

Comments on IMCO Amendments for TSM Regulation

EDRi generally welcomes the amendments to the IMCO Draft Opinion, but would like to make some comments on selected proposed amendments below. The left column repeats the Commission proposal; the right column contains the amendments proposed by the MEPs. EDRi's comments can be found below. For ease of reading, the headings are highlighted and marked with arrows:

- green for amendments which we welcome (++);
- yellow for amendments which pursue good aims, but could benefit from further suggested improvements (+);
- red for amendments which in our view should be reconsidered (-).

In each case, a short justification is given.

Amendment 66 - Christian Engström

Recital 46	
+	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(46) The freedom of end-users to access and distribute information and lawful content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation <i>defines the limits for any restrictions to this freedom by providers of electronic communications to the public but</i> is without prejudice to other Union legislation, including copyright rules and Directive 2000/31/EC.</p>	<p>(46) The freedom of end-users to access and distribute information and lawful content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation is without prejudice to other Union legislation, including copyright rules and Directive 2000/31/EC.</p>
<p>This deletion doesn't seem to change the meaning of the text. However, the relevance of referencing copyright legislation here is unclear in the context of this proposal and should be removed. The word “lawful” should also be removed as it is redundant; all content is legal until it is deemed to be otherwise. If a court decision has been made regarding illegal content, it is clear that this will have to be respected by the providers.</p>	

Amendment 67 - Josef Weidenholzer

Recital 47 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(47) In an open internet, providers of electronic communications to the public should, <i>within contractually agreed limits on data volumes and speeds for internet access services</i>, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory.</p> <p>Reasonable traffic management encompasses <i>prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography</i>. <i>Minimising</i> the effects of network congestion <i>should be considered reasonable</i> provided that network congestion occurs only temporarily or in exceptional circumstances.</p>	<p>(47) In an open internet, providers of electronic communications to the public should not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses <i>minimising</i> the effects of network congestion, provided that network congestion occurs only temporarily or in exceptional circumstances. <i>The use of legislation to influence traffic does not fall with the scope of the definition of traffic management.</i></p>
<p>These deletions provide more legal clarity and strengthen the rights of users. However the value of the added sentence is unclear.</p>	

Amendment 68 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Recital 47 -	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(47) In an open internet, providers of electronic communications to the public should, <i>within contractually agreed limits on data volumes and speeds for internet access services</i>, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management</p>	<p>(47) In an open internet, providers of electronic communications to the public should not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory.</p>

measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion should be considered reasonable ***provided that network congestion occurs only temporarily or in exceptional circumstances.***

Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion should be considered reasonable ***in demonstrated punctual cases of acute network congestion, provided that equivalent types of traffic are treated equally.***

While we support the removal of the phrase “within contractually agreed...”, the reasonable traffic management provisions are problematic. First, there is no definition of “serious crime” in the text and it is unclear what “measures to prevent” would entail. In short, this text lacks clarity and could lead to legal uncertainty. Moreover, this obligation is not in line with Article 52 of the Charter as it would oblige ISPs to undertake measures that would fall outside the rule of law.

Amendment 70 - Christian Engström

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

These deletions provide more legal clarity and strengthen user rights.

Amendment 71 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Recital 50 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on flexible quality parameters, including lower levels of priority for traffic which is not time-sensitive. The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public is necessary for the provision of specialised services and is expected to play an important role in the development of new services such as machine-to-machine (M2M) communications. At the same time such arrangements should allow providers of electronic communications to the public to better balance traffic and prevent network congestion. Providers of content, applications and services and providers of electronic communications to the public should therefore be free to conclude specialised services agreements on defined levels of quality of service as long as such agreements do not substantially impair the general quality of internet access services.</p>	<p>(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on quality parameters, including lower levels of priority for traffic which is not time-sensitive. The possibility for content, applications and service providers to negotiate such special quality of service levels with providers of electronic communications to the public is necessary for the provision of specialised services and is expected to play an important role in the development of new services such as machine-to-machine (M2M) communications. At the same time such arrangements should allow providers of electronic communications to the public to better balance traffic and prevent network congestion. Providers of content, applications and services and providers of electronic communications to the public should therefore be free to conclude specialised services agreements on defined levels of quality of service as long as such agreements do not impair the general quality of open internet access services.</p>
<p>These amendments add confusion to the text as “special quality of service levels” is not defined or found in the text, and the addition of “open” doesn't add any legal clarity.</p>	

Amendment 72 - Róza Gräfin von Thun und Hohenstein

Recital 50 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on</p>	<p>(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on</p>

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

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

This is a welcome amendment that adds legal clarity as the words “substantially” and “general” are undefined qualifiers, which have no obvious meaning and will generate new barriers and new legal uncertainty.

Amendment 116 - Christian Engström

Article 2 – paragraph 2 – point 15

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

Since the Commission's definition of specialised service is far too broad, we support this amendment.

Amendment 117 - Catherine Stihler

Article 2 – paragraph 2 – point 15 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(15) ‘specialised <i>service</i> ’ means <i>an</i> electronic communications <i>service or any other service that provides the capability to access specific content, applications or services, or a combination thereof, and whose technical characteristics are controlled from end-to-end or provides the capability to send or receive data to or from a determined number of parties or endpoints; and that is not marketed or widely used as a substitute for internet access service;</i>	(15) " <i>Specialised services</i> " means electronic communications <i>services that are provided and operated within closed electronic communications networks using the Internet Protocol, but not being part of the Internet. The expression "closed electronic communications networks" refers to networks that rely on strict admission control.</i>
This amendment adds legal clarity to the Commission's text and brings the definition in line with BEREC's.	

Amendment 118 - Josef Weidenholzer

Article 2 – paragraph 2 – point 15 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(15) "specialised service" means an electronic communications service or any other service that <i>provides the capability to access specific content, applications or services, or a combination thereof, and whose technical characteristics are controlled from end-to-end or provides the capability to send or receive data to or from a determined number of parties or endpoints;</i> and that is not <i>marketed or widely</i> used as a substitute for internet access service;	(15) "specialised service" means an electronic communications service or any other service that <i>operates within a closed electronic communications network using the internet protocol, relying on admission control,</i> and that is not used as a substitute for internet access service; <i>furthermore, its function is different from services that are provided via the public Internet.</i>
This amendment adds legal clarity to the Commission's text and brings the definition in line with BEREC's.	

Amendment 119 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 2 – paragraph 2 – point 15

++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(15) ‘specialised service’ means an electronic communications service or any other service that <i>provides the capability to access specific content, applications or services, or a combination thereof, and whose technical characteristics are controlled from end-to-end or provides the capability to send or receive data to or from a determined number of parties or endpoints</i>; and that is not marketed or widely used as a substitute for internet access service;</p>	<p>(15) ‘specialised service’ means an electronic communications service or any other service that <i>is provided and operated within a closed electronic communications network using the internet protocol, relying on strict admission control</i> and that is not marketed or widely used as a substitute for internet access service;</p>
<p>This amendment adds legal clarity to the Commission's text and brings the definition in line with BEREC's.</p>	

Amendment 120 - Toine Manders

Article 2 – paragraph 2 – point 15	
-	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(15) ‘specialised service’ means an electronic communications service or any other service that provides <i>the capability to</i> access 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</i> used as a substitute for internet access service;</p>	<p>(15) ‘specialised service’ means an electronic communications service or any other service that provides, <i>over logically distinct capacity and relying on strict admission control</i>, access to specific content, applications or services, or a combination thereof, <i>with a view to securing enhanced quality characteristics which are controlled from end-to-end</i> ; and that is not marketed or used as a substitute for internet access service;</p>
<p>This amendment worsens the Commission's proposal by further undermining legal clarity.</p>	

Amendment 121 - Jürgen Creutzmann

Article 2 – paragraph 2 – point 15	
-	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(15) ‘specialised service’ means an electronic communications service or any other service that provides <i>the capability to</i> access specific</p>	<p>(15) ‘specialised service’ means an electronic communications service or any other service <i>using the Internet Protocol</i> that provides <i>to a</i></p>

<p>content, applications or services, or a combination thereof, and <i>whose</i> technical characteristics <i>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 widely used as a substitute for internet access service;</p>	<p><i>determined number of parties optimised</i> access to specific content, applications or services, or a combination thereof, and <i>the</i> technical characteristics <i>of which are controlled using traffic management in order to ensure adequate service characteristics</i>; and that is not marketed or widely used as a substitute for internet access service;</p>
<p>This amendment worsens the Commission's proposal by further undermining legal clarity.</p>	

Amendment 135 - Evelyne Gebhardt, Petra Kammerevert

<p style="text-align: center;">Article 19 ++</p>	
<p style="text-align: center;"><i>Text proposed by the Commission</i></p>	<p style="text-align: center;"><i>Amendment</i></p>
<p style="text-align: center;"><i>Article 19</i></p> <p style="text-align: center;"><i>Assured service quality (ASQ) connectivity product</i></p> <p><i>1. Any operator shall have the right to provide a European ASQ connectivity product as specified in paragraph 4.</i></p> <p><i>2. Any operator shall meet any reasonable request to provide a European ASQ connectivity product as specified in paragraph 4 submitted in writing by an authorised provider of electronic communications services. Any refusal to provide a European ASQ product shall be based on objective criteria. The operator shall state the reasons for any refusal within one month from the written request.</i></p> <p><i>It shall be deemed to be an objective ground of refusal that the party requesting the supply of a European ASQ connectivity product is unable or unwilling to make available, whether within the Union or in third countries, a European ASQ connectivity product to the requested party on reasonable terms, if the latter so requests.</i></p> <p><i>3. Where the request is refused or agreement on specific terms and</i></p>	<p><i>deleted</i></p>

conditions, including price, has not been reached within two months from the written request, either party is entitled to refer the issue to the relevant national regulatory authority pursuant to Article 20 of Directive 2002/21/EC. In such a case, Article 3(6) of this Regulation may apply.

