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**NOTE**

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from: Presidency

to: Delegations

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No. Cion prop.: 13555/13 TELECOM 232 COMPET 646 MI 753 CONSOM 161 CODEC 2000

Subject: Proposal for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012  
- Presidency texts

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1. The Barroso Commission adopted its proposal *for a Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent* on 11 September 2013 with article 114 TFEU as a legal basis. The proposal was a part of a package comprising two further elements: a Communication on the Telecommunications Single Market and a Recommendation on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment.

2. In the European Parliament, Ms del Castillo was appointed rapporteur. ITRE is the committee responsible. IMCO, REGI, CULT, JURI and LIBE are the committees for opinion. IMCO is associated committee on aspects relating to consumer protection. Prior to the end of its term of office, the outgoing EP adopted its first reading amendments on 3 April 2014. Following the elections, ITRE on 2 September gave Ms del Castillo, reconfirmed as rapporteur, a mandate to negotiate with Council on the basis of the European Parliament position adopted on 3 April. Her shadow rapporteurs are Ms Patricia Toia, Ms Vicky Ford, Mr Jens Rohde, Ms Marisa Matias, Mr Michel Reimon and Mr Dario Tamburrano. Ms Ford is also IMCO Chair and IMCO rapporteur on the proposal. The European Parliament held a debate on the digital single market on 16 September, frequently referring to net neutrality aspects.
3. On 10 September Mr Juncker, the incoming president of the Commission, presented his proposed allocation of portfolios within the new Commission. Mr Ansip, Commissioner-designate and vice-president for the digital single market, and Mr Oettinger, Commissioner-designate for digital economy and society, would be responsible for matters relating to electronic communications. Mr Juncker's political guidelines state that he intends to take, within the first six months of his mandate, ambitious legislative steps towards a connected digital single market, notably by swiftly concluding negotiations on common European data protection rules; by adding more ambition to the ongoing reform of the telecoms rules. This has been further developed in the mission letters to Commissioners-designate Ansip and Oettinger. The European Parliament will conduct its hearings of the commissioners-designate between 29 September and 7 October. The new Commission is expected to take office on 1 November.
4. Delegations will recall that the proposal, including its impact assessment, has been subject to examination in WP TELE, the results of which have been summarised in documents 16637/13 and 10109/14 (progress report).

5. As stated by the Presidency in WP TELE on 11 September, delegations will find annexed the following texts prepared by the Presidency: (i) an explanatory memorandum, and (ii) a proposed amended text of the Regulation.
  
  6. At WP TELE on 25 September, delegations will be invited to comment on the annexed texts, in the first instance on Annex I (explanatory memorandum), which will also allow for an exchange of views on the most appropriate way forward on the file.
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## Explanatory memo

### *Single Authorisation*

With regard to a Single European Authorisation and a specific regulatory regime for European operators, the comments provided by Member States confirmed the unanimous opposition to the COM proposal.

In view of these views, the Presidency suggests complete deletion of Chapter II and of the enhanced Article 7 review for European operators at this stage. This does not exclude the possibility to find an agreement with the co-legislator on measures aiming at simplifying the notification, with operational support from BEREC.

### *Spectrum*

While most Member States share the objective to reinforce coordination and harmonised use, they also consider that this shall not alter the existing allocation of competences between Member States and the Union.

Against this background, the Presidency suggests the deletion of the various specific criteria to be considered by Member States and instead introduce the possibility for the Commission to issue recommendations in relation to the harmonisation of spectrum management and in particular on these criteria. Such a derogation from the existing Commission power under Article 19 Framework Directive would allow the Commission to consult RSPG rather than BEREC on such spectrum-specific recommendations. Certain high-level principles can be set out in the regulation.

Concerning Article 12 on harmonisation of timetables, the Presidency suggests replacing the implementing powers by the Commission with a system where a common timetable can be put forward through such a Commission recommendation. Regarding license durations the Presidency proposes to introduce a provision linked to the recommendation on common timetables with the exact figure to be discussed.

With regard to Article 13 on the peer review mechanism, the Presidency suggests expanding RSPG's advisory role and replacing the Commission veto with guidance from RSPG within a tight timeframe. RSPG could act at its own initiative or on the request of the Commission (following the common RSPG practice of Requests for Opinions).

Some initiative of MS close to the EP position (on minimum duration, and joint assignment) could also be discussed, as well as variants on other provisions that have encountered the explicit favour of some MS (on Articles 14 on access to RLAN , 15 on small-area wireless access point and 16 on international coordination, although without Commission implementing powers)

### ***Other inputs (Virtual Access Products)***

The comments provided by Member States confirmed the unanimous opposition to the COM proposal.

It is therefore proposed to delete Section 2 of Chapter III of the Commission proposal, while considering that further analysis of these access needs may be warranted in the future, with a view to identify the best regulatory response to address failures that may be identified.

### ***Net neutrality***

Most Member States support EU rules set at a level of principles, leaving more scope for BEREC guidelines and national enforcement.

The Presidency suggests inserting a definition of the principle of net neutrality and a more concise and less technical language in the definition of specialised services as services optimised for certain content or applications and offering enhanced quality end to end.

In Article 23(2) the Presidency text would enshrine the general principle that specialised services must not prejudice the general internet quality. This is linked to a new sentence in Article 24(1) which tasks NRAs with monitoring on the basis of a "more for more" principle for increases in internet capacity and SpS provision, i.e. the more capacity operators make available for the open Internet, the more capacity they can use for the provision of SpS. This approach is intended to foster the operators' incentive to invest in capacity increases for both the open Internet and specialised services.

To avoid overturning decisions settled by recent legislation, Article 23(3) would make clear that the Article is without prejudice not only to existing law on the lawfulness of content, but also to measures consistent with Article 25 of Directive 2011/93/EU on child abuse material (i.e. including voluntary measures).

In Article 23(5) of the Presidency text traffic management would be subject to the requirement that it is transparent, non-discriminatory and proportionate. TM measures which block, throttle, degrade, etc. specific services would not be allowed save in listed exceptional cases. In the list of exemptions the Presidency text would allow also for blocking to implement parental control requested by the end-user. It further would create a more open and general exemption for safeguarding the proper functioning of the network, with the security and congestion exemptions of the Commission proposal as illustrative examples for other network-related and objectively justified interventions of a similar type. This new structure would ensure that the proposed rules are future proof while the specific examples would show that additional exceptions cannot be lightly identified.

### ***End-users' rights***

Member States support the objective of enhancing end users' rights and the adoption of the elements of the proposal in this field. The comments received confirm that a large majority of Member States are in favour of a minimum harmonisation approach and the adoption of enhanced end-users rights as amendments to the Universal Service Directive rather than by means of directly applicable provisions.

In view of these comments, the Presidency considers that while the maximum harmonisation approach by means of directly applicable rules as proposed by the Commission cannot be accepted, a widespread agreement can be achieved among MS on the content of minimally harmonised enhanced end-users' rights in the Universal Service Directive. This is in particular the case in the fields of information requirements in contracts (in particular on internet speed and quality parameters) and transparency measures, bill-shock protection, contract duration and termination, and switching provisions, which are fundamental aspects of enhanced end-users' rights and are also essential to full implementation of the open internet.

Compared to the Commission proposal and in line with the minimum harmonisation approach, the Presidency text allows Member States to maintain or introduce additional contractual information and language requirements. It improves the information requirements in contracts and transparency measures in relation to internet access services upload and download speeds by clarifying the specific requirements for fixed and mobile data: for fixed data links the minimum download and upload speed actually available to the end-user and for mobile data links i) the download and upload speed achieved by the majority of the provider's end-users when connected through the provider's wireless network in the end-user's Member State of residence and ii) the average download and upload speed that can be achieved at a location specified by the consumer. In addition, it also clarifies the contractual and transparency requirements as to how volume limitation, actually available speeds and other quality of service parameters, and the simultaneous use of specialised services may have an impact on that user's internet access service and the use of content, applications and services.

It also deletes the harmonisation of consumers' right to terminate a contract after 6-months while allowing Member States to maintain or introduce such rights. Furthermore, the Presidency text reduces the requirements in relation to transparency and control of consumption measures. Finally, it clarifies Member States implementation competences in relation to number portability and out-of-court dispute resolution, and replaces Commission Implementing powers by BEREC guidance.

### ***Roaming***

A significant number of Member States indicate their openness, under certain conditions, to introduction of additional roaming reforms in this legislation, including a "roam like at home" (RLAH) solution at retail level. In order to address the worries of some MS about the introduction of such a principle in the near future, some sort of safeguard mechanism should be considered in conjunction with fair use. Such a safeguard could take form of a glidepath of retail tariffs covered by the standard minimum fair use limits.

Standard minimum fair use limits would be calculated annually, on the basis of daily amounts of voice calls, SMS, data derived from average annual domestic consumption in the EU as collected by BEREC and used by the Commission in the envisaged implementing act. In this case, RLAH would be available to all customers from day 1. However, in an initial period the minimum fair use limit would be defined as a fraction of the daily average domestic consumption, and would rise gradually to fully reflect this daily average. Such a glidepath should coincide with the envisaged wholesale market review so that political objective is finally achieved in a balanced way.

The legislative date for the initial introduction of RLAH, subject to such transitional measures and fair use limits, needs to be defined and is a significant political question.

In addition, it is suggested to free operators complying with RLAH provisions from the obligation to enable single-IMSI decoupling .

### ***BEREC***

With regard BEREC there is no support for changing BEREC governance. A few Member States consider that the BEREC Regulation should be amended to give EEA/EFTA countries a full membership status.

Taking into account these views, the Presidency does not consider necessary to proceed at this stage with changes to the current institutional structure of BEREC and therefore suggests full deletion of Article 38.



Original Text of the Proposal	Text Proposed By The IT Presidency
Chapter I General provisions	Chapter I General provisions
Article 1 – Objective and scope	Article 1 – Objective and scope
<p>1. This Regulation establishes <i>the regulatory principles and detailed</i> rules necessary to <i>complete a European single market for electronic communications where:</i></p> <p>(a) <i>providers of electronic communications services and networks have</i> the right, <i>the ability and the incentive to develop, extend and</i> operate their networks and to provide services irrespective of where the provider is established or its customers are situated in the Union,</p> <p>(b) <i>citizens and businesses have</i> the right <i>and the possibility</i> to access competitive, secure and reliable electronic communications services, <i>irrespective of where they are provided from in the Union</i>, without being hampered by cross-border restrictions or unjustified additional costs.</p>	<p>1. This Regulation establishes rules necessary to:</p> <p><i>(a) achieve a more coordinated Union framework for harmonised radio spectrum for wireless broadband communications services;</i></p> <p><i>(b) facilitate the practical exercise of</i> the right <i>of citizens and businesses</i> to access competitive, <i>innovative</i>, and reliable electronic communications services, <i>including access to the open internet;</i></p> <p><i>(c) ensure a high standard of protection of end-users, in particular as regards internet access services and the effective exercise of choice of competitive providers; and</i></p> <p><i>(d) address the phasing out of unjustified surcharges for roaming communications within the Union.</i></p>
<p>2. This Regulation establishes in particular regulatory principles pursuant to which the Commission, the Body of European Regulators for Electronic Communications (BEREC) and the national competent authorities shall act, each within its own competences, in <i>conjunction</i> with the provisions of Directives 2002/19/EC, 2002/20/EC, 2002/21/EC</p>	<p><i>[full deletion]</i></p>

<p>and 2002/22/EC:</p> <p>a) to secure simplified, predictable and convergent regulatory conditions regarding key administrative and commercial parameters, <b><i>including as regards the proportionality of individual obligations which may be imposed pursuant to market analysis;</i></b></p> <p><b><i>b) to promote sustainable competition within the single market and the global competitiveness of the Union, and to reduce sector-specific market regulation accordingly as and when these objectives are achieved;</i></b></p> <p>(c) to favour investment and innovation in new and enhanced high-capacity infrastructures which reach throughout the Union and which can cater for evolving end-user demand;</p> <p>d) to facilitate innovative and high-quality service provision;</p> <p>e) to <b><i>ensure</i></b> the availability and highly efficient use of radio spectrum, <b><i>whether subject to general authorisation or to individual rights of use,</i></b> for wireless broadband services in support of innovation, investment, jobs and end-user benefits;</p> <p>f) to serve the interests of citizens and end-users in connectivity by fostering the investment conditions for an increase in the choice and quality of network access and of service, and by facilitating mobility across the Union and both social and territorial inclusion.</p>	
<p><b><i>3. In order to ensure implementation of the overarching regulatory</i></b></p>	<p><b><i>[full deletion]</i></b></p>

<p><i>principles set out in paragraph 2, this Regulation furthermore establishes the necessary detailed rules for:</i></p> <p><i>(a) a single EU authorisation for European electronic communications providers;</i></p> <p><i>(b) further convergence of regulatory conditions as regards the necessity and proportionality of remedies imposed by national regulatory authorities on European electronic communications providers;</i></p> <p><i>(c) the harmonised provision at Union level of certain wholesale products for broadband under convergent regulatory conditions;</i></p> <p><i>(d) a coordinated European framework for the assignment of harmonised radio spectrum for wireless broadband communications services, thereby creating a European wireless space;</i></p> <p><i>(e) the harmonisation of rules related to rights of end-users and the promotion of effective competition in retail markets, thereby creating a European consumer space for electronic communications;</i></p> <p><i>(f) the phasing out of unjustified surcharges for intra-Union communications and roaming communications within the Union</i></p>	
<p>Article 2 – Definitions</p>	<p>Article 2 – Definitions</p>
<p>For the purposes of this Regulation, the definitions set out in Directives 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC and 2002/77/EC shall apply.</p> <p>The following definitions shall also apply:</p>	<p>For the purposes of this Regulation, the definitions set out in Directives 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC and 2002/77/EC shall apply.</p> <p>The following definitions shall also apply:</p>

<p><i>(1) ‘European electronic communications provider’ means an undertaking established in the Union providing or intending to provide electronic communications networks or services, whether directly or by means of one or more subsidiaries, directed to more than one Member State and which cannot be considered a subsidiary of another electronic communications provider;</i></p>	<p><i>[full deletion]</i></p>
<p>(2) "provider of electronic communications to the public" means an undertaking providing public electronic communications networks or publicly available electronic communications services;</p>	<p>(2) "provider of electronic communications to the public" means an undertaking providing public electronic communications networks or publicly available electronic communications services;</p>
<p><i>(3) ‘subsidiary’ means an undertaking in which another undertaking directly or indirectly:</i></p> <p><i>(i) has the power to exercise more than half the voting rights, or</i></p> <p><i>(ii) has the power to appoint more than half the members of the supervisory board, board of management or bodies legally representing the undertaking, or</i></p> <p><i>(iii) has the right to manage the undertaking's affairs;</i></p>	<p><i>[full deletion]</i></p>
<p><i>(4) ‘single EU authorisation’ means the legal framework applicable to a European electronic communications provider in the whole Union based on the general authorisation in the home Member State and in accordance with this Regulation;</i></p>	<p><i>[full deletion]</i></p>
<p><i>(5) ‘home Member State’ means the Member State where the European</i></p>	<p><i>[full deletion]</i></p>

<i>electronic communications provider has its main establishment;</i>	
<i>(6) ‘main establishment’ means the place of establishment in the Member State where the main decisions are taken as to the investments in and conduct of the provision of electronic communications services or networks in the Union;</i>	<i>[full deletion]</i>
<i>(7) ‘host Member State’ means any Member State different from the home Member State where a European electronic communications provider provides electronic communications networks or services;</i>	<i>[full deletion]</i>
<i>(8) ‘harmonised radio spectrum for wireless broadband communications’ means radio spectrum for which the conditions of availability <b>and efficient</b> use are harmonised at Union level, in <b>particular pursuant to</b> Decision 676/2002/EC of the European Parliament and the Council,<sup>27</sup> and which serves for electronic communications services other than broadcasting;</i>	<i>(8) ‘harmonised radio spectrum for wireless broadband communications’ means radio spectrum for which the conditions of availability, <b>efficiency and primary</b> use are harmonised at Union level, in <b>accordance with provisions laid down in Directive 2002/21/EC and</b> Decision 676/2002/EC of the European Parliament and the Council, and which serves for electronic communications services other than broadcasting;</i>
<i>(9) ‘small-area wireless access point’ means a low power wireless network access equipment of small size operating within a small range, which may or may not be part of a public terrestrial mobile communications network, and be equipped with one or more low visual impact antennas, which allows wireless access by the public to electronic communications networks regardless of the underlying network topology;</i>	<i>(9) ‘small-area wireless access point’ means a low power wireless network access equipment of small size operating within a small range, <b>using licensed spectrum or licence-exempt spectrum or a combination thereof</b>, which may or may not be part of a public terrestrial mobile communications network, and be equipped with one or more low visual impact antennas, which allows wireless access by the public to electronic communications networks regardless of the underlying network topology;</i>

