to exercise it</u> at the time of collection and each time a <del>message is</del></p>

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			and, if that end-user has not initially refused that use, and each time when a natural or legal person sends a message is sent to that end-user for the purpose of direct marketing.	<del>sent</del> <u>natural or legal person sends an electronic mail to that customer for the purpose of direct marketing communications.</u>
Article 16(2a)				
161a			2a. Member States may provide by law a set period of time, after the sale of the product or service occurred, within which a natural or legal person may use contact details of the end-user who is a natural person for direct marketing purposes, as provided for in paragraph.	<u>2a. Without prejudice to the possibility of the Member states to introduce, by law, a shorter maximum period, the electronic contact details of a customer for eMails may be used, for the purpose referred to in paragraph 2, for the period of [36] months after the sale of the product or service was concluded.</u>
Article 16(3), introductory part				
162	3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:	3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:	3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall: <b>present the calling line</b>	3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:



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			identification assigned to them.	
Article 16(3), point (a)				
163	(a) present the identity of a line on which they can be contacted; or	(a) present the identity of a line on which they can be contacted; or		(a) present the identity of a line on which they can be contacted; or
Article 16(3), point (b)				
164	(b) present a specific code/or prefix identifying the fact that the call is a marketing call.	(b) present a specific code/or prefix identifying the fact that the call is a marketing call.		<del>(b) present a specific code/or prefix identifying the fact that the call is a marketing call.</del> <u>3a. Member States shall require natural or legal person using electronic communications services for the purposes of placing direct marketing calls to present a specific code or [national] prefix identifying the fact that the call is a direct marketing call, in addition to the obligation set out in paragraph 3. Member States shall make such a specific code or prefix available to the natural or legal persons who use electronic communications services for the purpose of direct marketing calls.</u>

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				From Line 164b
Article 16(3a)				
164a		<p><i>3a. The masking of the identity and the use of false identities, false return addresses or numbers while sending unsolicited communications for direct marketing purposes is prohibited.</i></p> <p>AM 135</p>		<p><u>3a. The masking of the identity and the use of false identities, false return addresses, false prefixes or numbers while sending unsolicited communications for direct marketing purposes is prohibited.</u></p>
Article 16(3a)				
164b			<p>3a. Member States may require natural or legal person using electronic communications services for the purposes of placing direct marketing calls to present a specific code or prefix identifying the fact that the call is a direct marketing call in addition to the obligation set out in paragraph 3. Member State requiring the use of such a specific code or prefix shall make it available for the natural or legal persons who use electronic communications services for the purposes of direct marketing</p>	Deleted

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			calls.	
	Article 16(4)			
165	<p>4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.</p>	<p>4. Notwithstanding paragraph 1, <del>Member States may provide by law that</del> the placing of direct marketing voice-to-voice calls to <del>end-users who are natural persons</del> users shall only be allowed in respect of <del>end-users who are natural persons</del> users who have not expressed their objection to receiving those communications. <i>Member States shall provide that users can object to receiving the direct marketing voice-to-voice calls via a Do Not Call Register, thereby also ensuring that the user needs to opt- out only once.</i></p> <p>AM 136</p>	<p>4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.</p>	<p><u>4. Notwithstanding paragraph 1, Member States that on ... [the date of entry into force of this Regulation] had provided by law that the placing of direct marketing voice-to-voice calls to [users/end-users] who are natural persons shall be allowed only to [users/end-users] who have not expressed their objection to receiving those calls, may maintain such laws.</u></p> <p><u>Member States that have provided by law for an opt-out mechanism in accordance with this paragraph, shall provide that [end-users/users] can object to receiving direct marketing voice-to-voice calls via a [national] Do Not Call Register, thereby also ensuring that the [end-users/users] needs to opt-out only once.</u></p>

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	Article 16(5)			
166	5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.	5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.	5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to <del>unsolicited</del> <b>direct marketing</b> communications sent by means set forth under paragraph 1 are sufficiently protected.	5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications <u>for direct marketing purposes</u> sent by means set forth under paragraph 1 are sufficiently protected.
	Article 16(6)			
167	6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving further marketing communications.	6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner <b>and free of charge</b> , to receiving further marketing communications.	6. Any natural or legal person using electronic communications services to <del>transmit</del> <b>send</b> direct marketing communications shall, <b>each time a direct</b> <del>inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving further marketing communications sent:</del>	6. Any natural or legal person using electronic communications services to <del>transmit</del> <b>send</b> direct marketing communications shall <del>inform end-users of the marketing nature of the, each time a</del> communication <del>and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving further marketing communications</del> <u>for</u>