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

- (a) ability to be offered as a high quality product anywhere in the Union;*
- (b) enabling service providers to meet the needs of their end-users;*
- (c) cost-effectiveness, taking into account existing solutions that may be provided on the same networks;*
- (d) operational effectiveness, in particular in respect of limiting to the extent possible implementation obstacles and deployment costs for customers;*
- (f) and (e) ensuring that the rules on protection of privacy, personal data, security and integrity of networks and transparency in accordance with Union law are respected.*

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

We support this deletion, as BEREC has pointed out several times that ASQ is superfluous and indeed could be (mis)used as another way to prioritise traffic for anti-competitive reasons.

Amendment 136 - Bernadette Vergnaud

Article 19	
++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

Article 19

*Assured service quality (ASQ)
connectivity product*

- 1. Any operator shall have the right to provide a European ASQ connectivity product as specified in paragraph 4.*
- 2. Any operator shall meet any reasonable request to provide a European ASQ connectivity product as specified in paragraph 4 submitted in writing by an authorised provider of electronic communications services. Any refusal to provide a European ASQ product shall be based on objective criteria. The operator shall state the reasons for any refusal within one month from the written request.
It shall be deemed to be an objective ground of refusal that the party requesting the supply of a European ASQ connectivity product is unable or unwilling to make available, whether within the Union or in third countries, a European ASQ connectivity product to the requested party on reasonable terms, if the latter so requests.*
- 3. Where the request is refused or agreement on specific terms and conditions, including price, has not been reached within two months from the written request, either party is entitled to refer the issue to the relevant national regulatory authority pursuant to Article 20 of Directive 2002/21/EC. In such a case, Article 3(6) of this Regulation may apply.*
- 4. The provision of a connectivity product shall be considered as the provision of a European ASQ connectivity product if it is supplied in accordance with the minimum parameters listed in Annex II and cumulatively meets the following substantive requirements:*
 - (a) ability to be offered as a high quality product anywhere in the Union;*
 - (b) enabling service providers to meet the needs of their end-users;*
 - (c) cost-effectiveness, taking into account*

deleted

existing solutions that may be provided on the same networks;
(d) operational effectiveness, in particular in respect of limiting to the extent possible implementation obstacles and deployment costs for customers;
(f) and (e) ensuring that the rules on protection of privacy, personal data, security and integrity of networks and transparency in accordance with Union law are respected.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 32 in order to adapt Annex II in light of market and technological developments, so as to continue to meet the substantive requirements listed in paragraph 4.

We support this deletion, as BEREC has pointed out several times that ASQ is superfluous and indeed could be (mis)used as another way to prioritise traffic for anti-competitive reasons.

Amendment 137 - Josef Weidenholzer

Article 19 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Article 19</p> <p>Assured service quality (ASQ) connectivity product</p> <p>1. Any operator shall have the right to provide a European ASQ connectivity product as specified in paragraph 4.</p> <p>2. Any operator shall meet any reasonable request to provide a European ASQ connectivity product as specified in paragraph 4 submitted in writing by an authorised provider of electronic communications services. Any refusal to provide a European ASQ product shall be based on objective criteria. The operator shall state the reasons for any refusal within one month from the written</p>	<p>deleted</p>

request.

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

3. Where the request is refused or agreement on specific terms and conditions, including price, has not been reached within two months from the written request, either party is entitled to refer the issue to the relevant national regulatory authority pursuant to Article 20 of Directive 2002/21/EC. In such a case, Article 3(6) of this Regulation may apply.

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

- (a) ability to be offered as a high quality product anywhere in the Union;*
- (b) enabling service providers to meet the needs of their end-users;*
- (c) cost-effectiveness, taking into account existing solutions that may be provided on the same networks;*
- (d) operational effectiveness, in particular in respect of limiting to the extent possible implementation obstacles and deployment costs for customers;*
- (f) and (e) ensuring that the rules on protection of privacy, personal data, security and integrity of networks and transparency in accordance with Union law are respected.*

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

We support this deletion, as BEREC has pointed out several times that ASQ is superfluous and indeed could be (mis)used as another way to prioritise traffic for anti-competitive reasons.

Amendment 138 - Catherine Stihler

Article 19 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p style="text-align: center;">Article 19</p> <p style="text-align: center;"><i>Assured service quality (ASQ) connectivity product</i></p> <p><i>1. Any operator shall have the right to provide a European ASQ connectivity product as specified in paragraph 4.</i></p> <p><i>2. Any operator shall meet any reasonable request to provide a European ASQ connectivity product as specified in paragraph 4 submitted in writing by an authorised provider of electronic communications services. Any refusal to provide a European ASQ product shall be based on objective criteria. The operator shall state the reasons for any refusal within one month from the written request.</i></p> <p><i>It shall be deemed to be an objective ground of refusal that the party requesting the supply of a European ASQ connectivity product is unable or unwilling to make available, whether within the Union or in third countries, a European ASQ connectivity product to the requested party on reasonable terms, if the latter so requests.</i></p> <p><i>3. Where the request is refused or agreement on specific terms and conditions, including price, has not been reached within two months from the written request, either party is entitled to refer the issue to the relevant national regulatory authority pursuant to Article 20 of Directive 2002/21/EC. In such a</i></p>	<p><i>deleted</i></p>

case, Article 3(6) of this Regulation may apply.

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

- (a) ability to be offered as a high quality product anywhere in the Union;*
- (b) enabling service providers to meet the needs of their end-users;*
- (c) cost-effectiveness, taking into account existing solutions that may be provided on the same networks;*
- (d) operational effectiveness, in particular in respect of limiting to the extent possible implementation obstacles and deployment costs for customers;*
- (f) and (e) ensuring that the rules on protection of privacy, personal data, security and integrity of networks and transparency in accordance with Union law are respected.*

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

We support this deletion, as BEREC has pointed out several times that ASQ is superfluous and indeed could be (mis)used as another way to prioritise traffic for anti-competitive reasons.

Amendment 139 - Evelyne Gebhardt, Petra Kammerevert

Article 21 – paragraph 1 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(1) The freedom of end-users to use public electronic communications networks or publicly available electronic communications services provided by an	(1) The right 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.

undertaking established in another Member State shall not be restricted by public authorities.

We support this amendment as it adds legal clarity and strengthens the rights of users.

Amendment 140 - Toine Manders

Article 21 – paragraph 1

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
1. <i>The freedom of end-users to use</i> public electronic communications networks or publicly available electronic communications services provided by an undertaking established in another Member State <i>shall not be restricted by public authorities.</i>	1. <i>End-users shall not be restricted by public authorities in using</i> public electronic communications networks or publicly available electronic communications services provided by an undertaking <i>and/or public authorities</i> established in another Member State.
While in our view we would replace freedom with “right” (see AM 139), we support the deletion of “freedom” as it provides greater legal clarity.	

Amendment 141 - Catherine Stihler

Article 21 – paragraph 1

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
1. <i>The freedom of end-users to use</i> public electronic communications networks or publicly available electronic communications services provided by an undertaking established in another Member State <i>shall not be restricted by public authorities.</i>	1. <i>End-users shall not be restricted by public authorities in using</i> public electronic communications networks or publicly available electronic communications services provided by an undertaking established in another Member State.
While in our view we would replace freedom with “right” (see AM 139), we support the deletion of “freedom” as it provides greater legal clarity.	

Amendment 142 - Catherine Stihler, Marc Tarabella

Article 21 – paragraph 1 a (new)

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
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	<p><i>1 a. Providers of electronic communications to the public shall ensure that an appropriate notification is sent to the end-user when the consumption of services has reached 80% of the financial limit set in accordance with paragraph 1. The notification shall indicate the procedure to be followed to continue the provision of those services, including their cost. The provider shall cease to provide the specified services and to charge the end-user for it if the financial limit would otherwise be exceeded, unless and until the end-user requests the continued or renewed provision of those services. After having reached the financial limit end-users shall continue to be able to receive calls and SMS messages and access free-phone numbers and emergency services by dialling the European emergency number 112 free of charge until the end of the agreed billing period.</i></p>
<p>This addition seems to empower end-users by providing more transparency, notification, and guaranteed emergency services.</p>	

Amendment 143 - Christian Engström

Article 21 – paragraph 2 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
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 <i>unless such differences are objectively justified.</i>	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
<p>This deletion is welcome as it adds legal clarity.</p>	

Amendment 144 - Franz Obermayr

Article 21 – paragraph 2 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

(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 <i>unless such differences are objectively justified.</i>	(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.
This deletion is welcome as it adds legal clarity.	