<p>(10) ‘radio local area network’ (RLAN) means a low power wireless access system, operating within a small range, with a low risk of interference to other such systems deployed in close proximity by other users, using on a <i>non-exclusive</i> basis spectrum for which the conditions of availability and efficient use for this purpose are harmonised at Union level;</p>	<p>(10) ‘radio local area network’ (RLAN) means a low power wireless access system, operating within a small range, with a low risk of interference to other such systems deployed in close proximity by other users, using on a <i>licence-exempt</i> basis spectrum for which the conditions of availability and efficient use for this purpose are harmonised at Union level;</p>
<p><i>(11) ‘virtual broadband access’ means a type of wholesale access to broadband networks that consists of a virtual access link to the customer premises over any access network architecture, excluding physical unbundling, together with a transmission service to a defined set of points of handover, and including specific network elements, specific network functionalities and ancillary IT systems;</i></p>	<p><i>[full deletion]</i></p>
<p><i>(12) ‘assured service quality (ASQ) connectivity product’ means a product that is made available at the internet protocol (IP) exchange, which enables customers to set up an IP communication link between a point of interconnection and one or several fixed network termination points, and enables defined levels of end to end network performance for the provision of specific services to end users on the basis of the delivery of a specified guaranteed quality of service, based on specified parameters;</i></p>	<p><i>[full deletion]</i></p>
	<p><i>12a. "net neutrality" means the principle according to which all</i></p>

	<i>internet traffic is treated equally, without discrimination, restriction or interference, independently of its sender, recipient, type, content, device, service or application;</i>
<i>(13) ‘long-distance communications’ means voice or messages services terminating outside the local exchange and regional charging areas as identified by a geographic area code in the national numbering plan;</i>	<i>[full deletion]</i>
(14) "internet access service" means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points <i>connected to</i> the internet, irrespective of the network technology used;	(14) “internet access service” means a publicly available electronic communications service that provides connectivity to the <i>open</i> internet <i>in accordance with the principle of net neutrality</i> , and thereby connectivity between virtually all end points of the internet, irrespective of the network technology <i>or terminal equipment</i> used;
(15) "specialised service" means an electronic communications service <i>or any other service that provides the capability to access</i> specific content, applications or services, or a combination thereof, <i>and whose technical characteristics are controlled from end-to-end or provides the capability to send or receive data to or from a determined number of parties or endpoints</i> ; and that is not marketed or <i>widely used</i> as a substitute for internet access service;	<i>(15)“ specialised service” means a service provided by means of</i> electronic communications that is <i>optimised for</i> specific content, applications or services, or a combination thereof, <i>offering enhanced quality from end to end</i> , and that is not marketed or usable as a substitute for internet access service;
<i>(16) ‘receiving provider of electronic communications to the public’ means the provider of electronic communications to the public to which the telephone number or service is transferred;</i>	<i>[full deletion]</i>

<i>(17) ‘transferring provider of electronic communications to the public’ means the provider of electronic communications to the public from which a telephone number or service is transferred.</i>	<i>[full deletion]</i>
Chapter II Single EU authorisation	<i>[full deletion]</i>
Article 3 – Freedom to provide electronic communications across the Union	<i>[full deletion]</i>
<i>[omissis]</i>	
Article 4 - Notification procedure for European electronic communications providers	<i>[full deletion]</i>
<i>[omissis]</i>	
Article 5 –Compliance with the single EU authorisation	<i>[full deletion]</i>
<i>[omissis]</i>	
Article 6 – Suspension and withdrawal of the rights to provide electronic communications of European electronic communications providers	<i>[full deletion]</i>
<i>[omissis]</i>	
Article 7 – Coordination of enforcement measures	<i>[full deletion]</i>
<i>[omissis]</i>	
Chapter III European inputs	Chapter III European inputs
Section 1 - Coordination of use of radio spectrum within the single market	Section 1 - Coordination of use of radio spectrum within the single



	market
Article 8 – Scope of application and general provisions	Article 8 – Scope of application and general provisions
1. This section shall apply to harmonised radio spectrum for wireless broadband communications.	1. This section shall apply to harmonised radio spectrum for wireless broadband communications <i>in accordance with Directive 2002/21/EC, Decision 676/2002/EC and Decision 243/2012.</i>
2. This section shall be without prejudice to the right of the Member States to <i>benefit from</i> fees imposed to ensure the optimal use of radio spectrum resources in accordance with Article 13 of Directive 2002/20/EC and to organise and use their radio spectrum for public order, public security and defence.	2. This section shall be without prejudice to the right of the Member States to <i>establish and benefit from the</i> fees imposed to ensure the optimal use of radio spectrum resources in accordance with Article 13 of Directive 2002/20/EC and to organise and use their radio spectrum for public order, public security and defence, or <i>safeguarding general interest objectives such as cultural diversity and media pluralism.</i>
3. In the exercise of powers <i>conferred in this section</i> , the Commission shall take utmost account of any relevant opinion issued by the Radio Spectrum Policy Group (RSPG) established by Commission Decision 2002/622/EC <sup>28</sup> .	3. In the exercise of <i>its</i> powers <i>on spectrum issues</i> , the Commission shall take utmost account of any relevant opinion issued by the Radio Spectrum Policy Group (RSPG) established by Commission Decision 2002/622/EC. <sup>28</sup>
	<i>Article 8a - Harmonisation of certain aspects relating to duration of individual rights to use radio frequencies</i>
	<i>1. From the date of entry into force of this Regulation, all new rights of use of spectrum in bands referred to in Article 8(1) shall be granted with a minimum duration of 25 years, and in any case for a duration appropriate to incentivise investment and competition. Member States</i>

	<p><i>may grant rights of use of indefinite duration.</i></p> <p><i>2. Member States may provide for proportionate and non-discriminatory withdrawal of rights, including those with a 25-year minimum duration or of indefinite duration, where this is necessary in order to ensure the efficient use of spectrum for reasons relating to, but not limited to, spectrum management purposes, national security, breach of licence, harmonised change of use of a band and non-payment of fees.</i></p> <p><i>3. The minimum 25-year licence duration shall not impede the ability of regulators to issue temporary licences and licences for secondary uses or sharing arrangements in a harmonised band.</i></p>
<p>Article 9 – Radio Spectrum use for wireless broadband communications: regulatory principles</p>	<p>Article 9 – <b>Harmonised</b> radio Spectrum use for wireless broadband communications: regulatory principles</p>
<p>1. <i>The national competent authorities for radio spectrum</i> shall contribute to the development of a wireless space where investment and competitive conditions for high-speed wireless broadband communications converge and which enables planning and provision of integrated multi-territorial networks and services and economies of scale, thereby fostering innovation, economic growth and the long-term benefit of end users.</p> <p><i>The national competent authorities shall refrain from applying procedures or imposing conditions for the use of radio spectrum which may unduly impede European electronic communications providers</i></p>	<p><i>1. Member States shall cooperate with each other and with the Commission in the use of harmonised radio spectrum for wireless broadband by the consistent application of the regulatory principles included in Article 2 of the Radio Spectrum Policy Programme established by Decision 243/2012/EU of the European Parliament and of the Council.</i></p> <p><i>Without prejudice to general interest objectives, Member States shall contribute to the development of a wireless space where investment and competitive conditions for high-speed wireless broadband</i></p>

<p><i>from providing integrated electronic communications networks and services in several Member States or throughout the Union.</i></p>	<p>communications converge and which enables planning and provision of integrated multi-territorial networks and services and economies of scale, thereby fostering innovation, economic growth and the long-term benefit of end users.</p>
<p>2. <i>The national competent authorities</i> shall apply the least onerous authorisation system possible for allowing the use of radio spectrum, on the basis of objective, transparent, non-discriminatory and proportionate criteria, in such a way as to maximise flexibility and efficiency in radio spectrum use <i>and to promote comparable conditions throughout the Union for integrated multi-territorial investments and operations by European electronic communications providers.</i></p>	<p>2. <i>Member States</i> shall apply the <b><i>most appropriate and</i></b> least onerous authorisation system possible for allowing the use of <b><i>harmonised</i></b> radio spectrum <b><i>for wireless broadband communications</i></b>, on the basis of objective, transparent, non-discriminatory and proportionate criteria, in such a way as to maximise flexibility and efficiency in radio spectrum use.</p>
<p>3. <i>When establishing authorisation conditions and procedures for the use of radio spectrum, national competent authorities shall have regard in particular to equal treatment between existing and potential operators and between European electronic communications providers and other undertakings.</i></p>	<p>3. <i>When defining the procedures or imposing conditions for the use of harmonised radio spectrum for wireless broadband communications, Member States shall do so in such a way as to allow electronic communications providers to provide integrated multi-territorial electronic communications networks and services in several Member States or throughout the Union.</i></p>
	<p><i>3a The Commission shall ensure that the RSPG, in addition to the tasks assigned to it in article 2 of Commission Decision 2002/622/EC, is</i></p>

*enabled to:*

*a) on request, develop and disseminate among Member States regulatory best practices, such as common approaches, methodologies, recommendations or guidelines, on the definition and implementation of an harmonised approach on the use of harmonised radio spectrum for wireless broadband communications, where applicable along the principles set in paragraph 4;*

*(b) on request, provide assistance, directly or through the Commission, to Member States on regulatory issues relating to spectrum management of harmonised bands for wireless broadband communications;*

*(c) on request, deliver opinions to the Commission and to the Member States on the draft decisions, recommendations and guidelines regarding harmonised spectrum for wireless broadband communications, within a time period specified by the Commission in its Request for Opinion;*

*(d) issue reports and provide advice, upon a reasoned request of the Commission or on its own initiative, and deliver opinions to the European Parliament and the Council, upon a reasoned request or on its own initiative, on any matter regarding spectrum policies within its competence;*

*(e) on request, assist the European Parliament, the Council, the*

*Commission and the Member States in relations, discussions and exchanges with third parties, and assist the Commission and Member States in the dissemination of regulatory best practices to third parties, with regard to spectrum use.*

4. Without prejudice to *paragraph 5, the national competent authorities* shall take into account and, where necessary, shall reconcile the following regulatory principles *when establishing authorisation conditions and procedures for rights of use for radio spectrum*:

- a) maximisation of end user interest, including end users' interest in both efficient long-term investment and innovation in wireless networks and services and in effective competition;
- b) ensuring the most efficient use and effective management of radio spectrum;
- c) ensuring predictable and comparable conditions to enable the *planning of* network investments and services on a multi-territorial basis and the achievement of scale economies;
- d) ensuring the necessity and proportionality of the conditions imposed, including through an objective assessment of whether it is justified to impose additional conditions which could be in favour of or to the detriment of certain operators;
- e) ensuring wide territorial coverage of high-speed wireless broadband networks and a high level of penetration and consumption of related

4. Without prejudice to *Article 8 of the Framework Directive, when establishing authorisation conditions and procedures for rights of use for harmonised radio spectrum for wireless broadband communications, Member States* shall take into account and, where necessary, shall reconcile, to the best extent possible, the following regulatory principles:

- a) maximisation of end user interest, including end users' interest in both efficient long-term investment and innovation in wireless networks and services and in effective competition;
- b) ensuring the most efficient use and effective management of radio spectrum;
- c) ensuring predictable and comparable conditions to enable the *long-term* network investments and services on a multi-territorial basis and the achievement of scale economies;
- d) ensuring the necessity and proportionality of the conditions imposed, including through an objective *and transparent* assessment of whether it is justified to impose additional conditions which could be in favour of or to the detriment of certain operators;

<p>services.</p>	<p>e) ensuring wide territorial coverage of high-speed wireless broadband networks and a high level of penetration and consumption of related services <i>at the same time taking account of the public interest and the social, cultural and economic value of spectrum as a whole.</i></p> <p><i>The RSPG shall equally take into account these regulatory principles in the performance of the tasks set out in paragraph 3a, as shall the Commission when acting pursuant to Article 9a and both the RSPG and the Commission when acting in accordance with Article [13].</i></p>
<p><i>5. When considering whether to impose any of the specific conditions in respect of rights of use of radio spectrum referred to in Article 10, national competent authorities shall have particular regard to the criteria laid down in that Article.</i></p>	<p><i>[full deletion]</i></p>
	<p>Article 9a Guidance on relevant criteria for use of radio spectrum</p>
	<p><i>1. By way of derogation to Article 19 of the Framework Directive, the Commission may, taking utmost account of the opinion of the RSPG, issue a recommendation on the harmonised application of the provisions of this Section, of Articles 9, 9a and 9b of the Framework Directive and of Articles 6 to 8, 13 and 14 of the Authorisation Directive, as far as it concerns spectrum bands referred to in Article 8(1).</i></p>

*Member States shall ensure that national competent authorities take the utmost account of these recommendations in carrying out their tasks. Where a national competent authority chooses not to follow a recommendation, it shall inform the Commission, giving the reasons for its position.*

*Where the Commission issues a recommendation pursuant to paragraph 1, it shall act in accordance with the advisory procedure referred to in Article 33.3.*

*2. In its recommendations adopted in accordance to this Article, the Commission may address relevant criteria to be applied by Member States:*

- (a) when determining the amount and characteristics of radio spectrum to be covered by a procedure to grant rights of use of spectrum;*
- (b) when deciding to establish fees and payment modalities for rights of use for harmonised radio spectrum for wireless broadband communications;*
- (c) when imposing proportionate obligations to reach minimum territorial coverage so as to ensure wide territorial coverage;*
- (d) when determining whether to impose measures under Article 5(2) of Decision No 243/2012/EC, having regard to likely effects on*

	<p><i>investments and to whether or not effective competition would be maintained or achieved in the absence of such measures.</i></p> <p><i>(e) when determining conditions for the transfer, lease or sharing of part or all of individual rights to use radio spectrum;</i></p> <p><i>(f) when authorising the sharing of passive and active infrastructure and the joint roll-out of infrastructure for wireless broadband communications;</i></p> <p><i>(g) when establishing authorisation conditions whereby an individual authorisation or right of use may be revoked or cancelled in case of persistent failure to use the relevant radio spectrum;</i></p> <p><i>(h) when establishing appropriate compensation or other payments to existing users or radio spectrum usage right holders, with a view to the timely freeing up or sharing of sufficient harmonised radio spectrum in cost-efficient bands for high-capacity wireless broadband services;</i></p> <p><i>(i) when fixing appropriate minimum technology performance levels for different bands in accordance with Article 6(3) of Decision No 243/2012/EC with a view to improving spectral efficiency, without prejudice to measures adopted under Decision No 676/2002.</i></p>
Article 10 –Relevant criteria to be taken in account for use of radio spectrum	<i>[full deletion]</i>
<i>1. When determining the amount and type of radio spectrum to be assigned in a given procedure for granting rights of use for radio</i>	



*spectrum, the national competent authorities shall have regard to the following:*

*(a) the technical characteristics of different available radio spectrum bands,*

*(b) the possible combination in a single procedure of complementary bands; and*

*(c) the relevance of coherent portfolios of radio spectrum rights of use in different Member States to the provision of networks or services to the entire Union market or a significant part thereof.*

*2. When determining whether to specify any minimum or maximum amount of radio spectrum, which would be defined in respect of a right of use in a given band or in a combination of complementary bands, national competent authorities shall ensure:*

*(a) the most efficient use of the radio spectrum in accordance with Article 9(4)(b), taking into account the characteristics of the band or bands concerned;*

*(b) efficient network investment in accordance with Article 9(4)(a).*

*This paragraph shall be without prejudice to the application of paragraph 5 as regards conditions defining maximum amounts of radio spectrum.*

*3. National competent authorities shall ensure that the fees for rights of use for radio spectrum, if any:*

- (a) appropriately reflect the social and economic value of the radio spectrum, including beneficial externalities;*
- (b) avoid under-utilisation and foster investment in capacity, coverage and quality of networks and services;*
- (c) avoid discrimination and ensure equality of opportunity between operators, including between existing and potential operators;*
- (d) achieve an optimal distribution between immediate and, if any, periodic payments, having regard in particular to the need to incentivise rapid network roll-out and radio spectrum utilisation in accordance with Article 9(4)(b) and (e).*

*This paragraph shall be without prejudice to the application of paragraph 5 as regards any conditions resulting in differentiated fees between operators which are laid down with a view to promoting effective competition.*