	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
		AM 137		<u>direct marketing purposes is sent:</u>
Article 16(6), point (a)				
167a			(a) reveal his or its identity and use effective return addresses or numbers;	<u>(a) disclose the identity of the legal or natural person on behalf of whom communication for direct marketing purposes is sent;</u>
Article 16(6), point (b)				
167b			(b) inform end-users of the marketing nature of the communication and the identity and contact details of the legal or natural person on behalf of whom the direct marketing communication is sent;	<u>(b) inform the [end-users/users] of the marketing nature of the communication for direct marketing purposes;</u>
Article 16(6), point (c)				
167c			(c) clearly and distinctly give the end-users who are natural persons a means to object or to withdraw their consent, free of charge, at any time, and in an easy and effective manner, to receiving further direct	<u>(c) clearly indicate and provide all relevant information and means to the [end-users/users] about the right to object or to withdraw their consent, free of charge, at any time, in an easy manner. The [end-users/users]</u>

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
			marketing communications, and shall provide the necessary information to this end. This means shall also be given at the time of collection of the contact details according to paragraph 2. It shall be as easy to withdraw as to give consent.	<u>shall be given an easy way to exercise their right to object or to withdraw their consent at the time of collection and each time a communication for direct marketing purposes to that [end-users/users] is sent</u>
Article 16(7)				
168	7. The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.	7. The Commission shall be empowered to adopt implementing measures in accordance with Article <del>26(2)</del> <b>26(1)</b> specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.  AM 138	Deleted	
Article 17				
169	Article 17 Information about detected security risks	Article 17 Information about detected security risks	Deleted	
Article 17(1)				
170				

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
	In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.	<p><i>1. <del>In the case of a particular risk that may compromise</del> Providers of electronic communications services shall comply with the security obligations as prescribed Regulation (EU) 2016/679 and [European Electronic Communications Code]. As regards the security of networks and <del>electronic communications services, the provider of a</del> services and related security obligations, the obligations of Article 40 of the [European Electronic Communications <del>service</del> Code] shall <del>inform end users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end users of any possible remedies, including an indication of the likely costs involved</del> apply mutatis mutandis to all services in the scope of this Regulation. This Article shall be without prejudice to the obligations provided for in Articles 32 to 34 of Regulation (EU) 2016/679 and the obligations provided for in Directive (EU) 2016/1148.</i></p> <p>AM 139</p>		

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Article 17, first paragraph a				
170a		<p><i>1a. Providers of electronic communications services shall ensure that there is sufficient protection in place against unauthorised access or alterations to the electronic communications data, and that the confidentiality and integrity of the communication in transmission or stored are also guaranteed by technical measures according to the state of the art, such as cryptographic methods including end-to-end encryption of the electronic communications data. When encryption of electronic communications data is used, decryption by anybody else than the user shall be prohibited. Notwithstanding Articles 11a and 11b of this Regulation, member States shall not impose any obligations on electronic communications service providers or software manufacturers that would result in the weakening of the confidentiality and integrity of their networks and services or the</i></p>		

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
		<i>terminal equipment, including the encryption methods used.</i>  AM 140		
Article 17, first paragraph b				
170b		<i>1b. Providers of electronic communications services, providers of information society services, and manufacturers of software permitting the retrieval and presentation of information on the internet shall not use any means, no matter if technical, operational, or by terms of use or by contracts, that could prevent users and subscribers from applying the best available techniques against intrusions and interceptions and to secure their networks, terminal equipment and electronic communications. Notwithstanding Articles 11a and 11b of this Regulation, breaking, decrypting, restricting or circumventing such measure taken by users or subscribers shall be prohibited.</i>  AM 141		

	Commission Proposal	EP Mandate	st6087/21 Council Mandate	Draft Agreement
Article 17, first paragraph c				
170c		<p><i>1c. In the case of a particular risk that may compromise the security of networks, electronic communications services, information society services or software, the relevant provider or manufacturer shall inform all subscribers of such a risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform subscribers of any possible remedies. It shall also inform the relevant manufacturer and service provider.</i></p> <p>AM 142</p>		

Article 28, first paragraph				
219	By 1 January 2018 at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation.	By <del>1 January 2018</del> <i>[the date of entry into force of this Regulation]</i> at the latest, the Commission shall establish a	By <b>[1 August 2024]</b> <del>1 January 2018</del> at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this	