Amendment 145 - Toine Manders

Article 21 – paragraph 2 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
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 <i>such</i> differences are <i>objectively</i> justified.	2. Providers of electronic communications to the public <i>in a given Member State</i> shall not apply any discriminatory requirements or conditions of access or use, <i>including charges and tariffs</i> , to end-users based on the end-user's nationality or place of residence unless <i>providers can demonstrate that</i> differences are <i>directly justified by objective criteria.</i>
These clarifications improve the Commission text, however the obligation to demonstrate differences are directly justified would unnecessarily burden providers of electronic communications; it is also difficult to define objective criteria when this criteria has not been elaborated in the text. See comments in AM 144.	

Amendment 146 - Catherine Stihler

Article 21 – paragraph 2 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
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 <i>objectively justified.</i>	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 <i>justified by and in strict compliance with the guidelines set out in paragraph 4.</i>
This amendment goes in the right direction by trying to achieve greater clarity, however the obligation to demonstrate differences are directly justified would unnecessarily burden providers of electronic communications; it is also difficult to define objective criteria when this criteria has not	

been elaborated in the text. See comments in AM 144. Furthermore, there is no paragraph 4 in the Commission text nor in the proposed amendments.

Amendment 147 - Regina Bastos

Article 21 – paragraph 3 ~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>3. Providers of electronic communications to the public shall not apply tariffs for intra-Union communications terminating in another Member State which are higher, unless objectively justified: (a) as regards fixed communications, than tariffs for domestic long-distance communications; (b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.</p>	<p><i>deleted</i></p>
<p>This is beyond our purview.</p>	

Amendment 148 - Jürgen Creutzmann

Article 21 – paragraph 3 ~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>3. Providers of electronic communications to the public shall not apply tariffs for intra-Union communications terminating in another Member State which are higher, unless objectively justified: a) as regards fixed communications, than tariffs for domestic long-distance communications; b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.</p>	<p><i>deleted</i></p>

This is beyond our purview.

Amendment 149 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 21 – paragraph 3	
~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>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:</p> <p>a) as regards fixed communications, than tariffs for domestic long-distance communications;</p> <p>b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.</p>	<p>deleted</p>
<p>This is beyond our purview.</p>	

Amendment 150 - Franz Obermayr

Article 21 – paragraph 3 – introductory part	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(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:</p>	<p>(3) Providers of electronic communications to the public shall not apply tariffs for intra-Union communications terminating in another Member State which are higher:</p>
<p>This is beyond our purview.</p>	

Amendment 151 - Catherine Stihler

Article 21 – paragraph 3 – introductory part	
~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>3. Providers of electronic communications to the public shall not apply tariffs for intra-Union</p>	<p>3. Providers of electronic communications to the public shall not apply tariffs for intra-Union</p>

communications terminating in another Member State which are higher, unless objectively justified:	communications terminating in another Member State which are higher than tariffs for domestic long-distance communications , unless the difference is justified by and in strict compliance with the guidelines set out in paragraph 4.
This is beyond our purview.	

Amendment 152 - Róza Gräfin von Thun und Hohenstein

Article 21 – paragraph 3 – introductory part ~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
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:	3. From 1 of July 2016 , 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:
Beyond our purview.	

Amendment 153 - Toine Manders

Article 21 – paragraph 3 – introductory part ~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
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:	3. Providers of electronic communications to the public shall not apply tariffs for international communications terminating in another Member State which are higher than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012 , unless different charges are objectively justified by and reasonably proportionate to aggregate additional costs.
This is beyond our purview.	

Amendment 154 - Toine Manders

Article 21 – paragraph 3 – point a	
~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
a) as regards fixed communications, than tariffs for domestic long-distance communications;	deleted
This is beyond our purview.	

Amendment 155 - Toine Manders

Article 21 – paragraph 3 – point b	
~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.	deleted
This is beyond our purview.	

Amendment 156 - Róza Gräfin von Thun und Hohenstein

Article 21 – paragraph 3 – point b	
~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
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) as regards mobile communications, than the <i>mobile</i> communications <i>services at domestic level</i>.
This is beyond our purview.	

Amendment 157 - Catherine Stihler

Article 21 – paragraph 3 a (new)	
~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

	<p>3 a. By (DATE OF APPLICATION DEADLINE) BEREC, after consulting stakeholders and in close cooperation with the Commission, shall lay down general guidelines to determine the conditions under which providers of electronic communications to the public are allowed to charge an additional fee for the provision of an international service within the EU on top of their domestic tariffs. Such guidelines shall ensure that any additional fees are strictly based on the real and verifiable cost that providers incur by providing the cross-border service, are transparent, and made available to the public.</p>
<p>This is beyond our purview.</p>	

Amendment 158 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 23 – title +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Freedom to provide and avail of open internet access, and reasonable traffic management</p>	<p>Open internet access, specialised services, and proportionate technical traffic management</p>
<p>This amendment obscures clarity, e.g. “proportionate technical traffic management” does not exist elsewhere in the text.</p>	

Amendment 159 - Christian Engström

Article 23 – title ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Freedom to provide and avail of open internet access, and reasonable traffic management</p>	<p>Freedom to provide and right to avail of open internet access</p>
<p>This is an improvement to the Commission's proposal.</p>	

Amendment 160 - Christian Engström

Article 23 – paragraph 1 – subparagraph 1 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

<p>End-users shall be free to access and distribute information and content, run applications and use services of their choice via their internet access service.</p>	<p>End-users shall <i>have the right to</i> be free to access and distribute information and content, run applications, <i>connect hardware</i> and use services <i>and software</i> of their choice via their internet access service. <i>Internet access providers can thus not block, discriminate against, impair or degrade, including through price surcharge or preferential treatment, the ability of any person to use a service to access, use, send, post, receive or offer any content, application or service of their choice, irrespective of source or target.</i></p>
<p><i>Providers of internet access services shall not make the prices of these services dependent on the content, applications and services that are offered or used via these internet access services.</i></p> <p>We support this amendment, however one small improvement would be to remove “be free to”.</p>	

Amendment 161 - Catherine Stihler

<p align="center">Article 23 – paragraph 1 – subparagraph 1 ++</p>	
<p align="center"><i>Text proposed by the Commission</i></p>	<p align="center"><i>Amendment</i></p>
<p>End-users shall <i>be free</i> to access and distribute information and content, run applications and use services of their choice <i>via</i> their internet access service.</p>	<p>End-users shall <i>the right</i> to access, <i>transfer</i> and distribute information and content, run applications, <i>connect hardware</i> and use services <i>and software</i> of their choice. <i>Internet access providers can not block, discriminate against, impair or degrade, including through price surcharge or preferential treatment, the ability of any end-user to use a service to access, use, send, post, receive or offer any content, application or service of their choice, irrespective of source or target. Providers of internet access services may however offer agreements that differentiate according to data volumes and speeds, as long as no discrimination based on the content, application or service themselves, or specific classes thereof, is put in place. Providers of internet access services shall not make the prices of these services dependent on the content, applications and services that are offered or used via these internet access</i></p>

	<i>services</i>
We support the change from “freedom” to “rights”, the inclusion of the non-discrimination clause, and the specifications of types of internet offerings communications providers can provide users.	

Amendment 162 - Bernadette Vergnaud

Article 23 – paragraph 1 – subparagraph 1 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall <i>be free</i> to access and distribute information and content, run applications and use services of their choice via their internet access service.	End-users shall <i>have the right</i> to access and distribute information and content, run applications, connect hardware and use services of their choice via their internet access service. <i>Internet service providers may not as a result block, discriminate against or degrade – including through overcharging or preferential treatment – a person’s ability to use a service, gain access to, use, send, post, receive or give any content, application or service of his choosing, whatever its origin or destination.</i>
While we support the change of “free” to “have the right”, “overcharging” and preferential treatment are not defined and could be interpreted subjectively, undermining the purpose of this article.	

Amendment 163 - Evelyn Gebhardt, Petra Kammerevert

Article 23 – paragraph 1 – subparagraph 1 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>End-users shall be free</i> to access and distribute information and content, run applications and use services of their choice via their internet access service.	<i>Open internet access shall be fully guaranteed in accordance with Article 2(14), so as to enable end-users to access and distribute any information and content they choose, run applications and use services and terminal devices of their choice via their open internet access service, irrespective of the source or destination of such information, content, applications or services. Access network operators shall be subject to a general</i>

	<i>forwarding obligation in accordance with the best effort principle.</i>
This amendment improves the text, reinforcing the non-discrimination principle.	

Amendment 164 - Josef Weidenholzer

Article 23 – paragraph 1 – subparagraph 1 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall <i>be free</i> to access and distribute information and content, run applications and use services of their choice via their internet access service.	End-users shall <i>have the right</i> to access and distribute information and content, run <i>all the</i> applications and use <i>all the</i> services of their choice via their internet access service <i>with the hardware and software of their choice.</i>
This amendment clarifies the Commission's text and reinforces the rights of users and the non-discrimination principle.	

Amendment 165 - Jürgen Creutzmann

Article 23 – paragraph 1 – subparagraph 1 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall be free to access and distribute information and content, run applications and use services of their choice via their internet access service.	End-users shall be free, <i>using devices of their choice,</i> to access and distribute information and content, run applications and use services of their choice, <i>irrespective of their origin or destination,</i> via their internet access service.
While we support the intentions behind this amendment, to ensure legal clarity and end-users rights “free” should be replaced with “have the right to”.	