*4. National competent authorities may impose obligations to reach minimum territorial coverage only when they are necessary and proportionate, in accordance with Article 9(4)(d), to achieve specific objectives of general interest determined at national level. When imposing such obligations, the national competent authorities shall have regard to the following:*

- (a) any pre-existing coverage of the national territory by the relevant services, or by other electronic communications services;*

*(b) the minimisation of the number of operators potentially subject to such obligations;*

*(c) the possibility of burden sharing and reciprocity among various operators, including providers of other electronic communications services;*

*(d) the investments required to achieve such coverage and the need to reflect these in the applicable fees;*

*(e) the technical suitability of the relevant bands for efficient provision of wide territorial coverage.*

*5. When determining whether to impose any of the measures to promote effective competition provided for in Article 5(2) of Decision No 243/2012/EC of the European Parliament and the Council,<sup>1</sup> national competent authorities shall base their decision on an objective, prospective assessment of the following, taking into account market conditions and available benchmarks:*

*(a) whether or not effective competition is likely to be maintained or achieved in the absence of such measures, and*

*(b) the likely effect of such temporary measures on existing and future investments by market operators.*

*6. National competent authorities shall determine conditions under*

<sup>1</sup> Decision No 243/2012/EU of the European Parliament and the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

*which undertakings may transfer or lease part or all of their individual rights to use radio spectrum to other undertakings, including the sharing of such radio spectrum. When determining those conditions, national competent authorities shall have regard to the following:*

- (a) optimisation of efficient radio spectrum use in accordance with Article 9(4)(b);*
- (b) enabling the exploitation of beneficial sharing opportunities;*
- (c) reconciliation of the interests of existing and potential right-holders;*
- (d) creation of a better-functioning, more liquid market for access to radio spectrum.*

*This paragraph shall be without prejudice to the application of competition rules to undertakings.*

*7. National competent authorities shall authorise the sharing of passive and active infrastructure and the joint roll-out of infrastructure for wireless broadband communications, taking into account:*

- (a) the state of infrastructure-based competition and any additional service-based competition;*
- (b) the requirements of efficient radio spectrum use;*
- (c) increased choice and a higher quality of service for end users;*
- (d) technological innovation.*

*This paragraph shall be without prejudice to the application of competition rules to undertakings.*

<p>Article 11 – Additional provisions related to conditions for use of radio spectrum</p>	<p><i>[full deletion]</i></p>
<p><i>1. Where the technical conditions for the availability and efficient use of harmonised radio spectrum for wireless broadband communications make it possible to use the relevant radio spectrum under a general authorisation regime, national competent authorities shall avoid imposing any additional condition and shall prevent any alternative use from impeding the effective application of such harmonised regime.</i></p> <p><i>2. National competent authorities shall establish authorisation conditions whereby an individual authorisation or right of use may be revoked or cancelled in case of persistent failure to use the relevant radio spectrum. The revocation or cancellation may be subject to appropriate compensation when the failure to use the radio spectrum is due to grounds beyond the control of the operator, and is objectively justified.</i></p> <p><i>3. National competent authorities shall consider the need to establish, in conformity with competition rules, and with a view to the timely freeing up or sharing of sufficient harmonised radio spectrum in cost-efficient bands for high-capacity wireless broadband services:</i></p> <p><i>(a) appropriate compensation or incentive payments to existing users or radio spectrum usage right holders, inter alia through incorporation in the bidding system or fixed amount for rights of use; or</i></p>	

<p><i>(b) incentive payments to be paid by existing users or radio spectrum usage right holders.</i></p> <p><i>4. The national competent authorities shall consider the need to fix appropriate minimum technology performance levels for different bands in accordance with Article 6(3) of Decision No 243/2012/EC with a view to improving spectral efficiency and without prejudice to measures adopted under Decision No 676/2002.</i></p> <p><i>When fixing those levels, they shall in particular:</i></p> <p><i>(a) have regard to the cycles of technology development and of renewal of equipment, in particular terminal equipment; and</i></p> <p><i>(b) apply the principle of technology neutrality to achieve the specified performance level, in accordance with Article 9 of Directive 2002/21/EC.</i></p>	
<p>Article 12- Harmonisation of certain authorisation conditions relative to wireless broadband communications</p>	<p>Article 12- Harmonisation of certain authorisation conditions relative to wireless broadband communications</p>
<p>1. <i>National competent authorities</i> shall establish timetables for the granting <i>or reassignment</i> of rights of use, or for the renewal of those rights under the terms of existing rights, <i>which shall apply to radio spectrum harmonised for wireless broadband communications.</i></p> <p><i>The duration of the rights of use or the dates for subsequent renewal shall be set well in advance of the relevant procedure included in the timetable referred to in the first subparagraph. The timetables,</i></p>	<p><i>1. Taking full account of Directive 2002/21/EC, in particular Articles 7, 8, 8a, 9 and 9a thereof, Decision No 676/2002/EU and Decision No 243/2012/EU, in particular Articles 2, 3, 5 and 6 thereof, Member States</i> shall establish timetables for the granting of rights of use, or for the renewal of those rights under the terms of existing rights, <i>in order to meet demand for harmonised radio spectrum for wireless broadband.</i></p> <p><i>The duration of the rights of use or the dates for subsequent renewal</i></p>

<p><i>durations and renewal cycles shall take account of the need for a predictable investment environment, the effective possibility to release any relevant new radio spectrum bands harmonised for wireless broadband communications and of the period for amortisation of related investments under competitive conditions.</i></p>	<p><i>shall be set well in advance of the relevant procedure included in the timetable referred to in the first subparagraph. The timetables, durations and renewal cycles shall take account of the need for a predictable investment environment, the effective possibility to release any relevant new radio spectrum bands harmonised for wireless broadband communications and of the period for amortisation of related investments under competitive conditions.</i></p>
<p>2. In order to ensure a coherent implementation of paragraph 1 throughout the Union and in particular to enable the synchronised availability of wireless services within the Union, the Commission may, by way of <b>implementing acts</b>:</p>	<p>2. In order to ensure a coherent implementation of paragraph 1 throughout the Union and in particular to enable the synchronised availability of wireless services within the Union, the Commission <b>may</b>, <i>by way of recommendations to be adopted pursuant to Article [8b]</i>:</p>
<p>(a) establish a common timetable for the Union as a whole, or timetables appropriate to the circumstances of different categories of Member States, the date or dates by which individual rights of use for a harmonised band, or a combination of complementary harmonised bands, <b>shall</b> be granted and actual use of the radio spectrum <b>shall</b> be allowed for exclusive or shared provision of wireless broadband communications throughout the Union;</p>	<p>(a) establish a common timetable for the Union as a whole, or timetables appropriate to the circumstances of different categories of Member States, the date or dates by which individual rights of use for a harmonised band, or a combination of complementary harmonised bands, <b>should</b> be granted and actual use of the radio spectrum <b>should</b> be allowed for exclusive or shared provision of wireless broadband communications throughout the Union;</p>
<p>(b) <b>determine</b> a minimum duration for the rights granted in the harmonised bands;</p>	<p>(b) <b>recommend</b> a minimum duration <i>that is no less than 25 years</i>, for the rights granted in the harmonised bands, <i>and which is in any case appropriate to incentivise investment, innovation and competition</i>;</p>

(c) <b>determine</b> , in the case of rights which are not indefinite in character, a synchronised expiry or renewal date for the Union as a whole;	(c) <b>recommend</b> , in the case of rights which are not indefinite in character, a synchronised expiry or renewal date for the Union as a whole;
(d) define the date <i>of expiry of any existing rights of use of harmonised bands other than</i> for wireless broadband communications, <i>or, in the case of rights of indefinite duration, the date by which the right of use</i> shall be amended, in order to allow the provision of wireless broadband communications.	(d) define the date <i>by which, in bands</i> harmonised for wireless broadband communications, <i>an existing right of use of spectrum should</i> be amended, in order to allow the provision of wireless broadband communications;
<i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).</i>	<i>[full deletion]</i>
<i>3. The Commission may also adopt implementing acts harmonising the date of expiry or renewal of individual rights to use radio spectrum for wireless broadband in harmonised bands, which already exist at the date of adoption of such acts, with a view to synchronising throughout the Union the date for renewal or reassignment of rights of use for such bands, including possible synchronisation with the date of renewal or reassignment of other bands harmonised by implementing measures adopted in accordance with paragraph 2 or with this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).</i>	<i>[full deletion]</i>
<i>Where implementing acts provided for in this paragraph define a harmonised date for renewal or reassignment of rights of use of radio</i>	<i>[full deletion]</i>



<p><i>spectrum which falls after the date of expiry or renewal of any existing individual rights of use of such radio spectrum in any of the Member States, the national competent authorities shall extend the existing rights until the harmonised date under the same previously applicable substantive authorisation conditions, including any applicable periodic fees.</i></p>	
<p><i>Where the extension period granted in accordance with the second subparagraph is significant in comparison with the original duration of the rights of use, national competent authorities may subject the extension of rights to any adaptations of the previously applicable authorisation conditions which are necessary in the light of the changed circumstances, including the imposition of additional fees. These additional fees shall be based on an application pro rata temporis of any initial fee for the original rights of use which was expressly calculated by reference to the originally foreseen duration.</i></p>	<p><i>[full deletion]</i></p>
<p><i>The implementing acts provided for in this paragraph shall not require the shortening of the duration of existing rights of use in any Member State except in accordance with Article 14(2) of Directive 2002/20/EC and shall not apply to existing rights of indefinite duration.</i></p>	<p><i>[full deletion]</i></p>
<p><i>Where the Commission adopts an implementing act pursuant to paragraph 2, it may apply the provisions of this paragraph mutatis</i></p>	<p><i>[full deletion]</i></p>

<p><i>mutandis to any rights of use of the harmonised band concerned for wireless broadband.</i></p>	
<p>4. When adopting <i>the implementing acts provided for in paragraphs 2 and 3</i>, the Commission shall have regard to:</p> <ul style="list-style-type: none"> <li>(a) the regulatory principles set out in Article 9 ;</li> <li>(b) objective variations across the Union in the needs for additional radio spectrum for wireless broadband provision, while taking into account common radio spectrum needs for integrated networks covering several Member States;</li> <li>(c) the predictability of operating conditions for existing radio spectrum users;</li> <li>(d) the take-up, development and investment cycles of successive generations of wireless broadband technologies;</li> <li>(e) end-user demand for high-capacity wireless broadband communications.</li> </ul> <p>In <i>determining</i> timetables for different categories of Member States which have not already granted individual rights of use and allowed actual use of the harmonised band in question, the Commission shall have due regard to any submissions made by Member States regarding the way radio spectrum rights have been historically granted, the grounds of restriction provided for in in Article 9(3) and (4) of Directive 2002/21/EC, the possible need to vacate the band in question, the effects on</p>	<p>3. When adopting <i>a recommendation pursuant to this Article</i>, the Commission shall have regard to:</p> <ul style="list-style-type: none"> <li>(a) the regulatory principles set out in Article 9 ;</li> <li>(b) objective variations across the Union in the needs for additional radio spectrum for wireless broadband provision, while taking into account common radio spectrum needs for integrated networks covering several Member States;</li> <li>(c) the predictability of operating conditions for existing radio spectrum users;</li> <li>(d) the take-up, development and investment cycles of successive generations of wireless broadband technologies;</li> <li>(e) end-user demand for high-capacity wireless broadband communications.</li> </ul> <p>In <i>recommending</i> timetables for different categories of Member States which have not already granted individual rights of use and allowed actual use of the harmonised band in question, the Commission shall have due regard to any submissions made by Member States regarding the way radio spectrum rights have been historically granted, the grounds of restriction provided for in Article 9(3) and (4) of Directive 2002/21/EC, the possible need to vacate the band in question, the effects on</p>

<p>competition or geographical or technical constraints, taking into account the effect on the internal market. The Commission shall ensure that implementation is not unduly deferred and that any variation in timetables between Member States does not result in undue differences in the competitive or regulatory situations between Member States.</p>	<p>competition or geographical or technical constraints. The Commission shall ensure <i>in its recommendation</i> that implementation is not unduly deferred and that any variation in timetables between Member States does not result in undue differences in the competitive or regulatory situations between Member States.</p>
<p><i>5. Paragraph 2 shall be without prejudice to the right of the Member States to grant rights of use for and to allow actual use of a harmonised band before the adoption of an implementing act in respect of that band, subject to compliance with the second subparagraph of this paragraph, or in advance of the harmonised date established by an implementing act for that band.</i></p>	<p><i>[full deletion]</i></p>
<p><i>Where national competent authorities grant rights of use in a harmonised band before the adoption of an implementing act in respect of that band, they shall define the conditions of such grant, and in particular those relative to duration, in such a way that beneficiaries of the rights of use are made aware of the possibility that the Commission would adopt implementing acts in accordance with paragraph 2 establishing a minimum duration of such rights or a synchronised expiry or renewal cycle for the Union as a whole. This subparagraph shall not apply to the grant of rights of indefinite duration.</i></p>	<p><i>[full deletion]</i></p>

<p><i>6. For the harmonised bands for which a common timetable for granting rights of use and allowing actual use has been established in an implementing act adopted in accordance with paragraph 2, national competent authorities shall provide timely and sufficiently detailed information to the Commission on their plans to ensure compliance. The Commission may adopt implementing acts defining the format and procedures for the provision of such information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).</i></p>	<p><i>[full deletion]</i></p>
<p><i>Where the Commission considers, upon reviewing such detailed plans provided by a Member State, that it is unlikely that the Member State in question will be able to comply with the timetable applicable to it, the Commission may adopt a decision by means of implementing act requiring that Member State to adapt its plans in an appropriate way to ensure such compliance.</i></p>	<p><i>[full deletion]</i></p>
	<p><i>Article 12a - Joint authorisation process to grant individual rights of use of radio spectrum</i></p>
	<p><i>1. Two or several Member States may cooperate with each other, and with the Commission, in meeting their obligations under Article 6 and 7 of the Authorisation Directive with a view to establish a joint authorisation process to grant individual rights of use of radio</i></p>

	<p><i>spectrum, in line, where applicable, with any common timetable established in accordance with Article 12(2). The joint authorisation process shall meet the following criteria:</i></p> <p><i>(a) the individual national authorisation processes shall be initiated and implemented by the national competent authorities according to a common schedule;</i></p> <p><i>(b) it shall provide where appropriate for common conditions and procedures for the selection and granting of individual rights among the Member States concerned;</i></p> <p><i>(c) it shall provide where appropriate for common or comparable conditions to be attached to the individual rights of use among the Member States concerned inter alia allowing operators to be granted consistent spectrum portfolios with regard to the spectrum blocks to be assigned.</i></p>
	<p><i>2. Where Member States intend to establish a joint authorisation process, the national competent authorities concerned shall simultaneously make their draft measures accessible to the Commission and the competent authorities. The Commission shall inform the other Member States.</i></p>
	<p><i>3. A joint authorisation process shall be open at any time to other Member States.</i></p>

<p>Article 13 –Coordination of authorisation procedures and conditions for the use of radio spectrum for wireless broadband in the internal market</p>	<p>Article 13 –Coordination of authorisation procedures and conditions for the use of radio spectrum for wireless broadband in the internal market</p>
<p>1. Where a <b><i>national competent authority</i></b> intends to subject the use of radio spectrum to a general authorisation or to grant individual rights of use of radio spectrum, or to amend rights and obligations in relation to the use of radio spectrum in accordance with Article 14 of Directive 2002/20/EC, it shall make accessible its draft measure, together with the reasoning thereof, simultaneously to the Commission <b><i>and the competent authorities for radio spectrum of the other Member States</i></b>, upon completion of the public consultation referred to in Article 6 of Directive 2002/21/EC, if applicable, and in any event only at a stage in its preparation which allows it to provide <b><i>to the Commission and the competent authorities of the other Member States</i></b> sufficient and stable information on all relevant matters.</p> <p>The <b><i>national competent authority</i></b> shall provide information which shall include at least the following matters, where applicable:</p> <ul style="list-style-type: none"> <li>(a) the type of authorisation process;</li> <li>(b) the timing of the authorisation process;</li> <li>(c) the duration of the rights of use;</li> <li>(d) the type and amount of radio spectrum available, as a whole or to any given undertaking;</li> <li>(e) the amount and structure of any fees to be paid;</li> </ul>	<p>1. Where a <b><i>Member State</i></b> intends to subject the use of radio spectrum to a general authorisation or to grant individual rights of use of radio spectrum, or to amend rights and obligations in relation to the use of radio spectrum in accordance with Article 14 of Directive 2002/20/EC, it shall make accessible its draft measure, together with the reasoning thereof, simultaneously to the Commission and <b><i>to the RSPG</i></b> upon completion of the public consultation referred to in Article 6 of Directive 2002/21/EC, if applicable, and in any event only at a stage in its preparation which allows it to provide sufficient and stable information on all relevant matters.</p> <p><b><i>The Commission may adopt implementing measures identifying circumstances in which it would be disproportionate to subject national draft measures to this procedure, having regard to the quantities of spectrum, the number of likely users, the duration of the rights of use or the extent of the coverage foreseen in terms of territory or population. Any such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).</i></b></p> <p><b><i>The draft measures that a Member State considers to be covered by such an implementing measure shall in any case be communicated to the Commission and the RSPG for information.</i></b></p>