		<p>detailed programme for monitoring the effectiveness of this Regulation.</p> <p>AM 167</p>	Regulation.	
Article 28, second paragraph				
220	<p>No later than three years after the date of application of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and present the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall, where appropriate, inform a proposal for the amendment or repeal of this Regulation in light of legal, technical or economic developments.</p>	<p>No later than three years after the date of application of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and present the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall, where appropriate, inform a proposal for the amendment or repeal of this Regulation in light of legal, technical or economic developments.</p>	<p>No later than three years after the date of application of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and present the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall, where appropriate, inform a proposal for the amendment or repeal of this Regulation in light of legal, technical or economic developments.</p>	<p>No later than three years after the date of application of this Regulation, and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and present the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall, where appropriate, inform a proposal for the amendment or repeal of this Regulation in light of legal, technical or economic developments.</p> <p><b>The Commission shall in particular evaluate whether it is appropriate to modify Article 15 to mandate that the providers of number- based interpersonal communications services shall in all Member States obtain the consent of end-users who are natural</b></p>



				persons to include their personal data in the directory and for inclusion of such data per category of personal data.
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## II. RECITALS

Recital 27				
38	<p>(27) As regards calling line identification, it is necessary to protect the right of the calling party to withhold the presentation of the identification of the line from which the call is being made and the right of the called party to reject calls from unidentified lines. Certain end-users, in particular help lines, and similar organisations, have an interest in guaranteeing the anonymity of their callers. As regards connected line identification, it is necessary to protect the right and the legitimate interest of the called party to withhold the presentation of the identification of the line to which the calling party is actually connected.</p>	<p>(27) As regards calling line identification, it is necessary to protect the right of the calling party to withhold the presentation of the identification of the line from which the call is being made and the right of the called party to reject calls from unidentified lines. Certain end-users, in particular help lines, and similar organisations, have an interest in guaranteeing the anonymity of their callers. As regards connected line identification, it is necessary to protect the right and the legitimate interest of the called party to withhold the presentation of the identification of the line to which the calling party is actually connected.</p>	<p>(27) As regards calling line identification, it is necessary to protect the right of the calling party to withhold the presentation of the identification of the line from which the call is being made and the right of the called party to reject calls from unidentified lines. Certain end-users, in particular help lines, and similar organisations, have an interest in guaranteeing the anonymity of their callers. As regards connected line identification, it is necessary to protect the right and the legitimate interest of the called party to withhold the presentation of the identification of the line to which the calling party is actually connected.</p>	<p>(27) As regards calling line identification, it is necessary to protect the right of the calling party to withhold the presentation of the identification of the line from which the call is being made and the right of the called party to reject calls from unidentified lines. Certain end-users, in particular help lines, and similar organisations, have an interest in guaranteeing the anonymity of their callers. <u><a href="#">A public safety answering point that displays a generic line identification when responding to an emergency communication should not be considered as an unidentified line.</a></u> As regards connected line identification, it is necessary to protect the right and the legitimate interest of the called party to withhold the presentation of the identification of the line to which the calling party is actually connected.</p>

Recital 28				
39	<p>(28) There is justification for overriding the elimination of calling line identification presentation in specific cases. End-users' rights to privacy with regard to calling line identification should be restricted where this is necessary to trace nuisance calls and with regard to calling line identification and location data where this is necessary to allow emergency services, such as eCall, to carry out their tasks as effectively as possible.</p>	<p>(28) There is justification for overriding the elimination of calling line identification presentation in specific cases. End-users' rights to privacy with regard to calling line identification should be restricted where this is necessary to trace nuisance calls and with regard to calling line identification and location data where this is necessary to allow emergency services, such as eCall, to carry out their tasks as effectively as possible.</p>	<p>(28) There is justification for overriding the elimination of calling line identification presentation in specific cases. End-users' rights to privacy with regard to calling line identification should be restricted where this is necessary to trace <b>malicious or</b> nuisance calls and with regard to calling line identification and location data where this is necessary to allow emergency services, such as eCall, to carry out their tasks as effectively as possible. <b>Location information established by the terminal equipment, using its built-in Global Navigation Satellite Systems (GNSS) capabilities or other types of terminal equipment based location data, such as location data derived from the WiFi functionality, may supplement the location data supplied by providers of number-based interpersonal communications services</b></p>	<p>(28) There is justification for overriding the elimination of calling line identification presentation in specific cases. End-users' rights to privacy with regard to calling line identification should be restricted where this is necessary to trace <u>malicious or</u> nuisance calls and with regard to calling line identification and location data where this is necessary to allow emergency services <u>and public safety answering points to answer and handle emergency communications, including eCalls. This should be without prejudice to the possibility to override the elimination of the presentation of the calling line identification based on other legal grounds, such as eCall, to carry out their tasks as effectively as possible.</u></p>

			<p>when a call is made to emergency services. The temporary denial or absence of consent of an end-user to access location data provided by the terminal equipment GNSS, for example, because location settings are turned off, shall not prevent the transfer of such information to emergency services for the purposes of facilitating access to such services.</p> <p>Directive 2014/53/EU empowers the Commission to adopt delegated acts requiring that specific categories or classes of radio equipment support certain features ensuring access to emergency services.</p>	
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