Amendment 166 - Malcolm Harbour

Article 23 – paragraph 1 – subparagraph 1 a (new) ~	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

	<p><i>Internet access service providers shall not restrict or prevent the use by end-users of any terminal equipment to access and distribute information and content via their internet access service. This is without prejudice to the rights of Member States to grant individual rights of use under Article 5 of Directive 2002/20/EC.</i></p>
<p>This amendment doesn't seem to change the meaning of the Regulation or the Directive 2002/20/EC.</p>	

Amendment 167 - Jürgen Creutzmann

<p style="text-align: center;">Article 23 – paragraph 1 – subparagraph 2 ++</p>	
<p style="text-align: center;"><i>Text proposed by the Commission</i></p>	<p style="text-align: center;"><i>Amendment</i></p>
<p><i>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.</i></p>	<p style="text-align: center;"><i>deleted</i></p>
<p>We support this deletion.</p>	

Amendment 168 - Evelyne Gebhardt, Petra Kammerevert

<p style="text-align: center;">Article 23 – paragraph 1 – subparagraph 2 +</p>	
<p style="text-align: center;"><i>Text proposed by the Commission</i></p>	<p style="text-align: center;"><i>Amendment</i></p>
<p>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.</p>	<p>End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services.</p>
<p>To ensure legal clarity, “free” should be changed to “shall have the right”. Furthermore, the provisions reinforcing the non discrimination principle could be strengthened by specifying they do not discriminate based on the content, application or service themselves, or specific classes.</p>	

Amendment 169 - Bernadette Vergnaud

Article 23 – paragraph 1 – subparagraph 2 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>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.</i>	<i>Internet service providers may nevertheless offer agreements on data volumes and speeds, as long as these do not entail any discrimination on the basis of the type or nature of the content, application or service.</i>
This amendment adds legal clarity.	

Amendment 170 -Josef Weidenholzer

Article 23 – paragraph 1 – subparagraph 2 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.	End-users shall be free to enter into agreements on data volumes and speeds 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, <i>provided content, services, applications and connectivity classes are not thereby affected.</i>
While we support the intentions of this amendment, to ensure legal clarity, “free” should be changed to “shall have the right” . Furthermore, the provisions reinforcing the non discrimination principle could be strengthened by specifying they do not discriminate based on the content, application or service themselves, or specific classes.	

Amendment 171 - Regina Bastos

Article 23 – paragraph 1 – subparagraph 2 -	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall be free to enter into agreements on data volumes <i>and</i> speeds	End-users shall be free to enter into agreements on data volumes, speeds <i>and</i>

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.	<i>general features of services, such as service quality</i> , 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.
This amendment further widens the loophole that would allow discrimination through preferential agreements. Furthermore, to ensure legal clarity, “free” should be changed to “shall have the right”.	

Amendment 172 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 23 – paragraph 1 – subparagraph 2 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, <i>in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.</i>	End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, <i>wherease providers of Internet access services shall only be allowed to advertise with the minimum guaranteed data volume and speed they can provide for, not the maximum speed.</i>
This amendment requires improvement as it fails to add the needed safeguards to the Commission's proposal. Namely, including that providers of internet access services do not discriminate based on the content, application or service themselves, or specific classes. To ensure the rights of the user, “free” should be changed to “shall have the right”.	

Amendment 173 - Christian Engström

Article 23 – paragraph 2 – subparagraph 1 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>End-users shall also be free to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service.</i>	<i>deleted</i>
We support this deletion as it closes several loopholes that would undermine the rights of end-users in the Commission's text.	

Amendment 174 - Evelyne Gebhardt, Petra Kammerevert

Article 23 – paragraph 2 – subparagraph 1	
++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p><i>End-users shall also be free to agree with either providers</i> of electronic communications to the public or with providers of content, applications and services <i>on the provision of</i> specialised services with an enhanced quality of service.</p>	<p><i>Providers</i> of electronic communications to the public or providers of content, applications and services <i>may provide end-users with</i> specialised services with an enhanced quality of service <i>via a closed electronic communications network independent of the Internet Protocol for a restricted circle of users. Specialised services shall not be identical to content, applications or services of the open internet or be offered or marketed as a substitute therefor.</i> <i>All IP-based services shall be subject to the best effort principle.</i></p>
<p>This amendment provides welcome clarification on specialised services.</p>	

Amendment 175 - Jürgen Creutzmann

Article 23 – paragraph 2 – subparagraph 1	
-	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p><i>End-users shall also be free to agree with either providers</i> of electronic communications to the public <i>or with</i> providers of content, applications and services <i>on the provision of</i> specialised services with an enhanced quality of service.</p>	<p>Providers of electronic communications to the public <i>and</i> providers of content, applications and services <i>shall be free to provide to end-users</i> specialised services with an enhanced quality of service, <i>the provision of which shall not impair in a recurring or continuous manner the general quality of internet access services. National regulatory authorities shall ensure that end-users are free to access these specialised services.</i></p>
<p>This amendment obscures clarity (e.g. “recurring or continuous manner” is unclear) and would undermine the rights of end-users. To ensure legal clarity, “free” should be changed to “shall have the right”.</p>	

Amendment 176 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 23 – paragraph 2 – subparagraph 1

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p><i>End-users shall also be free to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service.</i></p>	<p>Providers of electronic communications <i>services or</i> providers of content, applications and services <i>are allowed to offer specialised services to end-users in addition to open internet access services.</i></p>
<p>We support this amendment only on the condition that the definition of specialised services is brought in line with BEREC's definition (see AMS 117 & 118).</p>	

Amendment 177 - Catherine Stihler

Article 23 – paragraph 2 – subparagraph 1

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>End-users shall also <i>be free</i> to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service.</p>	<p>End-users shall also <i>have the right</i> to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service.</p>
<p>We support this amendment which brings legal clarity to the text by reaffirming the rights of the end-user.</p>	

Amendment 178 - Christian Engström

Article 23 – paragraph 2 – subparagraph 2

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<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</i></p>	<p><i>deleted</i></p>

<p><i>impair in a recurring or continuous manner the general quality of internet access services.</i></p>	
<p>While in our view the Commission's text should be improved rather than deleted, we support this amendment as it closes potential loopholes that could be exploited by communications providers.</p>	

Amendment 179 - Jürgen Creutzmann

<p align="center">Article 23 – paragraph 2 – subparagraph 2 ++</p>	
<p align="center"><i>Text proposed by the Commission</i></p>	<p align="center"><i>Amendment</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><i>deleted</i></p>
<p>While in our view the Commission's text should be improved rather than deleted, we support this amendment as it closes potential loopholes that could be exploited by communications providers.</p>	

Amendment 180 - Evelyne Gebhardt, Petra Kammerevert

<p align="center">Article 23 – paragraph 2 – subparagraph 2 -</p>	
<p align="center"><i>Text proposed by the Commission</i></p>	<p align="center"><i>Amendment</i></p>
<p>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</p>	<p>In order to enable the provision of specialised services to a restricted circle of 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. The provision of specialised services shall not impair the quality of internet access services. Neither shall these services impair existing,</p>

services.	<p><i>generally recognised technical standards and their development.</i></p> <p><i>Access network providers who simultaneously offer or market specialised services shall be subject to the same provision obligation as an open internet access service, in accordance with Article 2(14). They may not discriminate against other content providers who are reliant on the network operator's forwarding services, and shall be required to charge for forwarding in a transparent manner and at fair market prices.</i></p>
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It is not clear why specialised services can only be given to a restricted circle of users (instead of BEREC's definition of a closed network off the open internet).

Amendment 181 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 23 – paragraph 2 – subparagraph 2 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<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><i>Providers of electronic communication services or providers of content, applications and services may offer specialised services to end users provided they are offered in addition to an open internet access service at a level of quality that reflects the technical progress and provided that they do not impair the general performance, affordability, or quality of open internet access services. Specialised services shall only be offered if the network capacity is sufficient to provide such services in addition to the open internet access. Take-up by end-users or by content and application providers of commercial offers to support managed services should be on a voluntary and non-discriminatory basis.</i></p>
<p>This amendment undermines legal clarity, particularly the reference to the “level of quality that reflects the technical progress”. It is also not clear what is meant by managed services being on a voluntary basis.</p>	

Amendment 182 - Toine Manders

Article 23 – paragraph 2 – subparagraph 2

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<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><i>Providers of electronic communication services or providers of content, applications and services shall be allowed to offer specialised services besides internet access services, provided that such offers are not to the detriment of internet access services, or their performance, affordability, or quality in a non-temporary manner.</i></p>
<p>This amendment would provide the necessary clarity to the Commission's text only if this if the definition of specialised services is brought in line with BEREC's definition (see AMS 117 & 118). That would provide the necessary safeguards to ensure that specialised services are not confounded with internet access services.</p>	

Amendment 183 - Josef Weidenholzer

Article 23 – paragraph 2 – subparagraph 2

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>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.</p>	<p>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>replace services accessible to the public or restrict the end-user's freedom of choice.</i></p>
<p>The Commission's text requires improvement as further safeguards are needed to ensure that specialised services are not confounded with internet access services. The wording "in a recurring or continuous manner" is very unclear. Furthermore, "shall be free to enter into .." should be replaced with "may". The degradation of best effort internet has to be avoided. These are not</p>	

addressed in this amendment.