<p>(f) compensation or incentives regarding the vacation or sharing of radio spectrum by existing users;</p> <p>(g) coverage obligations;</p> <p>(h) wholesale access, national or regional roaming requirements;</p> <p>(i) the reservation of radio spectrum for certain types of operators, or the exclusion of certain types of operators;</p> <p>(j) conditions related to the assignment, transfer or accumulation of rights of use;</p> <p>(k) the possibility to use radio spectrum on a shared basis;</p> <p>(l) infrastructure sharing;</p> <p>(m) minimum technology performance levels;</p> <p>(n) restrictions applied in accordance with Articles 9(3) and 9(4) of Directive 2002/21/EC;</p> <p>(o) a revocation or withdrawal of one or several rights of use or an amendment of rights or conditions attached to such rights which cannot be considered as minor within the meaning of Article 14(1) of Directive 2002/20/EC.</p>	<p>The <i>Member State</i> shall provide information which shall include at least the following matters, where applicable:</p> <p>(a) the type of authorisation process;</p> <p>(b) the timing of the authorisation process;</p> <p>(c) the duration of the rights of use;</p> <p>(d) the type and amount of radio spectrum available, as a whole or to any given undertaking;</p> <p>(e) the amount and structure of any fees to be paid;</p> <p>(f) compensation or incentives regarding the vacation or sharing of radio spectrum by existing users;</p> <p>(g) coverage obligations;</p> <p>(h) wholesale access, national or regional roaming requirements;</p> <p>(i) the reservation of radio spectrum for certain types of operators, or the exclusion of certain types of operators;</p> <p>(j) conditions related to the assignment, <i>renewal</i>, transfer or accumulation of rights of use;</p> <p>(k) the possibility to use radio spectrum on a shared basis;</p> <p>(l) infrastructure sharing;</p> <p>(m) minimum technology performance levels;</p> <p>(n) restrictions applied in accordance with Articles 9(3) and 9(4) of Directive 2002/21/EC;</p> <p>(o) a revocation or withdrawal of one or several rights of use or an</p>
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	<p>amendment of rights or conditions attached to such rights which cannot be considered as minor within the meaning of Article 14(1) of Directive 2002/20/EC.</p>
<p><b>2. National competent authorities and the Commission may make comments to the competent authority concerned within a period of two months. The two-month period shall not be extended.</b></p> <p>When assessing the draft measure in accordance with this Article, the Commission shall have regard in particular to:</p> <p>(a) the provisions of Directives 2002/20/EC and 2002/21/EC and Decision No. 243/2012/EC;</p> <p>(b) the regulatory principles set out in Article 9;</p> <p>(c) the relevant criteria for certain specific conditions set out in Article 10 and the additional provisions set out in Article 11;</p> <p>(d) <b>any implementing act</b> adopted in accordance with Article 12;</p> <p>(e) coherence with recent, pending or planned procedures in other Member States, and possible effects on trade between Member States.</p> <p><b><i>If, within this period, the Commission notifies the competent authority that the draft measure would create a barrier to the internal market or that it has serious doubts as to its compatibility with Union law, the draft measure shall not be adopted for an additional period of two months.</i></b></p> <p><b><i>The Commission shall also inform the competent authorities of the other Member States of the position it has taken on the draft measure in</i></b></p>	<p><b>2. Within a non-extendable period of one month, the Commission may issue a Request for Opinion on the national draft measure to the RSPG and notify the Member State thereof. In such a case, the draft measure shall not be adopted for a further two months following the one-month period. Within the one month period, the RSPG may also indicate on its own motion its intention to adopt an opinion within the following two-month period.</b></p> <p><b><i>In the absence of such a Request for Opinion to the RSPG or expression by the RSPG of its intention to adopt an opinion, the Member State concerned may adopt the draft measure.</i></b></p>



<i>such a case.</i>	
<p>3. <i>Within the additional two-month period referred to in paragraph 2, the Commission and the competent authority concerned shall cooperate closely to identify the most appropriate and effective measure <b>in the light of the criteria referred to in paragraph 2, whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice.</b></i></p>	<p>3. <i>During the whole procedure, the Commission, <b>the RSPG</b> and the Member State concerned shall cooperate closely to identify the most appropriate and effective measure in the light of the <b>regulatory principles laid down in this Regulation</b> whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice.</i></p>
<p>4. <i>At any stage during the procedure, the competent authority may amend or withdraw its draft measure taking utmost account of the Commission's notification referred to in paragraph 2.</i></p>	<p>4. <i>Within three months from the transmission of the draft measure by the Member State, if the Commission has issued a Request for Opinion to the RSPG in accordance with paragraph 2 or if the RSPG has announced its intention to adopt an opinion, the RSPG shall issue an opinion on the draft measure, indicating whether it considers that the draft measure would create a barrier to the internal market or that it has serious doubts as to its compatibility with Union law and whether it should be accepted, amended or withdrawn and, where appropriate, provide specific recommendations to that end.</i></p> <p><i>This opinion shall be reasoned and made public and communicated to the Commission and to the Member State concerned.</i></p> <p><i>When assessing the draft measure in accordance with this Article, the RSPG shall have regard in particular to:</i></p> <p><i>(a) the provisions of Directives 2002/20/EC and 2002/21/EC and Decision No. 243/2012/EC;</i></p>

	<p><i>(b) the regulatory principles set out in Article 9;</i></p> <p><i>(c) any Commission recommendation adopted in accordance with Article 8b;</i></p> <p><i>(d) any regulatory best practices developed by the RSPG in accordance with Article 9(3a);</i></p> <p><i>(e) coherence with recent, pending or planned procedures in other Member States, and possible effects on trade between Member States.</i></p>
<p><i>5. Within the additional two-month period referred in paragraph 2, the Commission may:</i></p> <p><i>a) present a draft decision to the Communications Committee requiring the competent authority concerned to withdraw the draft measure. The draft decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted as notified, together where necessary with specific proposals for amending the draft measure; or</i></p> <p><i>b) take a decision changing its position in relation to the draft measure concerned.</i></p>	<p><i>[full deletion]</i></p>
<p><i>6. Where the Commission has not presented a draft decision referred to in paragraph 5(a) or takes a decision referred to in paragraph 5(b), the competent authority concerned may adopt the draft measure.</i></p> <p><i>Where the Commission has presented a draft decision referred to in accordance with paragraph 5(a), the draft measure shall not be adopted</i></p>	<p><i>6. Within one month of the RSPG issuing an opinion in accordance with paragraph 4, the Member State concerned shall inform the Commission and the RSPG about the final measure it intends to adopt or to submit to public consultation where necessary.</i></p>

<p><i>by the competent authority for a period not exceeding six months from the notification sent to the competent authority pursuant to paragraph 2. The Commission may decide to change its position in relation to the draft measure concerned at any stage of the procedure, including after the submission of a draft decision to the Communications Committee.</i></p>	
<p><i>7. The Commission shall adopt any decision requiring the competent authority to withdraw its draft measure by means of implementing acts. Those implementing act shall be adopted in accordance with the examination procedure referred to in Article 33(2).</i></p>	<p><i>7. Where the Member State decides not to amend or withdraw the draft measure on the basis of the opinion issued under paragraph 4, it shall provide a reasoned justification to the Commission and the RSPG.</i></p>
<p><i>8. Where the Commission has adopted a decision in accordance with paragraph 7, the competent authority shall amend or withdraw the draft measure within six months of the date of notification of the Commission's decision. When the draft measure is amended, the competent authority shall undertake a public consultation where appropriate, and shall make the amended draft measure accessible to the Commission in accordance with paragraph 1.</i></p>	<p><i>8. The Member State may withdraw its draft measure at any stage of the procedure.</i></p>
<p><i>9. The competent authority concerned shall take the utmost account of any comments of competent authorities of the other Member States and the Commission and may, except in cases covered by the third sub-paragraph of paragraph 2, by the second sub-paragraph of paragraph 6 and by paragraph 7, adopt the resulting draft measure and where it does</i></p>	<p><i>[full deletion]</i></p>

<i>so, shall communicate it to the Commission.</i>	
<i>10. The competent authority shall inform the Commission of the results of the procedure to which its measure relates once that procedure has been concluded.</i>	<i>[full deletion]</i>
Article 14 – Access to radio local area networks	Article 14 – Access to radio local area networks
1. National competent authorities shall allow the provision of access through radio local area networks to the network of a provider of electronic communications to the public as well as the use of the harmonised radio spectrum for such provision, subject only to general authorisation.	1. National competent authorities shall allow the provision of access through radio local area networks to the network of a provider of electronic communications to the public as well as the use of the harmonised radio spectrum for such provision, subject only to general authorisation.
2. National competent authorities shall not prevent providers of electronic communications to the public from allowing access for the public to their networks, through radio local area networks, which may be located at an end user's premises, subject to compliance with the general authorisation conditions and the prior informed agreement of the end user.	2. National competent authorities shall not prevent providers of electronic communications to the public from allowing access for the public to their networks, through radio local area networks, which may be located at an end user's premises, subject to compliance with the general authorisation conditions and the prior informed agreement of the end user.
3. Providers of electronic communications to the public shall not unilaterally restrict: a) the right of end users to accede to radio local area networks of their choice provided by third parties; b) the right of end users to allow reciprocally or more generally access to the networks of such providers by other end users through radio local area	3. Providers of electronic communications to the public shall not unilaterally restrict: a) the right of end users to accede to radio local area networks of their choice provided by third parties; b) the right of end users to allow reciprocally or more generally access to the networks of such providers by other end users through radio local area

<p>networks, including on the basis of third-party initiatives which federate and make publicly accessible the radio local area networks of different end users.</p>	<p>networks, including on the basis of third-party initiatives which federate and make publicly accessible the radio local area networks of different end users.</p> <p><b><i>To that end, providers of electronic communications to the public shall make available and actively offer, clearly and transparently, products or specific offers allowing its subscribers to provide access to third parties through a radio local area network.</i></b></p>
<p>4. National competent authorities shall not restrict the right of end users to allow reciprocally or more generally access to their radio local area networks by other end users, including on the basis of third-party initiatives which federate and make publicly accessible the radio local area networks of different end users.</p>	<p>4. National competent authorities shall not restrict the right of end users to allow reciprocally or more generally access to their radio local area networks by other end users, including on the basis of third-party initiatives which federate and make publicly accessible the radio local area networks of different end users.</p>
<p>5. National competent authorities shall not restrict the provision of public access to radio local area networks:</p> <p>(a) by public authorities on or in the immediate vicinity of premises occupied by such public authorities, when it is ancillary to the public services provided on such premises;</p> <p>(b) by initiatives of non-governmental organisations or public authorities to federate and make reciprocally or more generally accessible the radio local area networks of different end users, including, where applicable, the radio local area networks to which public access is provided in accordance with sub-point (a).</p>	<p>5. National competent authorities shall not restrict the provision of public access to radio local area networks:</p> <p>(a) by public authorities on or in the immediate vicinity of premises occupied by such public authorities, when it is ancillary to the public services provided on such premises;</p> <p>(b) by initiatives of non-governmental organisations or public authorities to federate and make reciprocally or more generally accessible the radio local area networks of different end users, including, where applicable, the radio local area networks to which public access is provided in accordance with sub-point (a).</p>

<p>6. An undertaking, public authority or other end user <i>shall not be deemed to be a provider of</i> electronic communications to the public solely by virtue of the provision of public access to radio local area networks, <i>where</i> such provision is not commercial in character, or is merely ancillary to another commercial activity or public service which is not dependent on the conveyance of signals on such networks.</p>	<p>6. <i>National regulatory authorities may require an</i> undertaking, public authority or other end user <i>to submit the notification provided for in Article 3(2) of Directive 2002/20/EC if it provides</i> electronic communications to the public solely by virtue of the provision of public access to radio local area networks, <i>unless</i> such provision is not commercial in character, or is merely ancillary to another commercial activity or public service which is not dependent on the conveyance of signals on such networks.</p>
<p>Article 15 –Deployment and operation of small-area wireless access points</p>	<p>Article 15 –Deployment and operation of small-area wireless access points</p>
<p>1. National competent authorities shall allow the deployment, connection and operation of unobtrusive small-area wireless access points under the general authorisation regime and shall not unduly restrict that deployment, connection or operation through individual town planning permits or in any other way, whenever such use is in compliance with implementing measures adopted pursuant to paragraph 2.</p> <p>This paragraph is without prejudice to the authorisation regime for the radio spectrum employed to operate small-area wireless access points.</p>	<p>1. National competent authorities shall allow the deployment, connection and operation of unobtrusive small-area wireless access points under the general authorisation regime and shall not unduly restrict that deployment, connection or operation through individual town planning permits or in any other way, whenever such use is in compliance with implementing measures adopted pursuant to paragraph 2.</p> <p>This paragraph is without prejudice to the authorisation regime for the radio spectrum employed to operate small-area wireless access points.</p>
<p>2. For the purposes of the uniform implementation of the general authorisation regime for the deployment, connection and operation of small-area wireless access points pursuant to paragraph 1, the</p>	<p>2. For the purposes of the uniform implementation of the general authorisation regime for the deployment, connection and operation of small-area wireless access points pursuant to paragraph 1, the</p>

<p>Commission <i>may</i>, by means of an implementing act, specify technical characteristics for the design, deployment and operation of small-area wireless access points, compliance with which shall ensure their unobtrusive character when in use in different local contexts. The Commission shall specify those technical characteristics by reference to the maximum size, power and electromagnetic characteristics, as well as the visual impact, of the deployed small-area wireless access points. Those technical characteristics for use of small-area wireless access points shall at a minimum comply with the requirements of Directive 2013/35/EU<sup>30</sup> and with the thresholds defined in Council Recommendation No 1999/519/EC.<sup>31</sup></p>	<p>Commission may may by means of an implementing act specify technical characteristics for the design, deployment and operation of small-area wireless access points, compliance with which shall ensure their unobtrusive character when in use in different local contexts. The Commission shall specify those technical characteristics by reference to the maximum size, power and electromagnetic characteristics, as well as the visual impact, of the deployed small-area wireless access points. Those technical characteristics for use of small-area wireless access points shall at a minimum comply with the requirements of Directive 2013/35/EU<sup>30</sup> and with the thresholds defined in Council Recommendation No 1999/519/EC<sup>31</sup>.</p>
<p>The characteristics specified in order for the deployment, connection and operation of small-area wireless access point to benefit from paragraph 1 shall be without prejudice to the essential requirements of Directive 1999/5/EC of the European Parliament and the Council relative to the placing on the market of such products.<sup>32</sup></p>	<p>The <i>technical</i> characteristics specified in order for the deployment, connection and operation of small-area wireless access point to benefit from paragraph 1 shall be without prejudice to the essential requirements of Directive 1999/5/EC of the European Parliament and the Council relative to the placing on the market of such products.<sup>32</sup></p>
<p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).</p>	<p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).</p>
<p>Article 16 – Radio spectrum coordination among Member States</p>	<p>Article 16 – Radio spectrum coordination among Member States</p>
<p>1. Without prejudice to their obligations under relevant international agreements including ITU Radio Regulations, the national competent</p>	<p>1. Without prejudice to their obligations under relevant international agreements including ITU Radio Regulations, the national competent</p>