Amendment 184 - Catherine Stihler

Article 23 – paragraph 2 – subparagraph 2

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>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.</p>	<p>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 may 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 the quality of internet access services.</p>
<p>We support this amendment as further safeguards are needed to ensure that specialised services are not confounded with internet access services. The wording "in a recurring or continuous manner" is very unclear. The degradation of best effort internet has to be avoided.</p>	

Amendment 185 - Malcolm Harbour

Article 23 – paragraph 2 – subparagraph 2 a (new)

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>For national authorities to be able to assess such potential detriment, providers of electronic communication services or providers of content, applications and services shall transmit to the national authorities, upon request, precise information regarding the capacities assigned to the two types of services.</i></p>
<p>We support this call for greater transparency and reporting.</p>	

Amendment 186 - Róza Gräfin von Thun und Hohenstein

Article 23 – paragraph 3

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
3. This Article is without prejudice to Union or national legislation related to the lawfulness of the information, content, application or services transmitted.	deleted
We support this deletion as it closes a loophole that could be exploited if read in conjunction with Article 23.5, as it could be used to circumvent the general net neutrality principle with national legislation and allow for discrimination and blocking.	

Amendment 187 - Josef Weidenholzer

Article 23 – paragraph 3 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
3. This Article is without prejudice to Union or national legislation related to the lawfulness of the information, content, application or services transmitted.	deleted
We support this deletion as it closes a loophole that could be exploited if read in conjunction with Article 23.5, as it could be used to circumvent the general net neutrality principle with national legislation and allow for discrimination and blocking.	

Amendment 188 - Christian Engström

Article 23 – paragraph 3 a (new) ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	3 a. All services offered by internet service providers shall be treated equally. Internet service providers shall not prioritise any service above any other.
We support this very straight forward amendment that strengthens the non-discrimination principle.	

Amendment 189 - Christian Engström

Article 23 – paragraph 4 ~	
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<i>Text proposed by the Commission</i>	<i>Amendment</i>
4. The exercise of the freedoms provided for in paragraphs 1 and 2 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and (2).	4. The exercise of the freedoms provided for in paragraph 1 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and (2).
This amendment is due to the fact that the MEP deleted paragraph 2 (AM 178).	

Amendment 190 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 23 – paragraph 4 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
4. The exercise of the freedoms provided for in paragraphs 1 and 2 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and (2).	4. End-users as well as content, application, and service providers, including the media and cultural industries and governments at all levels, shall be provided with complete information in accordance with Article 20 (2), Article 21 (3) and Article 21a of Directive 2002/22/EC, including information on any reasonable traffic management measures applied that might affect access to and distribution of information, content, applications and services as specified in paragraphs 1 and 2.
This amendment broadens the scope of stakeholders and provides more transparency around traffic management.	

Amendment 191 - Evelyne Gebhardt, Petra Kammerevert

Article 23 – paragraph 4 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(4) The exercise of the freedoms provided for in paragraphs 1 and 2 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and (2).	(4) The exercise of the rights provided for in paragraphs 1 and 2 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and (2).
This amendment brings needed legal clarity.	

Amendment 192 - Christian Engström

Article 23 – paragraph 5 – subparagraph 1	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p><i>Within the limits of any contractually agreed data volumes or speeds for internet access services, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</i></p> <p><i>a) implement a legislative provision or a court order, or prevent or impede serious crimes;</i></p> <p><i>b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;</i></p> <p><i>c) prevent the transmission of unsolicited communications to end-users who have given their prior consent to such restrictive measures;</i></p> <p><i>d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.</i></p>	<p><i>deleted</i></p>
<p>While the Commission's text requires some improvements, we do not support a full deletion of this article as it provides very important criteria on reasonable traffic management.</p>	

Amendment 193 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 23 – paragraph 5 – subparagraph 1 – introductory part	
++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>Within the limits of any contractually agreed</i>	Providers of internet access services shall not

<p><i>data volumes or speeds for internet access services</i>, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. <i>Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</i></p>	<p>restrict the freedoms provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against, <i>restricting</i> specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures <i>or to implement a court order.</i></p> <p><i>Traffic management measures shall be considered reasonable when they are deployed to more efficiently manage traffic on the network in order to preserve the integrity and security of the network, and more efficiently manage traffic on the network in demonstrated punctual cases of acute congestion, provided equivalent types of traffic are treated equally. These measures shall be transparent, non-discriminatory, proportionate.</i></p>
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We welcome the deletion of the first sentence since it brings legal clarity and ensures that ISPs will not discriminate on the basis of connection speeds, or block applications and services. The authors decided to remove the list of exceptions for reasonable traffic management and to include instead a single and clear definition of traffic management. Even though we are not against a list if clear and well-defined, we welcome this amendment as its brings legal clarity.

One last change for “rights” instead of “freedom” could be made.

Amendment 194 - Josef Weidenholzer

Article 23 – paragraph 5 – subparagraph 1 – introductory part ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p><i>Within the limits of any contractually agreed data volumes or speeds for internet access services</i>, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>	<p>Providers of internet access services shall not restrict <i>the rights and freedoms of end-users</i> provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>
<p>We welcome this amendment for the addition of “rights” and the deletion of the first sentence since</p>	

it brings legal clarity and it ensures that ISPs will not discriminate on connection speeds, or block applications and services.

Amendment 195 - Bernadette Vergnaud

Article 23 – paragraph 5 – subparagraph 1 – introductory part

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p><i>Within the limits of any contractually agreed data volumes or speeds for internet access services</i>, providers of internet access services shall not restrict the <i>freedoms</i> provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>	<p>Providers of internet access services shall not restrict the <i>right</i> provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>
<p>We welcome this amendment for the addition of “rights” and the deletion of the first sentence since it brings clarity and it ensures that ISPs will not discriminate on connection speeds, or block applications and services.</p>	

Amendment 196 - Jürgen Creutzmann, Morten Løkkegaard

Article 23 – paragraph 5 – subparagraph 1 – introductory part

-

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Within the limits of any contractually agreed data volumes <i>or speeds</i> for internet access services, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by <i>blocking, slowing down, degrading or</i> discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>	<p>Within the limits of any contractually agreed data volumes, <i>speeds or general quality characteristics</i> for internet access services, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary, <i>in particular</i>, to:</p>

This amendment leaves the possibility for ISPs to discriminate on connection speeds, quality of service, or block applications and services. Furthermore, the addition of “in particular” leaves the list for the definition of reasonable traffic management open, which would enable ISPs to use traffic management for discriminatory purposes. This amendment severely weakens end-users' rights.

Amendment 197 - Catherine Stihler

Article 23 – paragraph 5 – subparagraph 1 – introductory part

-

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Within the limits of any contractually agreed data volumes or speeds for internet access services, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>	<p>Within the limits of any contractually agreed data volumes or speeds for internet access services, providers of internet access services shall not restrict the rights provided for in paragraph 1 by notably blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable network management measures shall be relevant, transparent, non-discriminatory, proportionate and efficient. They also must be necessary to:</p>
<p>This amendment goes in the right direction since it change “freedom” for “rights” and improves the definition of reasonable traffic management. However, the first sentence leaves the possibility for ISPs to discriminate on connection speeds, quality of service, or block applications and services and should be removed.</p>	

Amendment 198 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 23 – paragraph 5 – subparagraph 1 – point a

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>a) implement a legislative provision or a court order, or prevent or impede serious crimes;</p>	<p><i>deleted</i></p>
<p>See comment on AM 193. The authors chose to have a strong and clear definition of traffic management instead of a list of exceptions.</p>	

Amendment 199 - Jürgen Creutzmann

Article 23 – paragraph 5 – subparagraph 1 – point a

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
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;
This is a good amendment. “To prevent or impede serious crime” without a legal basis or a court order would lead to law enforcement activities by private companies outside the rule of law.	

Amendment 200 - Josef Weidenholzer
Article 23 – paragraph 5 – subparagraph 1 – point a

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
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;
This is a good amendment. “To prevent or impede serious crime” without a legal basis or a court order would lead to law enforcement activities by private companies outside the rule of law.	

Amendment 201 - Sabine Verheyen, Birgit Collin-Langen
Article 23 – paragraph 5 – subparagraph 1 – point b

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;</i>	<i>deleted</i>
See comment on AMS193. The authors chose to have a strong and clear definition of traffic management instead of a list of exceptions.	

Amendment 202 - Josef Weidenholzer
Article 23 – paragraph 5 – subparagraph 1 – point b

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;	(b) preserve the integrity and security of the network <i>made available by the provider and the</i> services provided via this

	network, and the end-users' terminals;
This amendment brings legal clarity.	

Amendment 203 - Josef Weidenholzer

Article 23 – paragraph 5 – subparagraph 1 – point c +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>c) prevent the transmission of unsolicited communications to end-users who have given their prior consent to such restrictive measures;</i>	<i>deleted</i>
It is true that the term “unsolicited communications” needs to be clarified in order to avoid broad interpretation which could lead to arbitrary restrictions but a full deletion of the paragraph is not the best solution.	

Amendment 204 - Sabine Verheyen, Birgit Collin-Langen

Article 23 – paragraph 5 – subparagraph 1 – point c ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>c) prevent the transmission of unsolicited communications to end-users who have given their prior consent to such restrictive measures;</i>	<i>deleted</i>
See comment on AM 193. The authors chose to have a strong and clear definition of traffic management instead of a list of exceptions.	

Amendment 205 - Jürgen Creutzmann

Article 23 – paragraph 5 – subparagraph 1 – point c -	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
c) prevent the transmission of unsolicited communications to end-users <i>who have given their prior consent to such restrictive measures</i>;	c) prevent the transmission of unsolicited communications to end-users;
The paragraph was already problematic due to the lack of clarity of “unsolicited communications”	

but to authorise restrictive measures without prior consent of end-users only worsens the content of this provision.

Amendment 206 - Sabine Verheyen, Birgit Collin-Langen

Article 23 – paragraph 5 – subparagraph 1 – point d

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.	<i>deleted</i>

See comment on AM 193. The authors choose to have a strong and clear definition of traffic management instead of a list of exceptions.

Amendment 207 - Jürgen Creutzmann

Article 23 – paragraph 5 – subparagraph 1 – point d

-

<i>Text proposed by the Commission</i>	<i>Amendment</i>
d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.	d) prevent network congestion and minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.

Authorising the use of traffic management measure to prevent network congestion might lead to discrimination since ISPs could create a fast line for “preferred” content at the expense of the rest of the content in the open internet. If traffic management measures are to be used for network congestion it has to be in demonstrated punctual cases of acute congestion, that is to say exceptional, temporary and targeted cases that will require necessary, proportionate and transparent measures to remedy.

Amendment 208 - Ildikó Gáll-Pelcz, András Gyürk

Article 23 – paragraph 5 – subparagraph 1 – point d

-

<i>Text proposed by the Commission</i>	<i>Amendment</i>
d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.	d) prevent or minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.

Allowing traffic management measure to “prevent” network congestion could enable ISPs to abuse these measures. Traffic management measures must only be used in punctual demonstrated cases of network congestion and have to be necessary, proportionate, temporary, targeted, transparent and in accordance with relevant laws.

Amendment 209 - Christian Engström

Article 23 – paragraph 5 – subparagraph 2 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.</i>	<i>deleted</i>
<p>It is true that this paragraph must be improved but its full deletion is not the best solution. We recommend to add a second sentence: “Processing of the content part of the communication during transmission for these purposes is not permitted”. To protect the user privacy, traffic management shall never be based on the content part of data transmission.</p>	

Amendment 210 - Josef Weidenholzer

Article 23 – paragraph 5 – subparagraph 2 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.	Reasonable traffic management shall only entail processing of data <i>from the IP header</i> that is necessary and proportionate to achieve the purposes set out in this paragraph.
<p>This amendment brings legal clarity and goes in the right direction. Nevertheless, it could be further improved with the addition of a second sentence: “Processing of the content part of the communication during transmission for these purposes is not permitted”. To protect user privacy, traffic management should never be based on the content part of data transmission.</p>	

Amendment 211 - Catherine Stihler

Article 23 – paragraph 5 – subparagraph 2 -	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Reasonable <i>traffic</i> management shall only entail	Reasonable <i>network</i> management shall only

processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.

entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.

For the seek of legal clarity and consistency, we should refer to “reasonable traffic management”.

Amendment 212 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 23 – paragraph 5 a (new)

++

Text proposed by the Commission

Amendment

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

We welcome this amendment as it strengthens end-users' rights.

Amendment 213 - Sabine Verheyen, Birgit Collin-Langen, Andreas Schwab

Article 24 – paragraph 1

++

Text proposed by the Commission

Amendment

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

1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2) and the continued availability of ***open*** internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also ***ensure that*** the effects of specialised services ***do not impair*** cultural diversity, ***media pluralism*** and innovation. ***National regulatory authorities shall also closely monitor and ensure the application of reasonable traffic management measures in compliance with Article 23 (5) taking the utmost account of the BEREC guidelines specified in paragraph 2 of this Article and in paragraph 3a of Article 21(3a) of the Directive 2002/22/EC. Reasonable traffic management measures shall be subject to***

	<i>periodic review to reflect advances in technology.</i> National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.
We welcome this amendment. It improves end-users' rights and lowers the risk of use of traffic management measures to discriminate content on the open internet. One last addition to make these reports available to the public could be made.	

Amendment 214 - Christian Engström

Article 24 – paragraph 1 -	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.	1. National regulatory authorities and national data protection authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology. National regulatory authorities and national data protection authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.
The deletion of the obligation for NRAs to monitor the compliance with Article 23 (5) is not ideal since control over traffic management measures must be done in order to ensure that they are not used to discriminate content on the open internet.	

Amendment 215 - Evelyne Gebhardt, Petra Kammerevert

Article 24 – paragraph 1 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(1) National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the	(1) National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the rights provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the

<p>continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.</p>	<p>continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on <i>freedom of opinion and information, linguistic and cultural diversity, media freedom and diversity,</i> and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.</p>
<p>This is a good amendment, we particularly welcome the change of “freedom” for “rights” but one last addition to make these reports available to the public should be made.</p>	

Amendment 216 - Róza Gräfin von Thun und Hohenstein

Article 24 – paragraph 1 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.</p>	<p>1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity, <i>competition</i> and innovation. National regulatory authorities shall publish reports regarding their monitoring and findings on an annual basis and submit them to the Commission and BEREC.</p>
<p>This amendment brings legal clarity. One last addition would be to make these reports available to the public.</p>	

Amendment 217 - Franz Obermayr

Article 24 – paragraph 1

+

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(1) National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.</p>	<p>(1) National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall publish their reports and thus ensure that they are accessible to all market participants as a matter of principle.</p>
<p>This amendment goes in the right direction but “all market participants” need to be defined in order to make sure that all stakeholders (European Commission, BEREC, the public...) have access to these reports.</p>	

Amendment 218 - Jürgen Creutzmann

Article 24 – paragraph 1

+

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

monitoring <i>and findings</i> .	<i>measures taken</i> .
This amendment does not provide enough legal clarity on the need for these reports to be published and made available to the public.	

Amendment 219 - Josef Weidenholzer

Article 24 – paragraph 1 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(1) National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.</p>	<p>(1) National regulatory authorities, <i>in cooperation with the national data protection authority</i>, shall closely monitor and ensure the effective ability of end-users to benefit from the <i>rights and</i> freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation, <i>the economy and society</i>. National regulatory authorities <i>and national data protection authorities</i> shall report on an annual basis to the <i>public, the Commission, the European Data Protection Supervisor</i> and BEREC on their monitoring and findings.</p>
<p>This is a good amendment, we particularly welcome the change of “freedom” for “rights” and the addition to make these reports available to the public.</p>	

Amendment 220 - Sabine Verheyen, Birgit Collin-Langen

Article 24 – paragraph 2 – subparagraph 1 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run</p>	<p>In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run</p>

applications and services of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements on providers of electronic communications to the public.	applications and services of their choice, National Regulatory Authorities shall impose adequate quality of service requirements on providers of electronic communications to the public.
The amendment goes in the right direction. However, “adequate quality of service” will need to be defined to ensure legal clarity.	

Amendment 221 -Franz Obermayr

Article 24 – paragraph 2 – subparagraph 1 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run applications and services of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements on providers of electronic communications to the public.	In order to prevent the general impairment of quality of service for internet access services or to safeguard the ability of end-users to access and distribute content or information or to run applications and services of their choice, national regulatory authorities shall have the power to impose minimum quality of service requirements on providers of electronic communications to the public. <i>The following shall apply with regard to these minimum requirements:</i>
The modification introduced by the author in this amendment brings needed legal clarity and strengthens consumers' rights.	

Amendment 222 - Franz Obermayr

Article 24 – paragraph 2 – subparagraph 1 – point a (new) ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(a) the available bandwidth for the open internet shall be at least at the same level as for specialised services;</i>
The modification introduced by the author in this amendment brings the needed legal clarity and strengthens consumers' rights.	

Amendment 223 - Franz Obermayr

Article 24 – paragraph 2 – subparagraph 1 – point b (new)

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(b) the available inclusive volume of an internet connection shall be calculated on the basis of the quantity of data transmitted via broadband connection by a large proportion of users in a statistically meaningful and uniformly defined period.</i>
<p>The modification introduced by the author in this amendment brings greater legal clarity and strengthens consumers' rights.</p>	

Amendment 224 - Róza Gräfin von Thun und Hohenstein

Article 24 – paragraph 2 – subparagraph 2

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<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 <i>may</i>, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. The envisaged requirements shall not be adopted during a period of two months from the receipt of complete information by the Commission unless otherwise agreed between the Commission and the national regulatory authority, or the Commission has informed the national regulatory authority of a shortened examination period, or the Commission has made comments or recommendations. National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.</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 <i>shall</i>, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. The envisaged requirements shall not be adopted during a period of two months from the receipt of complete information by the Commission unless otherwise agreed between the Commission and the national regulatory authority, or the Commission has informed the national regulatory authority of a shortened examination period, or the Commission has made comments or recommendations. National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.</p>

The amendment goes in the right direction as it obliges the Commission to make comments and recommendations.