<p>authorities shall ensure that the use of radio spectrum is organised on their territory, and shall in particular take all necessary radio spectrum allocation or assignment measures, in order that no other Member State is impeded from allowing on its territory the use of a specific harmonised band in accordance with Union legislation.</p> <p>2. Member States shall cooperate with each other in the cross-border coordination of the use of radio spectrum in order to ensure compliance with paragraph 1 and to ensure that no Member State is denied equitable access to radio spectrum.</p> <p>3. Any concerned Member State may invite the Radio Spectrum Policy Group to use its good offices to assist it and any other Member State in complying with this Article.</p> <p><i>The Commission may adopt implementing measures to ensure that coordinated outcomes respect the requirement of equitable access to radio spectrum among the relevant Member States, to resolve any practical inconsistencies between distinct coordinated outcomes between different Member States, or to ensure the enforcement of coordinated solutions under Union law. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).</i></p>	<p>authorities shall ensure that the use of radio spectrum is organised on their territory, and shall in particular take all necessary radio spectrum allocation or assignment measures, in order that no other Member State is impeded from allowing on its territory the use of a specific harmonised band in accordance with Union legislation.</p> <p>2. Member States shall cooperate with each other in the cross-border coordination of the use of radio spectrum in order to ensure compliance with paragraph 1 and to ensure that no Member State is denied equitable access to radio spectrum.</p> <p>3. Any concerned Member State may invite the Radio Spectrum Policy Group to use its good offices to assist it and any other Member State in complying with this Article.</p>
Section 2 – European virtual access products	<i>[full deletion]</i>
Article 17 – European virtual broadband access product	<i>[full deletion]</i>



<i>[omissis]</i>	
Article 18 – Regulatory conditions related to European virtual broadband access product	<i>[full deletion]</i>
<i>[omissis]</i>	
Article 19 – Assured service quality (ASQ) connectivity product	<i>[full deletion]</i>
<i>[omissis]</i>	
Article 20 – Measures relating to European access products	<i>[full deletion]</i>
<i>[omissis]</i>	
Chapter IV <i>Harmonised rights of end-users</i>	Chapter IV <i>Users' rights to open internet access</i>
Article 21 – Elimination of restrictions and discrimination	<i>[full deletion]</i>
1. The freedom of end-users to use public electronic communications networks or publicly available electronic communications services provided by an undertaking established in another Member State shall not be restricted by public authorities.	
2. Providers of electronic communications to the public shall not apply any discriminatory requirements or conditions of access or use to end-	

users based on the end-user's nationality or place of residence unless such differences are objectively justified.	
<p><b>3. Providers of electronic communications to the public shall not apply tariffs for intra-Union communications terminating in another Member State which are higher, unless objectively justified:</b></p> <p><b>a) as regards fixed communications, than tariffs for domestic long-distance communications;</b></p> <p><b>b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.</b></p>	
Article 22 - Cross-border dispute resolution	<i>[full deletion – See Article 36]</i>
<i>[omissis – see Article 36]</i>	
Article 23 - Freedom to provide and avail of open internet access, and <b>reasonable</b> traffic management	Article 23 - Freedom to provide and avail of open internet access, and traffic management
<p>1. End-users shall <b>be free</b> to access and distribute information and content, run applications and <b>use</b> services of their choice via their internet access service.</p> <p><b>End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.</b></p>	<p>1. End-users shall <b>have the right</b> to access and distribute information and content, run <b>and provide</b> applications and services <b>and use terminals</b> of their choice, <b>irrespective of the end-user's or provider's location or the location, origin or destination of the service, information or content</b>, via their internet access service.</p> <p><b>Providers of internet access services and end-users may agree on prices and to set limits on data volumes or speeds for internet access services.</b></p>

<p>2. <i>End-users shall also be free to agree with either</i> providers of electronic communications to the public <i>or with</i> providers of content, applications and services <i>on the provision of</i> specialised services <i>with an enhanced quality of service.</i></p> <p><i>In order to enable the provision of specialised services to end-users, providers of content, applications and services and providers of electronic communications to the public shall be free to enter into agreements with each other to transmit the related data volumes or traffic as specialised services with a defined quality of service or dedicated capacity. The provision of specialised services shall not impair in a recurring or continuous manner the general quality of internet access services.</i></p>	<p>2. Providers of electronic communications to the public <i>and</i> providers of content, applications and services <i>shall be free to offer</i> specialised services <i>to end-users.</i></p> <p><i>Such services shall only be offered if sufficient network capacity is available to avoid any detriment to the availability or general quality or experience of internet access services at any given time. Providers of internet access services shall not discriminate between specialised services.</i></p>
<p>3. This Article is without prejudice to Union or national legislation related to the lawfulness of the information, content, application or services transmitted.</p>	<p>3. This Article is without prejudice to Union or national legislation related to the lawfulness of the information, content, application or services transmitted <i>and to lawful measures to block access to web pages containing or disseminating child pornography consistent with Article 25 of Directive 2011/93/EU .</i></p>
<p>4. <i>The exercise of the freedoms provided for in</i> paragraphs 1 and 2 <i>shall be facilitated by the provision of</i> complete information in accordance with <i>Article 25(1), Article 26 (2), and Article 27 (1) and (2).</i></p>	<p>4. <i>End-users shall be provided with</i> complete information in accordance with <i>Article 20(2), Article 21(3) and Article 21a of Directive 2002/22/EC, including information on any traffic management measures applied that might affect access to and distribution of information, content, applications and services as specified in</i></p>

	<i>paragraphs 1 and 2 of this Article.</i>
<p>5. <i>Within the limits of any contractually agreed data volumes or speeds for internet access services</i>, providers of internet access services shall not <i>restrict the freedoms provided for in paragraph 1</i> by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where <i>it is necessary to apply reasonable traffic management measures</i>. <i>Reasonable</i> traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>	<p>5. Traffic management measures shall be transparent, non-discriminatory and proportionate. Providers of internet access services shall not <i>apply traffic management measures which</i> block, slow down, <i>alter</i>, degrade or discriminate against specific content, applications or services, or specific classes thereof, except in cases where <i>such measures are</i> necessary to:</p>
a) implement a legislative provision or a court order, <i>or prevent or impede serious crimes</i> ;	a) implement a legislative provision or a court order;
b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;	b) prevent the transmission of unsolicited communications, <i>or, within the framework of parental control, age-inappropriate content</i> , to end-users who have <i>previously requested</i> such restrictive measures
c) prevent the transmission of unsolicited communications to end-users who have given <i>their prior consent to</i> such restrictive measures;	c) <i>ensure the good functioning of their network, in particular</i> i) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals; or
d) <i>minimise the effects of temporary or exceptional network congestion</i> provided that equivalent types of traffic are treated equally.	ii) <i>prevent imminent network congestion or mitigate its effects</i> provided that <i>such congestion is exceptional in character and that</i> equivalent types of traffic are treated equally.
<i>Reasonable</i> traffic management shall only entail processing of data that is	<i>Such measures shall not be maintained longer than necessary.</i>

necessary and proportionate to achieve the purposes set out in this paragraph.	<b><i>Without prejudice to Directive 95/46</i></b> , traffic management measures shall only entail such processing of personal data that is necessary and proportionate to achieve the purposes set out in this paragraph, <b><i>and shall also be subject to Directive 2002/58, in particular with respect to confidentiality of communications.</i></b>
Article 24 - Safeguards for quality of service	Article 24 - Safeguards for quality of service
1. National regulatory authorities shall closely monitor <b><i>and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2)</i></b> , compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology <b><i>and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation.</i></b> National regulatory authorities shall <b><i>report</i></b> on an annual basis to the Commission and BEREC <b><i>on</i></b> their monitoring and findings.	1. <b><i>In exercising their powers under Article 30a with respect to</i></b> Article 23, national regulatory authorities shall closely monitor compliance with Article 23(5) and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology. <b><i>They shall have regard to [increases in] the capacity available for internet access services in determining whether the capacity employed for specialised services is compliant with Article 23(2), second subparagraph.</i></b> National regulatory authorities shall <b><i>publish reports</i></b> on an annual basis <b><i>regarding</i></b> their monitoring and findings, <b><i>and provide those reports</i></b> to the Commission and BEREC.
2. In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of <b><i>end-users</i></b> to access and distribute content or information or to run applications and services of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements on providers of	2., National regulatory authorities shall have the power to impose, by means of a decision, minimum quality of service requirements, <b><i>and where appropriate, other quality of service parameters</i></b> , on providers of electronic communications to the public to the extent necessary in order to prevent the general impairment of quality of service for internet access

<p>electronic communications to the public.</p>	<p>services or to safeguard the ability of users to access and distribute content or information or to run applications, services <i>and software</i> of their choice.</p>
<p>National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. <b><i>The envisaged requirements shall not be adopted during a period of two months from the receipt of complete information by the Commission unless otherwise agreed between the Commission and the national regulatory authority, or the Commission has informed the national regulatory authority of a shortened examination period, or the Commission has made comments or recommendations.</i></b> National regulatory authorities shall take the utmost account of the Commission’s comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.</p>	<p>National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. National regulatory authorities shall take the utmost account of the Commission’s comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.</p>
<p>3. The Commission <b><i>may adopt implementing acts</i></b> defining uniform conditions for the implementation of the obligations of national competent authorities under this Article. <b><i>Those implementing acts shall be adopted</i></b></p>	<p>3. <b><i>Within six months of adoption of this regulation, BEREC shall, after consulting stakeholders and in close cooperation with</i></b> the Commission, <b><i>lay down general guidelines</i></b> defining uniform conditions for the</p>

<i>in accordance with the examination procedure referred to in Article 33 (2).</i>	implementation of the obligations of national competent authorities under this Article, <i>including with respect to the application of traffic management measures and for monitoring of compliance.</i>
	<i>Article 24a - Review</i>
	<i>The Commission shall, in close cooperation with BEREC, review the functioning of the provisions on specialised services and, after a public consultation, shall report and submit any appropriate proposals to the European Parliament and the Council by [insert date three years after the date of applicability of this regulation].</i>
Article 25 - Transparency and publication of information	<i>[full deletion – See Article 36]</i>
<i>[omissis – See Article 36]</i>	
Article 26 - Information requirements for contracts	<i>[full deletion – See Article 36]</i>
<i>[omissis – See Article 36]</i>	
Article 27 – Control of consumption	<i>[full deletion – See Article 36]</i>
<i>[omissis – See Article 36]</i>	
Article 28 - Contract termination	<i>[full deletion – See Article 36]</i>
<i>[omissis – See Article 36]</i>	
Article 29 - Bundled offers	<i>[full deletion – See Article 36]</i>
<i>[omissis – See Article 36]</i>	

Chapter V Facilitating change of providers	<i>[full deletion – See Article 36]</i>
Article 30 - Switching and portability of numbers	<i>[full deletion – See Article 36]</i>
<i>[omissis– See Article 36]</i>	
Chapter VI Organisational and final provisions	Chapter VI Organisational and final provisions
	<b><i>Article 30 a - Supervision and enforcement</i></b>
	<b><i>1. National regulatory authorities shall have the necessary resources to monitor and supervise compliance with this Regulation within their territories.</i></b>
	<b><i>2. National regulatory authorities shall make up-to-date information on the application of this Regulation publicly available in a manner that enables interested parties to have easy access to it.</i></b>
	<b><i>3. National regulatory authorities shall have the power to require undertakings subject to obligations under this Regulation to supply all information relevant to the implementation and enforcement of this Regulation. Those undertakings shall provide such information promptly on request and in accordance with time limits and the level of detail required by the national regulatory authority.</i></b>
	<b><i>4. National regulatory authorities may intervene on their own initiative</i></b>



	<i>in order to ensure compliance with this Regulation.</i>
	<i>5. National regulatory authorities shall put in place appropriate, clear, open and efficient procedures to address complaints alleging breaches of Article 23. National regulatory authorities shall respond to complaints without undue delay.</i>
	<i>6. Where a national regulatory authority finds that a breach of the obligations set out in this Regulation has occurred, it shall require the immediate cessation of such a breach. They shall, where necessary make use of the powers and procedures provided under Articles 10 and 11 of the Authorisation Directive.</i>
Article 31 - Penalties	Article 31 - Penalties
Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 1 July 2016 at the latest and shall notify it without delay of any subsequent amendment affecting them.	Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 1 July 2016 at the latest and shall notify it without delay of any subsequent amendment affecting them.
<i>With regard to European electronic communications providers, penalties shall be imposed in accordance with Chapter II regarding the respective competences of national regulatory authorities in the home</i>	<i>[full deletion]</i>

<i>and host Member States.</i>	
Article 32 – Delegation of powers	<i>[full deletion]</i>
<i>[omissis]</i>	
Article 33 – Committee procedure	Article 33 – Committee procedure
1. The Commission shall be assisted by the Communications Committee established by Article 22(1) of Directive 2002/21/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	1. The Commission shall be assisted by the Communications Committee established by Article 22(1) of Directive 2002/21/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
Article 34 – Amendments to Directive 2002/20/EC	<i>[full deletion]</i>
<i>[omissis]</i>	
Article 35 – Amendments to Directive 2002/21/EC	<i>[full deletion]</i>
<i>[omissis]</i>	

Article 36 – Amendments to Directive 2002/22/EC	Article 36 – Amendments to Directive 2002/22/EC
	<p><i>(1a) In the second subparagraph of Article 2, the following points are inserted:</i></p> <p><i>‘(fa) receiving provider of electronic communications to the public” means the provider of electronic communications to the public to which the telephone number or service is transferred.’;</i></p> <p><i>(fb) ‘transferring provider of electronic communications to the public’ means the provider of electronic communications to the public from which a telephone number or service is transferred.</i></p>
	<p><i>(1b) The title of Article 20 is replaced by:</i></p> <p><i>‘Information requirements for contracts’;</i></p>
	<p><i>(1c) In Article 20, the following paragraph is inserted:</i></p> <p><i>‘-1a. Member States shall ensure that the information referred to in paragraphs 1 and 1a is provided prior to contract conclusion in a clear, comprehensive and easily accessible manner and without prejudice to the requirements set out in the Consumer Rights Directive regarding off-premises/ distance contracts. The consumer and other end-user so requesting shall have access to a copy of the contract on a durable medium.</i></p> <p><i>Member States may maintain or introduce in their national law language requirements regarding the contractual information, so as to</i></p>

	<p><i>ensure that such information is easily understood by the consumer or other end-user so requesting.</i></p>
<p>[current text Directive]</p> <p>‘1. Member States shall ensure that, when subscribing to services providing connection to a public communications network and/or publicly available electronic communications services, consumers, and other end-users so requesting, have a right to a contract with an undertaking or undertakings providing such connection and/or services. The contract shall specify <b><i>in a clear, comprehensive and easily accessible form</i></b> at least:</p> <p>(a) the identity and address of the undertaking;</p> <p>(b) the services provided, including in particular,</p> <p>— <b><i>whether or not</i></b> access to emergency services and caller location <b><i>information is being provided, and</i></b> any limitations on the provision of emergency services under Article 26,</p> <p>— <b><i>information on any other conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law in accordance with Community law,</i></b></p> <p>— the minimum service quality levels offered, namely the time for the initial connection and, where appropriate, other quality of service parameters, as defined by the national regulatory authorities,</p>	<p><b><i>(1d) Article 20(1) is replaced by the following:</i></b></p> <p>‘1. Member States shall ensure that, when subscribing to services providing connection to a public communications network and/or publicly available electronic communications services, consumers, and other end-users so requesting, have a right to a contract with an undertaking or undertakings providing such connection and/or services. The contract shall specify at least <b><i>the following information:</i></b></p> <p>(a) the identity, address <b><i>and contact information</i></b> of the undertaking <b><i>and, if different, the address and contact information for any complaints;</i></b></p> <p>(b) the <b><i>main characteristics of the</i></b> services provided, including in particular,</p> <p><b><i>(i) the specific tariff plan or tariff plans to which the contract applies and, for each such tariff plan, the types of services offered, including the volumes of communications;</i></b></p> <p><b><i>(ii) access to information on</i></b> emergency services and caller location <b><i>for all relevant services offered, and</i></b> any limitations on the provision of emergency services under Article 26,</p> <p><b><i>(iii) the minimum service quality levels offered, namely the time for the initial connection and, where appropriate, other quality of service</i></b></p>

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

— the types *of maintenance service offered* and customer support services provided, *as well as* the means of contacting *these* services,

— any restrictions imposed by the provider on the use of terminal equipment supplied;

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

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

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

— any minimum usage or duration required to benefit from promotional terms,

— any charges related to portability of numbers and other identifiers,

— any charges due on termination of the contract, including any cost recovery with respect to terminal equipment,

parameters, as defined by the national regulatory authorities,

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

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

(vi) *any restrictions imposed on the consumption of regulated retail roaming services provided at the applicable domestic price level, by reference to fair use criteria, including detailed information on how such fair use criteria are applied in relation to the main pricing, volume or other parameters of the tariff plan in question;*

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

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

- (f) any compensation and the refund arrangements which apply if contracted service quality levels are not met;
- (g) the means of initiating procedures for the settlement of disputes in accordance with Article 34;
- (h) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.