Amendment 225 - Christian Engström

Article 24 – paragraph 2 a (new) ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p>2 a. Where a service provider has failed to fulfil their service requirements, as provided <i>inter alia</i> in Article 25, the end-user shall have the right to rescind the contract, and may also avail of rights as established in national law.</p>
<p>This amendment strengthens end-users' rights.</p>	

Amendment 226 - Sabine Verheyen, Birgit Collin-Langen

Article 24 – paragraph 3 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>3. The Commission may adopt implementing acts defining uniform conditions for the implementation of the obligations of national competent authorities under this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33 (2).</p>	<p><i>deleted</i></p>
<p>It is true that this provision needs to be improved to ensure that the EU set up, in consultation with BEREC and stakeholders minimum standards to be respected by the NRAs, but the complete deletion of this paragraph is not the best solution.</p>	

Amendment 227 - Ildikó Gáll-Pelcz, András Gyürk

Article 24 – paragraph 3 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>3. The Commission may adopt implementing acts defining uniform conditions for the implementation of the obligations of national</p>	<p>3. BEREC shall, after consulting stakeholders and in cooperation with the Commission, lay down guidelines defining uniform conditions for</p>

competent authorities under this Article. <i>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33 (2).</i>	the implementation of the obligations of national competent authorities under this Article.
This amendment brings needed legal clarity.	

Amendment 228 - Josef Weidenholzer

Article 24 – paragraph 3 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(3) The Commission may adopt implementing acts defining uniform conditions for the implementation of the obligations of national competent authorities under this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33 (2).	(3) The Commission may - <i>after consulting BEREC and the European Data Protection Supervisor</i> – adopt implementing acts defining uniform conditions for the implementation of the obligations of national competent authorities under this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33 (2).
This amendment brings needed legal clarity.	

Amendment 229 - Róza Gräfin von Thun und Hohenstein

Article 24 – paragraph 3 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
3. The Commission <i>may</i> adopt implementing acts defining uniform conditions for the implementation of the obligations of national competent authorities under this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33 (2).	3. The Commission <i>shall, after consulting BEREC,</i> adopt implementing acts defining uniform conditions for the implementation of the obligations of national competent authorities under this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33 (2).
This amendment brings needed legal clarity.	

Amendment 230 - Jürgen Creutzmann

Article 25 -

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p style="text-align: center;">Article 25</p> <p><i>Transparency and publication of information</i></p> <p><i>1. Providers of electronic communications to the public shall, save for offers which are individually negotiated, publish transparent, comparable, adequate and up-to-date information on:</i></p> <p><i>a) their name, address and contact information;</i></p> <p><i>b) for each tariff plan the services offered and the relevant quality of service parameters, the applicable prices (for consumers including taxes) and any applicable charges (access, usage, maintenance and any additional charges), as well as costs with respect to terminal equipment;</i></p> <p><i>c) applicable tariffs regarding any number or service subject to particular pricing conditions;</i></p> <p><i>d) the quality of their services, in accordance with implementing acts provided for in paragraph 2;</i></p> <p><i>e) internet access services, where offered, specifying the following:</i></p> <p><i>(i) actually available data speed for download and upload in the end-user's Member State of residence, including at peak-hours;</i></p> <p><i>(ii) the level of applicable data volume limitations, if any; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and the means for end-users to monitor at any moment the current level of their consumption;</i></p> <p><i>(iii) a clear and comprehensible explanation as to how any data volume limitation, the actually available speed and other quality parameters, and the simultaneous use of specialised services with an enhanced quality of service, may practically impact the use of content, applications and services;</i></p>	<p><i>Deleted</i></p>

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

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

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

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

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

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

2. The Commission may adopt implementing acts specifying the methods for measuring the speed of internet access services, the quality of service parameters and the methods for measuring them, and the content, form and manner of the information to be published, including possible quality certification mechanisms. The Commission may take into account the parameters, definitions and measurement methods set out in Annex III of

the Directive 2002/22/EC. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

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

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

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

<p><i>rights, copyright and related rights, and their legal consequences; and</i></p> <p><i>(b) the means of protection against risks to personal security and unlawful access to personal data when using electronic communications services.</i></p>	
<p>Provisions for transparency should be elaborated in this Regulation. Its deletion from the proposed Regulation to include it in the USD Directive from 2002 is not welcomed.</p>	

Amendment 231 - Sabine Verheyen, Birgit Collin-Langen

Article 25 – paragraph 1 – subparagraph 1 – point d ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
d) the quality of their services, <i>in accordance with implementing acts provided for in paragraph 2</i> ;	d) the quality of their services;
This amendment brings legal clarity.	

Amendment 232 - Sabine Verheyen, Birgit Collin-Langen

Article 25 – paragraph 1 – subparagraph 1 – point e – point i ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(i) actually available data speed for download and upload in the end-user's Member State of residence, including at peak-hours;	(i) actually available data speed for download and upload in the end-user's Member State of residence, including <i>minimum available data speed for downloads and upload</i> at peak-hours;
This amendment brings legal clarity.	

Amendment 233 - Franz Obermayr

Article 25 – paragraph 1 – subparagraph 1 – point e – point i ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(i) actually available data speed for	(i) actually available data speed for

download and upload in the end-user's Member State of residence, including at peak-hours;	download and upload in the end-user's Member State of residence, including at peak-hours; <i>reference shall be made where appropriate to negative regional variations owing to lower technological quality of the network;</i>
This amendment provides legal clarity.	

Amendment 234 - Franz Obermayr

Article 25 – paragraph 1 – subparagraph 1 – point e – point ii ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(ii) the level of applicable data volume limitations, if any; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and the means for end-users to monitor at any moment the current level of their consumption;	(ii) the level of applicable data volume limitations, if any; <i>the services and specialised services included in the data volume;</i> the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and the means for end-users to monitor at any moment the current level of their consumption;
This amendment brings legal clarity.	

Amendment 235 - Christian Engström

Article 25 – paragraph 1 – subparagraph 1 – point e – point iii +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(iii) a clear and comprehensible explanation as to how any data volume limitation, the <i>actually</i> available speed and other quality parameters, <i>and the simultaneous use of specialised services with an enhanced quality of service,</i> may practically impact the use of content, applications and services;	(iii) a clear and comprehensible explanation as to how any data volume limitation, the <i>actual</i> available speed and other quality parameters, may practically impact the use of content, applications and services;
Even though this amendment is consistent with the author's decision to remove “specialised services” from this Regulation, if they remain, their impact on the use of content, applications and	

services must be explained.

Amendment 236 - Christian Engström

Article 25 – paragraph 1 – subparagraph 1 – point g

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
g) their standard contract terms and conditions, including any minimum contractual period, the conditions for and any charges due on early termination of a contract, the procedures and direct charges related to switching and portability of numbers and other identifiers, and compensation arrangements for delay or abuse of switching;	g) their standard contract terms and conditions, including minimum contractual period, the conditions for and any charges due on early termination of a contract, the procedures and direct charges related to switching and portability of numbers and other identifiers, and compensation arrangements for delay or abuse of switching;
This amendment brings legal clarity.	

Amendment 237 - Josef Weidenholzer

Article 25 – paragraph 1 – subparagraph 2

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
The information shall be published in a clear, comprehensive and easily accessible form in the official language(s) of the Member State where the service is offered, and be updated regularly. The information shall, on request, be supplied to the relevant national regulatory authorities in advance of its publication. Any differentiation in the conditions applied to consumers and other end-users shall be made explicit.	The information shall be published in a clear, comprehensive and easily accessible form in the official language(s) of the Member State where the service is offered, and be updated regularly. The information shall, on request, be supplied to the relevant national regulatory authorities in advance of its publication. <i>National data protection authorities may examine the traffic management measures.</i> Any differentiation in the conditions applied to consumers and other end-users shall be made explicit.
This addition improves users' right to privacy.	

Amendment 238 - Franz Obermayr

Article 25 – paragraph 1 – subparagraph 2

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
The information shall be published in a clear, comprehensive and easily accessible form in the official language(s) of the Member State where the service is offered, and be updated regularly. The information shall, on request, be supplied to the relevant national regulatory authorities in advance of its publication. Any differentiation in the conditions applied to consumers and other end-users shall be made explicit.	The information shall be published in a clear, comprehensive and easily accessible form <i>by means of a standardised customer information notice</i> in the official language(s) of the Member State where the service is offered, and be updated regularly. The information shall, on request, be supplied to the relevant national regulatory authorities in advance of its publication. Any differentiation in the conditions applied to consumers and other end-users shall be made explicit <i>and may not be set out in footnotes or in the general terms and conditions.</i>
This amendment improves end-users' rights.	

Amendment 239 - Christian Engström

Article 25 – paragraph 1 – subparagraph 2	
-	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
The information shall be published in a clear, comprehensive and easily accessible form in the official language(s) of the Member State where the service is offered, and be updated regularly. The information shall, on request, be supplied to the relevant national regulatory authorities in advance of its publication. <i>Any differentiation in the conditions applied to consumers and other end-users shall be made explicit.</i>	The information shall be published in a clear, comprehensive and easily accessible form in the official language(s) of the Member State where the service is offered, and be updated regularly. The information shall, on request, be supplied to the relevant national regulatory authorities in advance of its publication.
Differentiation should not occur, but in the case it does, end-users shall be informed.	

Amendment 240 - Sabine Verheyen, Birgit Collin-Langen

Article 25 – paragraph 2	
+	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>2. The Commission may adopt implementing acts specifying the methods for measuring the speed of internet access services, the quality of</i>	<i>deleted</i>

service parameters and the methods for measuring them, and the content, form and manner of the information to be published, including possible quality certification mechanisms. The Commission may take into account the parameters, definitions and measurement methods set out in Annex III of the Directive 2002/22/EC. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

It is true that this provision requires improvement to ensure that the EU set up, in consultation with BEREC and stakeholders, implementing measures, but the complete deletion of this paragraph might not be the best solution.