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

- (da) payment methods offered and any differences in costs due to the payment method chosen, and available facilities to safeguard bill transparency and monitor the level of consumption;***
  - (e) the duration of the contract and the conditions for renewal and termination of services and of the contract, including:
    - (i) any minimum usage or duration required to benefit from promotional terms,
    - (ii) any charges related to ***switching and*** portability of numbers and other identifiers, ***including compensation and refund arrangements for delay or abuse of switching;***
    - (iii) any charges due on ***early*** termination of the contract, including any cost recovery with respect to terminal equipment;
  - (f) any compensation and the refund arrangements, ***including, where applicable, an explicit reference to statutory rights of the consumer*** which apply if contracted service quality levels are not met;
  - (g) the means of initiating procedures for the settlement of disputes, ***including cross-border disputes,*** in accordance with Article 34;
  - (ga) details on how disabled end-users can obtain information on products and services designed for them;***
  - (h) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.
- Member States may also require that the contract include any information

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

***(1e) In Article 20, the following paragraph is inserted:***  
***‘1a. In addition to the information referred to in paragraph 1, Member States shall ensure that if the contract includes the provision of internet access services, that contract shall also include the following information:***

- (a) details of unit data pricing plans, pricing plans for bulk data and any applicable thresholds related to the specific tariff plan or tariff plans to which the contract applies. For data volumes above thresholds, unit or bulk pricing on an ad hoc or lasting basis and any data speed limitations that may be applied to the specific tariff plan or tariff plans to which the contract applies;***
- (b) how end-users can monitor the current level of their consumption, whether and how any voluntary limits can be set;***
- (c) for fixed data links, the actually available and minimum download and upload speed at the main location of the end-user;***
- (d) for mobile data links, the download and upload speed achieved by***

	<p><i>the majority of the provider's end-users when connected through the provider's wireless network in the end-user's Member State of residence and the average download and upload speed that can be achieved at a location specified by the consumer;</i></p> <p><i>(e) other quality of service parameters, as set out in accordance with Article 24 (2) of Regulation (EU) .../... * ;</i></p> <p><i>(f) information on any procedures put in place by the provider to measure and shape traffic including an indication of the underlying communication inspection methods used for reasonable traffic management measures and information on how those procedures could impact on service quality, end-users' privacy and the protection of personal data; and</i></p> <p><i>g) a clear and comprehensible explanation as to how any volume limitation, the actually available speed and other quality of service parameters, and the simultaneous use by the same user of specialised services with an enhanced quality of service, may in practice have an impact on that user's internet access service, in particular the use of content, applications and services.</i></p>
<p>[current text Directive]</p> <p><b><i>2. Member States shall ensure that subscribers have a right to withdraw from their contract without penalty upon notice of modification to the contractual conditions proposed by the undertakings providing</i></b></p>	<p><b><i>(1f) Article 20 (2) is deleted</i></b></p>



<p><i>electronic communications networks and/or services. Subscribers shall be given adequate notice, not shorter than one month, of any such modification, and shall be informed at the same time of their right to withdraw, without penalty, from their contract if they do not accept the new conditions. Member States shall ensure that national regulatory authorities are able to specify the format of such notifications.</i></p>	
	<p><i>(1g) In Article 20, the following paragraph is added: ‘2a. Member States may maintain or introduce additional contractual information requirements in relation to contracts to which this Article applies. In the case of contracts falling within the scope of Directive 2013/11/EU*, the provisions of that Directive shall apply.</i></p>
	<p><i>(1h) In Article 20, the following paragraph is added: ‘2b. BEREC shall issue guidelines for the establishment of standard contractual information templates containing the information required under paragraphs 1 and 1a of this Article. National regulatory authorities may specify additional requirements on the content, form and manner of the contractual information to be published, including in particular data delivery speeds, taking utmost account of the BEREC guidelines for the methods of measuring the speed and for the content, form and manner of the information to be published, as set out in Article 21(3a).’;</i></p>

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

*‘Article 20a - Contract duration and termination*

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

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

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

*4. Member States shall ensure that consumers have the right to terminate their contract without incurring any costs upon receiving*

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

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

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

*7. Member States shall ensure that providers of electronic communications to the public apply conditions and procedures for*

*contract termination which do not raise obstacles to or disincentives against changing service providers.*

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

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

[current text Directive]

‘Article 21 – Transparency and publication of information

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

*(1j) Article 21 is replaced by the following:*

‘Article 21 - Transparency and publication of information

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

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

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

(a) provide applicable tariff information ***to subscribers*** regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, national regulatory authorities may require such information to be provided immediately prior to connecting the call;

***(b) inform subscribers of any change to access to emergency services or***

authorities may specify additional requirements regarding the form in which such information is to be published, ***which may in particular include the introduction of language requirements so as to ensure that such information is easily understood by consumers and other end-users so requesting***. ***Member States shall ensure that providers of electronic communications to the public are obliged upon request to supply the information, to the relevant national regulatory authorities, in advance of its publication.***

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

***2a. Member States shall ensure that national regulatory authorities, under guidance from BEREC and following consultation with relevant***

*caller location information in the service to which they have subscribed;*

*(c) inform subscribers of any change to conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law in accordance with Community law;*

*(d) provide information on any procedures put in place by the provider to measure and shape traffic so as to avoid filling or overflowing a network link, and on how those procedures could impact on service quality;*

(e) inform **subscribers** of their right to determine whether or not to include their personal data in a directory, and of the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC (**Directive on privacy and electronic communications**); and

(f) regularly inform disabled **subscribers** of details of products and services designed for them.

If deemed appropriate, national regulatory authorities may promote self or co-regulatory measures prior to imposing any obligation.

4. Member States may require that the undertakings referred to in paragraph 3 distribute public interest information free of charge **to existing and new subscribers**, where appropriate, by the same means as those ordinarily used by them in their communications **with subscribers**.

In such a case, that information shall be provided by the relevant public authorities in a standardised format and **shall**, inter alia, cover the

*stakeholders, establish a voluntary certification scheme for interactive comparison websites, guides or similar tools, based on objective, transparent and proportionate requirements, including in particular independence from any provider of electronic communications to the public.*

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

(a) provide **end-users with** applicable tariff information regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, national regulatory authorities may require such information to be provided immediately prior to connecting the call. **Any such information shall be provided in a comparable fashion for all such numbers or services;**

**(b) provide end-users with information on access to emergency services and caller location for all relevant services offered, and any limitations on the provision of emergency services under Article 26, and to ensure that any changes are notified without delay;**

**(da) provide information on internet access services, where offered, specifying the following:**

following topics:

- (a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related rights, and their legal consequences; and
- (b) the means of protection against risks to personal security, privacy and personal data when using electronic communications services.’

- (i) for fixed data links, the actually available and minimum download and upload speed in the end-user's Member State of residence; for mobile data links, the download and upload speed achieved by the majority of the provider's end-users when connected through the provider's wireless network in the end-user's Member State of residence*
- ;
- (ii) details of unit data pricing plans, pricing plans for bulk data and any applicable thresholds. For data volumes above thresholds: unit or bulk pricing on an ad hoc or lasting basis and any data speed limitations that may be applied;*
- (iii) how end-users can monitor the current level of their consumption, whether and how any voluntary limitations can be set;*
- (iv) a clear and comprehensible explanation as to how any data volume limitation, the speed and other quality of service parameters, and the simultaneous use by the same user of specialised services with an enhanced quality of service, may in practice have an impact on that user's internet access service, in particular the use of content, applications and services;*
- (v) information on any procedures put in place by the provider to measure and shape traffic as defined in Article 23(5) of Regulation (EU) .../... \* including an indication of the underlying communication inspection methods used for reasonable traffic management measures*

*and information on how those procedures could impact on service quality, end-users' privacy and the protection of personal data;*

(e) inform consumers, *and other end-users where applicable*, of their right to determine whether or not to include their personal data in a directory, and of the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC; and

(f) regularly inform disabled *consumers, and other end-users, where applicable*, of details of products and services designed for them and *the measures taken to ensure equivalence of access*;

If deemed appropriate, national regulatory authorities may promote self- or co-regulatory measures prior to imposing any obligation. *Member States may specify additional requirements on the content, form and manner of the information to be published, taking utmost account of the BEREC guidelines referred to in paragraph 3a of this Article.*

*3a. By [...] , BEREC, after consulting stakeholders and in close cooperation with the Commission, shall lay down general guidelines for the methods of measuring the speed, the quality of service parameters to be measured (inter alia average versus advertised speeds; quality as perceived by users), and the methods for measuring them over time, as well as the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to*



*comprehensive, comparable, reliable and user-friendly information.*

*Where appropriate, the parameters, definitions and measurement methods set out in Annex III may be used.*

4. Member States may require that the undertakings referred to in paragraph 3 distribute public interest information free of charge *to end-users, where appropriate*, by the same means as those ordinarily used by them in their communications *with end-users*. In such a case, that information shall be provided by the relevant public authorities *to the providers of electronic communications to the public* in a standardised format and *may*, inter alia, cover the following topics:

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

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

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

*‘Article 21a - Control of consumption*

*1. Member States shall ensure that providers of electronic communications offer consumers and end-users the facility to monitor*

	<p><i>and control their usage of electronic communications services billed on time or volume consumption. This facility shall include:</i></p> <p><i>(a) for pre-paid and post-paid services, access to timely information on their service consumption free of charge;</i></p> <p><i>(b) for post-paid services, the ability to choose free of charge from a predefined reasonable range of financial caps on their usage, to request notification when a predefined proportion of the cap and the cap itself has been reached, the procedure to be followed to continue usage if the cap is exceeded, and the applicable pricing plans;</i></p> <p><i>(c) itemised bills on a durable medium.</i></p> <p><i>2. BEREC shall lay down guidelines for the implementation of paragraph 1.</i></p> <p><i>After having reached the financial limit end-users shall continue to be able to receive calls and SMS messages and access free-phone numbers and emergency services by dialling the European emergency call number "112" free of charge until the end of the agreed billing period.'</i></p>
<p><i>(2) Articles 20, 21, 22 and 30 are deleted.</i></p>	<p><i>(2) Article 22 is deleted.</i></p>
<p>[current text Directive]</p> <p>Article 30 – Facilitating change of provider</p> <p>‘1. Member States shall ensure that all subscribers with numbers from the national telephone numbering plan who so request can retain their</p>	<p><i>(2c) Article 30 is replaced by the following:</i></p> <p>Article 30 – Facilitating change of provider</p> <p>‘1. Member States shall ensure that all subscribers with numbers from the national telephone numbering plan who so request can retain their</p>

number(s) independently of the **undertaking** providing the service in accordance with the provisions of Part C of Annex I.

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

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

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

Without prejudice to the first subparagraph, competent national authorities may establish the global process of porting of numbers, **taking** into account **national provisions on contracts, technical feasibility** and the need to maintain continuity of service to the **subscriber**. In any event, loss of service during the process of porting shall not exceed one working day. **Competent national authorities shall also take into account, where necessary, measures ensuring that subscribers are protected throughout the switching process and are not** switched to another provider against

number(s) independently of the **provider of electronic communications to the public** providing the service in accordance with the provisions of Part C of Annex I.'

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

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

4. Porting of numbers and their subsequent activation shall be carried out within the shortest possible time. **For consumers and other end-users** who have concluded an agreement to port a number to a new **provider** that number **shall be** activated within one working day, **or at a later date, within one month notice, if so requested by the end-user.**

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

their will.

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

***5. Member States shall ensure that contracts concluded between consumers and undertakings providing electronic communications services do not mandate an initial commitment period that exceeds 24 months. Member States shall also ensure that undertakings offer users the possibility to subscribe to a contract with a maximum duration of 12 months.***

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

***continuity of service to the end-user and the need to ensure that switching processes are not harmful to competition.*** In any event, loss of service during the process of porting shall not exceed one working day.

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

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

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

***4c. If a bundle of services offered to consumers comprises at least a connection to an electronic communications network or an electronic***

	<p><i>communications service, the provisions of this Article shall apply to all elements of the bundle.’;</i></p>
<p>[current text Directive]</p> <p>Article 34 - Out-of-court dispute resolution</p> <p>1. Member States shall ensure that transparent, non-discriminatory, simple and inexpensive out-of-court procedures are available for dealing with unresolved disputes between consumers and undertakings providing electronic communications networks and/or services arising under this Directive and relating to the contractual conditions and/or performance of contracts concerning the supply of those networks and/or services.</p> <p>Member States shall adopt measures to ensure that such procedures enable disputes to be settled fairly and promptly and may, where warranted, adopt a system of reimbursement and/or compensation. Such procedures shall enable disputes to be settled impartially and shall not deprive the consumer of the legal protection afforded by national law. Member States may extend these obligations to cover disputes involving other end-users.</p> <p>2. Member States shall ensure that their legislation does not hamper the establishment of complaints offices and the provision of on-line services at the appropriate territorial level to facilitate access to dispute resolution</p>	<p><b><i>(2d) In Article 34 the following paragraph is added:</i></b></p> <p>Article 34 - Out-of-court dispute resolution</p> <p>1. Member States shall ensure that transparent, non-discriminatory, simple and inexpensive out-of-court procedures are available for dealing with unresolved disputes between consumers and undertakings providing electronic communications networks and/or services arising under this Directive and relating to the contractual conditions and/or performance of contracts concerning the supply of those networks and/or services.</p> <p>Member States shall adopt measures to ensure that such procedures enable disputes to be settled fairly and promptly and may, where warranted, adopt a system of reimbursement and/or compensation. Such procedures shall enable disputes to be settled impartially and shall not deprive the consumer of the legal protection afforded by national law.</p> <p>Member States may extend these obligations to cover disputes involving other end-users.</p> <p><b><i>‘1a. The out-of-court procedures set up in accordance with paragraph 1 shall also apply to disputes related to contracts between consumers, and other end-users to the extent that such out-of-court procedures are</i></b></p>

<p>by consumers and end-users.</p> <p>3. Where such disputes involve parties in different Member States, Member States shall coordinate their efforts with a view to bringing about a resolution of the dispute.</p> <p>4. This Article is without prejudice to national court procedures.</p>	<p><i>available also for them, and providers of electronic communications to the public which are established in another Member State. In the case of disputes falling within the scope of Directive 2013/11/EU, the provisions of that Directive shall apply.</i></p> <p>2. Member States shall ensure that their legislation does not hamper the establishment of complaints offices and the provision of on-line services at the appropriate territorial level to facilitate access to dispute resolution by consumers and end-users.</p> <p>3. Where such disputes <i>in accordance with paragraphs 1 and 1a</i> involve parties in different Member States, Member States shall <i>ensure their cooperation</i> with a view to bringing about a resolution of the dispute.</p> <p>4. This Article is without prejudice to national court procedures.</p>
<p>[current text Directive]</p> <p>Annex II</p> <p>‘1. Name(s) <b>and</b> address(es) of undertaking(s) i.e. names and head office addresses of undertakings providing public communications networks and/or publicly available telephone services.’</p>	<p><b>(2f) In Annex II, point 1 is replaced by the following:</b></p> <p>‘1. Name(s), address(es) <b>and contact information</b> of undertaking(s) i.e. names and head office addresses of undertakings providing public communications networks and/or publicly available telephone services.’;</p>

<p>[current text Directive]</p> <p>Annex II</p> <p>‘2.2. <i>Standard tariffs indicating</i> the services provided <i>and the content of each tariff element (e.g. charges for access, all types of usage charges, maintenance charges), and including details of standard discounts applied and special and targeted tariff schemes</i> and any additional charges, as well as costs with respect to terminal equipment.’</p>	<p><b>(2g) In Annex II, point 2.2 is replaced by the following:</b></p> <p>‘2.2. <i>For each tariff plan, the services provided and the relevant quality of service parameters, the applicable tariff plan(s) and, for each such tariff plan, the types of services offered, including the volumes of communications, and any applicable charges (access, usage, maintenance and any additional charges), as well as costs with respect to terminal equipment.</i>’;</p>
	<p>‘2.2.a. <i>Additional information on internet access services, where offered, including in particular details on data pricing, download and upload data speeds and any applicable speed limitations, on possibilities to monitor consumption levels, on any applicable traffic management procedures, and the simultaneous use by the same user of specialised services with an enhanced quality of service, and their impact on service quality, on end-user privacy and on the protection of personal data.</i>’;</p>
<p>[current text Directive]</p> <p>‘2.5. Standard contract conditions, including any minimum contractual period, termination of the contract <i>and</i> procedures and direct charges related to the portability of numbers and other identifiers, if relevant.’</p>	<p><b>(2i) In Annex II, Point 2.5 is replaced by the following:</b></p> <p>‘2.5. Standard contract <i>terms and</i> conditions, including any minimum contractual period, <i>the conditions for and any charges due on early</i> termination of the contract, <i>the</i> procedures and direct charges related to the <i>switching and</i> portability of numbers and other identifiers, if relevant, <i>and compensation arrangements for delay or abuse of switching.</i>’</p>

Article 37 – Amendments to Regulation (EU) No 531/2012	Article 37 – Amendments to Regulation (EU) No 531/2012
(1) In Article 1(1), the following third subparagraph is inserted: 'This Regulation shall apply to roaming services provided in the Union to end users whose domestic provider is a provider of electronic communications to the public in a Member State'.	(1) In Article 1(1), the following third subparagraph is inserted: 'This Regulation shall apply to roaming services provided in the Union to end users whose domestic provider is a provider of electronic communications to the public in a Member State'.
<b><i>(2) In Article 2(2), the following point (r) is inserted:</i></b> <b><i>(r) 'bilateral or multilateral roaming agreement' means one or more commercial or technical agreements among roaming providers that allow the virtual extension of the home network coverage and the sustainable provision by each roaming provider of regulated retail roaming services at the same price level as their respective domestic mobile communications services'.</i></b>	<b><i>[full deletion]</i></b>
<b><i>(3) In Article 4, the following paragraph 7 is added:</i></b> <b><i>'7. This Article shall not apply to roaming providers that provide regulated retail roaming services in accordance with Article 4a.'</i></b>	<b><i>[full deletion]</i></b>
[current text Roaming Regulation] 1. Domestic providers shall enable their customers to access regulated voice, SMS and data roaming services, provided as a bundle by any alternative roaming provider.	<b><i>3(a) In article 4, paragraph 1, the first subparagraph is replaced by the following:</i></b> <b><i>'1. Subject to the subparagraph below, domestic providers shall enable their customers to access regulated voice, SMS and data roaming services, provided as a bundle by any alternative roaming provider.</i></b>



*The obligation in the subparagraph above shall not apply to roaming providers that provide regulated retail roaming services in accordance with Article 6a below.'*

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

*Article 4a*

*1. This Article shall apply to roaming providers which:*

*(a) apply, by default and in all their respective retail packages that include regulated roaming services, the applicable domestic service rate to both domestic services and regulated roaming services throughout the Union, as if the regulated roaming services were consumed on the home network; and*

*(b) ensure, whether through their own networks or by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the provisions of point (a) are complied with by at least one roaming provider in all Member States.*

*2. Paragraphs 1, 6 and 7 shall not preclude the limitation by a roaming provider of consumption of regulated retail roaming services at the applicable domestic service rate by reference to a reasonable use criterion. Any reasonable use criterion shall be applied in such a way that consumers availing of the roaming provider's various domestic retail packages are in a position to confidently replicate the typical domestic consumption pattern associated with their respective domestic*

*[full deletion]*

*retail packages while periodically travelling within the Union. A roaming provider availing of this possibility shall publish, in accordance with Article 25(1)(b) of Regulation XXX/2014, and include in its contracts, in accordance with Article 26(1)(b) and (c) of that Regulation, detailed quantified information on how the reasonable use criterion is applied, by reference to the main pricing, volume or other parameters of the retail package in question.*

*By 31 December 2014, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down general guidelines for the application of reasonable use criteria in the retail contracts provided by roaming providers availing of this Article. BEREC shall develop such guidelines by reference to the overall objective set out in the first subparagraph, and shall have regard in particular to the evolution of pricing and consumption patterns in the Member States, to the degree of convergence of domestic price levels across the Union, to any observable effect of roaming at domestic service rates on the evolution of such rates, and to the evolution of wholesale roaming rates for unbalanced traffic between roaming providers.*

*The competent national regulatory authority shall monitor and supervise the application of reasonable use criteria, taking utmost account of the BEREC general guidelines once they are adopted, and shall ensure that unreasonable terms are not applied.*

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

*4. Regulated retail roaming charges laid down in Articles 8, 10 and 13 shall not apply to roaming services offered by a roaming provider availing of this Article to the extent that these are charged at the level of the applicable domestic service rate.*

*Where a roaming provider availing of this Article applies charges which are different from the applicable domestic service rate for consumption of regulated roaming services going beyond reasonable use of such services in accordance with paragraph 2, or where an individual end user explicitly renounces the benefit of domestic service rates for regulated roaming services in accordance with paragraph 3, the charges for those regulated roaming services shall not exceed the retail roaming charges laid down in Articles 8, 10 and 13.*

*5. A roaming provider wishing to avail of this Article shall notify its own declaration and any bilateral or multilateral agreements by virtue of which it fulfills the conditions of paragraph 1, and any changes thereto, to the BEREC Office. The notifying roaming provider shall include in its notification proof of agreement to such notification by any contractual partners to notified bilateral or multilateral roaming agreements.*

*6. In the period from 1 July 2014 until 30 June 2016, this Article shall apply to roaming providers which do not fulfill the conditions set out in paragraph 1, when they respect the following conditions:*

*(a) the roaming provider notifies its own declarataion and any relevant bilateral or multilateral roaming agreements to the BEREC Office in accordance with paragraph 5, making specific reference to this paragraph;*

*(b) the roaming provider ensures, whether through its own networks or by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the conditions of points (c),(d) and (e) are complied with in at least 17 Member States representing 70% of the population of the Union;*

*(c) the roaming provider and any contractual partners within the meaning of point (b) each undertakes to make available and actively offer, at the latest as from 1 July 2014, or as from the date of*

*notification, whichever is the later, at least one retail package with a tariff option according to which the applicable domestic service rate applies to both domestic services and regulated roaming services throughout the Union, as if those regulated roaming services were consumed on the home network;*

*(d) the roaming provider and any contractual partners within the meaning of point (b) each undertakes to make available and actively offer, at the latest as from 1 July 2015, or as from the date of notification, whichever is the later, such tariff options in retail packages which, on 1 January of that year, were used by at least 50% of their respective customer base;*

*(e) the roaming provider and any contractual partners within the meaning of point (b) each undertakes to comply, at the latest as from 1 July 2016, with paragraph 1(b) in all of their respective retail packages. The roaming provider availing of this Article and any contractual partners within the meaning of point (b) may, as an alternative to the undertaking referred to in point (d), undertake, as from 1 July 2015, or as from the date of notification, whichever is the later, that any roaming surcharges applied in addition to the applicable domestic service rate in its various retail packages are, in aggregate, no more than 50% of those applicable in those packages on 1 January 2015, irrespective of whether such surcharges are calculated on the basis of units such as voice*

*minutes or megabytes, of periods such as days or weeks of roaming, or by any other means or combination thereof. Roaming providers invoking this point shall demonstrate compliance with the requirement of a 50% reduction to the national regulatory authority and shall supply all necessary supporting evidence requested of them.*

*Where the roaming provider availing of this Article notifies its own declaration and any relevant bilateral or multilateral roaming agreements to the BEREC Office pursuant to point (a) of the first subparagraph and thereby falls under this paragraph, the notifying roaming provider and any contractual partners within the meaning of point (b) shall each be bound to comply with their respective undertakings in accordance with points (c), (d) and (e) of the first subparagraph, including any alternative undertaking to that provided for in point (d) of that subparagraph, until at least 1 July 2018.*

*7. In the period from 1 July 2014 until 30 June 2016, this Article shall apply to roaming providers which do not fulfill the conditions set out in paragraph 1, when they respect the following conditions:*

*(a) the roaming provider notifies its own declarataion and any relevant bilateral or multilateral roaming agreements to the BEREC Office in accordance with paragraph 5, making specific reference to this paragraph;*

*(b) the roaming provider ensures, whether through its own networks or*

*by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the conditions of paragraph 1(a) are complied with in at least 10 Member States representing 30% of the population of the Union, at the latest as from 1 July 2014, or as from the date of notification, whichever is the later;*

*(c) the roaming provider ensures, whether through its own networks or by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the conditions of paragraph 1(a) are complied with in at least 14 Member States representing 50% of the population of the Union, at the latest as from 1 July 2015, or as from the date of notification, whichever is the later;*

*(d) the roaming provider ensures, whether through its own networks or by virtue of bilateral or multilateral roaming agreements with other roaming providers, that the conditions of paragraph 1(a) are complied with in at least 17 Member States representing 70% of the population of the Union, at the latest as from 1 July 2016.*

*Where a roaming provider availing of this Article notifies its own declaration and any relevant bilateral or multilateral roaming agreements to the BEREC Office pursuant to point (a) of the first subparagraph and thereby falls under this paragraph, the notifying roaming provider and any contractual partners within the meaning of point (b) shall each be bound to comply with their respective*

*undertakings to comply with the conditions of paragraph 1(a), until at least 1 July 2018.*

*8. Roaming providers shall negotiate in good faith the arrangements towards establishing bilateral or multilateral roaming agreements, on fair and reasonable terms having regard to the objective that such agreements with other roaming providers should allow the virtual extension of the home network coverage and the sustainable provision by each of the roaming providers availing of this Article of regulated retail roaming services at the same price level as their respective domestic mobile communications services.*

*9. By way of exception to paragraph 1, after 1 July 2016, this Article shall apply to roaming providers availing of this Article when those roaming providers demonstrate that they have sought in good faith to establish or extend a bilateral or multilateral roaming agreements on the basis of fair and reasonable terms in all Member States where they do not yet fulfill the requirements of 1 and have been unable to secure any bilateral or multilateral roaming agreement with a roaming provider in one or more Member States, provided they comply with the minimum coverage referred to in paragraph 6(b) and with all other relevant provisions of this Article. In those cases, roaming providers availing of this Article shall continue to seek to establish reasonable terms for conclusion of a roaming agreement with a roaming provider*



<p><i>from any unrepresented Member State.</i></p> <p><i>10. Where an alternative roaming provider has already been granted access to a domestic provider's customers pursuant to Article 4(1) and has already made the necessary investments to serve those customers, Article 4(7) shall not apply to such a domestic provider during a transitional period of three years. The transitional period is without prejudice to the need to respect any longer contractual period agreed with the alternative roaming provider.</i></p> <p><i>11. This Article is without prejudice to the application of Union competition rules to bilateral and multilateral roaming agreements.'</i></p>	
	<p><i>(4a) The following articles are inserted:</i></p> <p><i>'Article 6a</i></p> <p><i>Abolition of retail roaming charges</i></p> <p><i>1. With effect from [xx.xx.xxxx], and subject to Article 6b, roaming providers shall not levy any surcharge in comparison to the charges for mobile communications services at domestic level on roaming customers in any Member States for any regulated roaming call made or received, for any regulated roaming SMS/MMS message sent and for any regulated data roaming services used, nor any general charge to enable the terminal equipment or service to be used abroad.</i></p> <p><i>2. The first paragraph applies by default to any tariff plan roaming providers make available at domestic level. Individual end-users served</i></p>

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

*Article 6b*

*Fair usage*

*1. By way of derogation from article 6a, and to prevent anomalous or abusive usage of retail roaming services, roaming providers may apply a "fair use clause" to the consumption of regulated retail roaming services provided at the applicable domestic price level, by reference to fair use criteria. Such fair use limits shall allow consumers to confidently replicate the typical consumption pattern of domestic mobile communications services while periodically travelling within the Union. Such a typical consumption pattern may, among other, refer to the average European consumption approximations. Such fair use limits may also have regard to factors such as domestic price levels,*

*typical volumes included in retail packages or the average period during which customers travel within the Union and shall, at a minimum, comply with the terms of any implementing act adopted in accordance with paragraph 2.*

*2. The Commission shall, by way of an implementing act and based on the data collected by BEREC regarding the annual average number of minutes of voice calls made and received, SMS/MMS messages sent and mobile data services used by consumers at the Union level in the preceding year, by [(RLAH date) – 6 months], determine the respective minimum daily fair use limits for regulated roaming calls made and received, for regulated roaming SMS/MMS messages and for regulated data roaming services..*

*The Commission shall fix the respective minimum daily fair use limits:*

*(a) for the period from (RLAH date) to 31.12.(RLAH year +1), at [50%] of the per diem proportion of the annual average consumption of each of the regulated roaming services;*

*(b) for the period from 1.1.(RLAH year +2) to 31.12.(RLAH year + 2), at [75%] of the per diem proportion of the annual average consumption of each of the regulated roaming services.*

*For the period from 1.1(RLAH year +3), the respective minimum daily fair use limits at 100% of the annual average consumption of each of*

*the regulated roaming services shall apply.*

*The implementing act shall be revised by [30.06. (RLAH year + 1)] and thereafter annually by the end of June each subsequent year. Roaming providers shall apply the revised minimum daily limits [6] months after the adoption of each revision.*

*3. In accordance with Article 20 of Directive 2002/22/EC, roaming providers shall publish and include in their contracts detailed quantified information on how any fair use criteria are applied, by reference to the main pricing, volume or other parameters of the retail package in question.*

*4. The competent national regulatory authority shall monitor and supervise the application of fair use criteria as defined in accordance with paragraph 3 and shall ensure that unreasonable terms are not applied.*

*5. The retail charges for euro tariff services established by articles 8, 10 and 13 of this Regulation apply for regulated roaming services in excess of any fair usage limit applied in accordance with article 6b. This paragraph is without prejudice to the application of Article 6a(2).'*

(5) In Article 8, paragraph 2 is amended as follows

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

'2. With effect from 1 July **2013**, the retail charge (excluding VAT) for a

(5) In Article 8, paragraph 2 is amended as follows

(a) the first subparagraph is replaced by the following

'2. With effect from 1 July **2014**, the retail charge (excluding VAT) for a

<p>euro-voice tariff which a roaming provider may levy on its roaming customer for the provision of a regulated roaming call may vary for any roaming call but shall not exceed EUR <b>0,24</b> per minute for any call made or EUR <b>0,07</b> per minute for any call received. The maximum retail charge for calls made shall decrease to EUR <b>0,19</b> on 1 July <b>2014</b>. <i>As of 1 July 2014, roaming providers shall not levy any charge on their roaming customers for calls received, without prejudice to measures taken to prevent anomalous or fraudulent usage. Without prejudice to Article 19 those maximum retail charges for the euro-voice tariff shall remain valid until 30 June 2017.</i></p>	<p>euro-voice tariff which a roaming provider may levy on its roaming customer for the provision of a regulated roaming call may vary for any roaming call but shall not exceed EUR 0,19 <i>for any call made and EUR 0,05 for any calls received. The maximum charges applicable as of 1 July 2014 shall expire [xx.xx.xxxx] save for regulated roaming calls in excess of any fair use limit applied in accordance with Article 6b.'</i></p>
<p>(b) the third subparagraph is replaced by the following:  ‘Every roaming provider shall charge its roaming customers for the provision of any regulated roaming call to which a euro-voice tariff applies on a per-second basis.’</p>	<p>(b) the third subparagraph is replaced by the following:  ‘Every roaming provider shall charge its roaming customers for the provision of any regulated roaming call to which a euro-voice tariff applies on a per-second basis.’</p>
<p>[Current text of Roaming Regulation]  2. With effect from 1 July <b>2012</b>, the retail charge (excluding VAT) for a euro-SMS tariff which a roaming provider may levy on its roaming customer for a regulated roaming SMS message sent by that roaming customer may vary for any regulated roaming SMS message but shall not exceed EUR <b>0,09</b>. <i>That maximum charge shall decrease to EUR 0,08 on 1 July 2013 and to EUR 0,06 on 1 July 2014 and shall, without prejudice to Article 19, remain at EUR 0,06 until 30 June 2017.</i></p>	<p><i>(5a) In Article 10, paragraph 2 is replaced by the following:</i>  '2. With effect from 1 July <b>2014</b>, the retail charge (excluding VAT) for a euro-SMS tariff which a roaming provider may levy on its roaming customer for a regulated roaming SMS message sent by that roaming customer may vary for any regulated roaming SMS message but shall not exceed EUR <b>0,06</b>. <i>The maximum charges applicable as of 1 July 2014 shall expire [xx.xx.xxxx] save for regulated roaming SMS messages in excess of any fair use limit applied in accordance with Article 6b.'</i></p>

<p>[Current text of Roaming Regulation]</p> <p>2. With effect from 1 July <b>2012</b>, the retail charge (excluding VAT) of a euro-data tariff which a roaming provider may levy on its roaming customer for the provision of a regulated data roaming service shall not exceed EUR <b>0,70</b> per megabyte used. <b>The maximum retail charge for data used shall decrease to EUR 0,45 per megabyte used on 1 July 2013 and to EUR 0,20 per megabyte used on 1 July 2014 and shall, without prejudice to Article 19, remain at EUR 0,20 per megabyte used until 30 June 2017.</b></p>	<p><b>5b) In Article 13, paragraph 2, the first subparagraph is replaced by the following:</b></p> <p>'2. With effect from 1 July <b>2014</b>, the retail charge (excluding VAT) of a euro-data tariff which a roaming provider may levy on its roaming customer for the provision of a regulated data roaming service shall not exceed EUR <b>0,20</b> per megabyte used on <b>1 July 2014</b>. <b>The maximum charges applicable as of 1 July 2014 shall expire [xx.xx.xxxx] save for regulated data roaming services in excess of any fair use limit applied in accordance with Article 6b.'</b></p>
<p><b>(6) In Article 14, the following paragraph 1a is inserted:</b></p> <p><b>'1a. When the consumption of regulated retail roaming services at the applicable domestic service rate is limited by reference to a reasonable use criterion in accordance with Article 4a(2), roaming providers shall alert roaming customers when the consumption of roaming calls and SMS messages has reached the reasonable use limit and at the same time shall provide roaming customers with basic personalised pricing information on the roaming charges applicable to making a voice call or sending an SMS message outside the domestic service rate or package in accordance with the second, fourth and fifth sub-paragraphs of paragraph 1 of this Article.'</b></p>	<p><b>[full deletion]</b></p>
<p>[current text of Roaming Regulation]</p> <p>Article 14 - Transparency of retail charges for roaming calls and SMS</p>	<p><b>6a) Article 14 is amended as follows</b></p> <p>Article 14 - Transparency of retail charges for roaming calls and SMS</p>

messages

1. To alert roaming customers to the fact that they will be subject to roaming charges when making or receiving a call or when sending an SMS message, each roaming provider shall, except when the customer has notified the roaming provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his domestic provider, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls and to the sending of SMS messages by that customer in the visited Member State.

That basic personalised pricing information shall include the maximum charges (in the currency of the home bill provided by the customer's domestic provider) to which the customer may be subject under his tariff scheme for:

- (a) making regulated roaming calls within the visited Member State and back to the Member State of his domestic provider, as well as for regulated roaming calls received; and
- (b) sending regulated roaming SMS messages while in the visited Member State.

It shall also include the free-of-charge number referred to in paragraph 2 for obtaining more detailed information and information on the possibility

messages

1. To alert roaming customers to the fact that they may be subject to roaming charges when making or receiving a call or when sending an SMS message, each roaming provider shall, except when the customer has notified the roaming provider that he does not require this service, provide the customer, automatically by means of a Message Service, without undue delay and free of charge, when he enters a Member State other than that of his domestic provider, with basic personalised pricing information on the roaming charges (including VAT) that apply to the making and receiving of calls and to the sending of SMS messages by that customer in the visited Member State.

That basic personalised pricing information shall include the maximum charges (in the currency of the home bill provided by the customer's domestic provider) to which the customer may be subject under his tariff scheme for:

- (a) making regulated roaming calls within the visited Member State and back to the Member State of his domestic provider, as well as for regulated roaming calls received; and
- (b) sending regulated roaming SMS messages while in the visited Member State.

It shall also include the free-of-charge number referred to in paragraph 2 for obtaining more detailed information and information on the

of accessing emergency services by dialling the European emergency number 112 free of charge.

On the occasion of each message, a customer shall have the opportunity to give notice to the roaming provider, free of charge and in an easy manner, that he does not require the automatic Message Service. A customer who has given notice that he does not require the automatic Message Service shall have the right at any time and free of charge to require the roaming provider to provide the service again.

Roaming providers shall provide blind or partially-sighted customers with the basic personalised pricing information referred to in the first subparagraph automatically, by voice call, free of charge, if they so request.

The first, second, fourth and fifth subparagraphs shall also apply to voice and SMS roaming services used by roaming customers travelling outside the Union and provided by a roaming provider.

2. In addition to paragraph 1, customers shall have the right to request and receive, free of charge, and irrespective of their location within the Union, more detailed personalised pricing information on the roaming charges that apply in the visited network to voice calls and SMS, and information on the transparency measures applicable by virtue of this Regulation, by means of a mobile voice call or by SMS. Such a request shall be to a free-of-charge number designated for this purpose by the

possibility of accessing emergency services by dialling the European emergency number 112 free of charge.

On the occasion of each message, a customer shall have the opportunity to give notice to the roaming provider, free of charge and in an easy manner, that he does not require the automatic Message Service. A customer who has given notice that he does not require the automatic Message Service shall have the right at any time and free of charge to require the roaming provider to provide the service again.

Roaming providers shall provide blind or partially-sighted customers with the basic personalised pricing information referred to in the first subparagraph automatically, by voice call, free of charge, if they so request.

The first, second, fourth and fifth subparagraphs shall also apply to voice and SMS roaming services used by roaming customers travelling outside the Union and provided by a roaming provider. *With effect from*

*[xx.xx.xxxx] the first, second, fourth and fifth subparagraphs shall apply to the consumption of regulated roaming services within the EU in cases where the applicable domestic service rate is limited by reference to a fair use criterion in accordance with Article 6b.*

2. In addition to paragraph 1, customers shall have the right to request and receive, free of charge, and irrespective of their location within the Union, more detailed personalised pricing information on the roaming



roaming provider. Obligations provided for in paragraph 1 shall not apply to devices which do not support SMS functionality.

3. Roaming providers shall provide all users with full information on applicable roaming charges, in particular on the euro-voice tariff and the euro-SMS tariff, when subscriptions are taken out. They shall also provide their roaming customers with updates on applicable roaming charges without undue delay each time there is a change in these charges.

Roaming providers shall take the necessary steps to secure awareness by all their roaming customers of the availability of the euro-voice tariff and the euro-SMS tariff. They shall in particular communicate to all roaming customers the conditions relating to the euro-voice tariff and the conditions relating to the euro-SMS tariff, in each case in a clear and unbiased manner. They shall send a reminder at reasonable intervals thereafter to all customers who have opted for another tariff.

The information provided shall be sufficiently detailed for customers to judge whether or not it is beneficial for them to switch to a Eurotariff.

4. Roaming providers shall make available information to their customers on how to avoid inadvertent roaming in border regions.

Roaming providers shall take reasonable steps to protect their customers from paying roaming charges for inadvertently accessed roaming services while situated in their home Member State.

charges that apply in the visited network to voice calls and SMS, and information on the transparency measures applicable by virtue of this Regulation, by means of a mobile voice call or by SMS. Such a request shall be to a free-of-charge number designated for this purpose by the roaming provider. Obligations provided for in paragraph 1 shall not apply to devices which do not support SMS functionality.

3. Roaming providers shall provide all users with full information on applicable roaming charges, in particular on the euro-voice tariff and the euro-SMS tariff, when subscriptions are taken out. They shall also provide their roaming customers with updates on applicable roaming charges without undue delay each time there is a change in these charges.

Roaming providers shall take the necessary steps to secure awareness by all their roaming customers of the availability of the euro-voice tariff and the euro-SMS tariff. They shall in particular communicate to all roaming customers the conditions relating to the euro-voice tariff and the conditions relating to the euro-SMS tariff, in each case in a clear and unbiased manner. They shall send a reminder at reasonable intervals thereafter to all customers who have opted for another tariff.

The information provided shall be sufficiently detailed for customers to judge whether or not it is beneficial for them to switch to a Eurotariff.

4. Roaming providers shall make available information to their customers on how to avoid inadvertent roaming in border regions. Roaming

	providers shall take reasonable steps to protect their customers from paying roaming charges for inadvertently accessed roaming services while situated in their home Member State.
	<b>6(a) Article 14, paragraph 3:</b> <i>With effect from [xx.xx.xxxx] paragraph 3 of Article 14 shall be deleted</i>
<b>(7) In Article 15, the following paragraph 2a is inserted:</b> <i>‘2a. When the consumption of regulated retail roaming services at the applicable domestic service rate is limited by reference to a reasonable use criterion in accordance with Article 4a(2), roaming providers shall alert roaming customers when the consumption of data roaming services has reached the reasonable use limit and at the same time shall provide roaming customers with basic personalised pricing information on the roaming charges applicable to data roaming outside the domestic service rate or package in accordance with paragraph 2 of this Article. Paragraph 3 of this Article shall apply to data roaming services consumed outside the applicable domestic service rates or packages referred to in Article 4a(2).’</i>	<b>[full deletion]</b>
[current text of Roaming Regulation] Article 15 - Transparency and safeguard mechanisms for retail data	<b>(7a) Article 15 is amended as follows:</b> Article 15 - Transparency and safeguard mechanisms for retail data

roaming services

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

Where appropriate, roaming providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, roaming providers shall notify to their customers, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

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

roaming services

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

Where appropriate, roaming providers shall inform their customers, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, roaming providers shall notify to their customers, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of data roaming services.

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

that information.

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

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

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

require that information.

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

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

3. Each roaming provider shall grant to all their roaming customers *a* free of charge facility which provides information on the accumulated consumption expressed in volume or in the currency in which the roaming customer is billed for regulated data roaming services and which guarantees that, without the customer's explicit consent, *at the point when the financial or volume limit would otherwise be exceeded*, the accumulated expenditure for regulated data roaming services over a specified period of use, excluding MMS billed on a per-unit basis, does

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

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

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

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

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

not exceed a specified financial limit.

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

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

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

The default limits referred to in the second and third subparagraphs shall be applicable to all customers who have not made a deliberate choice to opt for another limit.

Each roaming provider shall also ensure that an appropriate notification is sent to the roaming customer's mobile device, for example by an SMS message, an e-mail or a pop-up window on the computer, when the data roaming services have reached 80 % of the agreed financial or volume

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

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

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

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

6. This Article, with the exception of paragraph 5, and subject to the

limit. Each customer shall have the right to require the roaming provider to stop sending such notifications and shall have the right, at any time and free of charge, to require the provider to provide the service again.

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

Whenever a roaming customer requests to opt *for another limit or continue using data roaming services after they have reached a financial or volume limit, or to move from another limit to the default limit*, the change shall be made within one working day of receipt of the request, shall be free of charge, and shall not entail conditions or restrictions pertaining to other elements of the subscription.

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

second and third subparagraph of this paragraph, shall also apply to data roaming services used by roaming customers travelling outside the Union and provided by a roaming provider.

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

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

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

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

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

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

***7. With effect from [xx.xx.xxxx] this article shall apply to the consumption of data roaming services within the EU in cases where the applicable domestic service rate is limited by reference to a fair use criterion in accordance with Article 6b and when the consumption has***

*reached the fair use limit.*

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

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

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

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

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

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

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

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

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

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

*'If the report shows that tariff options, in which the domestic service*

*[full deletion]*



<p><i>rate applies both to domestic and regulated roaming services, are not provided in all retail packages for reasonable use by at least one roaming provider in each Member State, or that the offers by alternative roaming providers have not made substantially equivalent retail roaming tariffs easily available to consumers throughout the Union, the Commission shall by the same date make appropriate proposals to the European Parliament and the Council to address the situation and ensure that there is no difference between national and roaming tariffs within the internal market</i></p> <p><i>(ii) Point (d) is replaced by the following:</i></p> <p><i>'(d) to change the duration or reduce the level of maximum wholesale charges provided for in Articles 7, 9 and 12 with a view to reinforcing the ability of all roaming providers to make available in their respective retail packages for reasonable use tariff options in which the applicable domestic service rate applies to both domestic services and regulated roaming services, as if the latter were consumed on the home network.'</i></p>	
<p><b>[current text of Roaming Regulation]</b></p> <p>Article 19 - Review</p> <p>1. The Commission shall review the functioning of this Regulation and, <i>after a public consultation, shall report to the European Parliament and the Council by 30 June 2016. The Commission shall evaluate in particular whether the objectives of this Regulation have been achieved.</i></p>	<p><i>(8a) Article 19 is deleted and replaced by the following:</i></p> <p>Article 19 - Review</p> <p>'1. The Commission shall review the functioning of this Regulation <b>and shall report to the European Parliament and the Council in accordance with paragraphs 2 to 6.</b></p> <p><b>2. The Commission shall, by 30 June 2016, after a public consultation,</b></p>

*In so doing, the Commission shall review, inter alia:*

*(a) whether competition has sufficiently developed in order to justify the expiry of maximum retail charges;*

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

*(c) the developments and expected future trends in wholesale and retail charges for the provision to roaming customers of voice, SMS and data communication services, in comparison to the charges for mobile communications services at domestic level in the Member States, both for pre-paid and post-paid customers separately, and in the quality and speed of these services;*

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

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

*(f) the degree of competition in both the retail and wholesale markets, in particular the competitive situation of smaller, independent or newly*

*report to the European Parliament and the Council on whether to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12 or to provide for other arrangements to address wholesale market problems*

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

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

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

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

*The Commission shall examine, in particular, whether the abolition of retail roaming surcharges in accordance with Article 6a allows for the modification of the structural measures.*

*4. If the report referred to in paragraph 2 shows that there is no level playing field between roaming providers and consequently that there is a need to change the duration or lower the level of maximum wholesale*

*started operators, including the competition effects of commercial agreements and the degree of interconnection between operators;*  
*(g) the extent to which the implementation of the structural measures provided for in Articles 3 and 4 has produced results in developing competition in the internal market for roaming services to the extent that the difference between roaming and national tariffs has approached zero;*

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

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

*charges or to provide for other arrangements to address wholesale market problems, the Commission shall, after consulting BEREC, make appropriate legislative proposals to the European Parliament and the Council to address this situation by 30 June 2016.*

*If the report referred to in paragraph 3 shows that the structural measures provided for by this Regulation have not been sufficient to promote competition in the internal market for roaming services for the benefit of all European consumers, or that they are no longer necessary, the Commission shall make appropriate proposals to the European Parliament and the Council to address this situation. With respect to both reports, proposals for any appropriate measures shall be presented simultaneously with the reports.*

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

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

- (a) to lay down additional technical and structural measures;*
- (b) to modify the structural measures;*
- (c) to extend the duration and possibly revise the level of the maximum retail charges provided for in Articles 8, 10 and 13;*
- (d) to change the duration or revise the level of maximum wholesale charges provided for in Articles 7, 9 and 12;*
- (e) to introduce any other necessary requirements, including non-differentiation of roaming and national tariffs.*

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

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

BEREC shall also annually collect information from national regulatory authorities on transparency and comparability of different tariffs offered

public.

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

by operators to their customers. The Commission shall make those data and findings public.	
Article 38 – Amendments to Regulation (EC) No 1211/2009	<i>[full deletion]</i>
<i>[omissis]</i>	
Article 39 – Review clause	Article 39 – Review clause
The Commission shall submit reports on the evaluation and review of this Regulation to the European Parliament and the Council at regular intervals. The first report shall be submitted no later than 1 July 2018. Subsequent reports shall be submitted every four years thereafter. The Commission shall, if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning other legal instruments, taking account in particular of developments in information technology and of the state of progress in the information society. The reports shall be made public.	The Commission shall submit reports on the evaluation and review of this Regulation to the European Parliament and the Council at regular intervals. The first report shall be submitted no later than 1 July 2018. Subsequent reports shall be submitted every four years thereafter. The Commission shall, if necessary, submit appropriate proposals with a view to amending this Regulation, and aligning other legal instruments, taking account in particular of developments in information technology and of the state of progress in the information society. The reports shall be made public.
	<i>Article 39a - Transposition</i>
	<i>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 34, 35 and 36 by [12] months after the date of entry into force of this Regulation.</i>

	<p><i>They shall forthwith communicate to the Commission the text of those provisions.</i></p> <p><i>2. When Member States adopt those provisions, they shall contain a reference to this Regulation or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</i></p> <p><i>3. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by Articles 34, 35 and 36.</i></p>
Article 40 – Entry into force	Article 40 – Entry into force
<p>1. This Regulation shall enter into force the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>2. It shall apply from 1 July 2014.</p>	<p>1. This Regulation shall enter into force the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>2. It shall apply from [xx.xx.xxxx].</p>
<i>However, Articles 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 shall apply from 1 July 2016.</i>	<i>[full deletion]</i>
Annex I	<i>[full deletion]</i>
<i>[omissis]</i>	
Annex II	<i>[full deletion]</i>

*[omissis]*