Amendment 241 - Ildikó Gáll-Pelcz, András Gyürk

Article 25 – paragraph 2

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. The Commission may adopt implementing acts specifying the methods for measuring the speed of internet access services, the quality of service parameters and the methods for measuring them, and the content, form and manner of the information to be published, including possible quality certification mechanisms. The Commission may take into account the parameters, definitions and measurement methods set out in Annex III of the Directive 2002/22/EC. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).	2. BEREC, after consulting stakeholders and in close cooperation with the Commission, shall lay down general guidelines for the methods of measuring the speed of internet access services, the quality of service parameters (<i>inter alia average versus advertised speeds; quality as perceived by users</i>), and the methods for measuring them, and the content, form and manner of the information to be published, including possible quality certification mechanisms. The Commission may take into account the parameters, definitions and measurement methods set out in Annex III of the Directive 2002/22/EC.
The amendment brings the needed legal clarity.	

Amendment 242 - Christian Engström

Article 25 – paragraph 2

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
2. The Commission may adopt implementing	2. BEREC shall, following consultation with all

<p><i>acts specifying the</i> methods for measuring the speed of internet access services, the quality of service parameters and the methods for measuring them, and the content, form and manner of the information to be published, including possible quality certification mechanisms. The Commission may take into account the parameters, definitions and measurement methods set out in Annex III of the Directive 2002/22/EC. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).</p>	<p>relevant stakeholders, adopt methods for measuring the speed of internet access services, the quality of service parameters and the methods for measuring them, and the content, form and manner of the information to be published, including possible quality certification mechanisms. BEREC may take into account the parameters, definitions and measurement methods set out in Annex III of the Directive 2002/22/EC. The Commission shall be empowered, via implementing acts, to adopt BEREC's proposals regarding the aforementioned measuring methods, in accordance with the examination procedure referred to in Article 33(2).</p>
<p>The amendment brings the needed legal clarity.</p>	

Amendment 243 - Christian Engström

Article 25 – paragraph 3 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>3. End-users shall have access to independent evaluation tools allowing them to compare the performance of electronic communications network access and services and the cost of alternative usage patterns. To this end Member States shall establish a voluntary certification scheme for interactive websites, guides or similar tools. Certification shall be granted on the basis of objective, transparent and proportionate requirements, in particular independence from any provider of electronic communications to the public, the use of plain language, the provision of complete and up-to-date information, and the operation of an effective complaints handling procedure. Where certified comparison facilities are not available on the market free of charge or at a reasonable price, national regulatory authorities or other competent national authorities shall make such facilities available themselves or through third parties in compliance with the certification requirements. The information published by providers of electronic communications to the public shall be</p>	<p>3. End-users shall have access to independent evaluation tools allowing them to compare the performance of electronic communications network access and services and the cost of alternative usage patterns. To this end, the Member States, following consultation with all relevant stakeholders, shall establish a voluntary certification scheme for interactive websites, guides or similar tools. Certification shall be granted on the basis of objective, transparent and proportionate requirements, in particular independence from any provider of electronic communications to the public, the use of plain language, the provision of complete and up-to-date information, operation of an effective complaints handling procedure. The information published by providers of electronic communications to the public shall be accessible, free of charge, for the purposes of making available comparison facilities.</p> <p>Where possible, existing comparison websites shall be used as basis for the above mentioned independent evaluation tools.</p>

accessible, free of charge, for the purposes of making available comparison facilities.

The amendment brings legal clarity.

Amendment 244 - Josef Weidenholzer

Article 25 – paragraph 3

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(3) End-users shall have access to independent evaluation tools allowing them to compare the performance of electronic communications network access and services and the cost of alternative usage patterns. To this end Member States shall establish a voluntary certification scheme for interactive websites, guides or similar tools. Certification shall be granted on the basis of objective, transparent and proportionate requirements, in particular independence from any provider of electronic communications to the public, the use of plain language, the provision of complete and up-to-date information, and the operation of an effective complaints handling procedure. Where certified comparison facilities are not available on the market free of charge or at a reasonable price, national regulatory authorities or other competent national authorities shall make such facilities available themselves or through third parties in compliance with the certification requirements. The information published by providers of electronic communications to the public shall be accessible, free of charge, for the purposes of making available comparison facilities.</p>	<p>(3) End-users shall have access to independent evaluation tools allowing them to compare the performance of electronic communications network access and services and the cost of alternative usage patterns. To this end Member States shall establish a voluntary certification scheme for interactive websites, guides or similar tools. Certification shall be granted on the basis of objective, transparent and proportionate requirements, in particular independence from any provider of electronic communications to the public, the use of plain language, the provision of complete and up-to-date information, and the operation of an effective complaints handling procedure. Where certified comparison facilities are not available on the market free of charge or at a reasonable price, national regulatory authorities or other competent national authorities, <i>taking account of open source software</i>, shall make such facilities available themselves or through third parties in compliance with the certification requirements. The information published by providers of electronic communications to the public shall be accessible, free of charge <i>and in open data formats</i>, for the purposes of making available comparison facilities.</p>
<p>The amendment brings the needed legal clarity and improves end-users' rights.</p>	

Amendment 245 - Christian Engström

Article 25 – paragraph 4 – introductory part

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>4. Upon request of the relevant public authorities, providers of electronic communications to the public shall distribute public interest information free of charge to end-users, where appropriate, by the same means as those ordinarily used by them in their communications with end-users. In such a case, that information shall be provided by the relevant public authorities to the providers of electronic communications to the public in a standardised format and may, <i>inter alia</i>, cover the following topics:</p>	<p>4. Providers of electronic communications to the public shall distribute public interest information free of charge to end-users, where appropriate, by the same means as those ordinarily used by them in their communications with end-users. In such a case, that information shall be provided by the providers of electronic communications to the public in a standardised format and may, <i>inter alia</i>, cover the following topics:</p>
<p>This amendment brings legal clarity and improves the mechanism for information to be delivered to the public.</p>	

Amendment 246 - Franz Obermayr
Article 25 – paragraph 4 – introductory part

+

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(4) Upon request of the relevant public authorities, providers of electronic communications to the public shall distribute public interest information free of charge to end-users, where appropriate, by the same means as those ordinarily used by them in their communications with end-users. In such a case, that information shall be provided by the relevant public authorities to the providers of electronic communications to the public in a standardised format and may, <i>inter alia</i>, cover the following topics:</p>	<p>(4) Upon request of the relevant public authorities, providers of electronic communications to the public shall distribute public interest information free of charge to end-users, where appropriate, by the same means as those ordinarily used by them in their communications with end-users. In such a case, that information shall be provided by the relevant public authorities to the providers of electronic communications to the public in a standardised format and may, <i>in particular</i>, cover <i>information and the means of protection against risks to personal security or unlawful access to personal data when using electronic communications services</i>.</p>
<p>This amendment goes in the right direction but it might be further improved if some changes are made in the mechanism to inform the public, by removing the intervention of the public authorities which will enable citizens to directly request the information. Finally, the author decided to remove</p>	

the list system and included its content in the final sentence. The solution proposed by the author is good, even though the list system wasn't bad either.

Amendment 247 - Franz Obermayr

Article 25 – paragraph 4 – point a ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>(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</i>	<i>deleted</i>
<p>See comments on AM 246. The author decided to remove the list system and included its content in the final sentence. The solution proposed by the author is good, even though the list system wasn't bad either.</p>	

Amendment 248 - Franz Obermayr

Article 25 – paragraph 4 – point b ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>(b) the means of protection against risks to personal security and unlawful access to personal data when using electronic communications services.</i>	<i>deleted</i>
<p>See comments on AM 246. The author decided to remove the list system and included its content in the final sentence. The solution proposed by the author is good, even though the list system wasn't bad either.</p>	

Amendment 249 - Christian Engström

Article 25 – paragraph 4 – point b ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(b) the means of protection against risks to	(b) the means of protection against risks to

<p>personal security and unlawful access to personal data when using electronic communications services.</p>	<p>personal security and unlawful access to personal data when using electronic communications services, <i>including the measures taken by the provider of electronic communications and any impact thereof on personal data protection.</i></p>
<p>This addition brings legal clarity.</p>	

Amendment 250 - Jürgen Creutzmann

Article 26 -	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p style="text-align: center;">Article 26</p> <p style="text-align: center;"><i>Information requirements for contracts</i></p> <p><i>1. Before a contract on the provision of connection to a public electronic communications network or publicly available electronic communications services becomes binding providers of electronic communications to the public shall provide consumers, and other end-users unless they have explicitly agreed otherwise, at least the following information:</i></p> <p><i>(a) the identity, address and contact information of the provider and, if different, the address and contact information for any complaints;</i></p> <p><i>(b) the main characteristics of the services provided, including in particular:</i></p> <p><i>(i) for each tariff plan the types of services offered, the included volumes of communications and all relevant quality of service parameters, including the time for the initial connection;</i></p> <p><i>(ii) whether and in which Member States access to emergency services and caller location information is being provided and any limitations on the provision of emergency services in accordance with Article 26 of Directive 2002/22/EC;</i></p> <p><i>(iii) the types of after-sales services, maintenance services and customer support services provided, the conditions and charges</i></p>	<p><i>deleted</i></p>

for these services, and the means of contacting these services;

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

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

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

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

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

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

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

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

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

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

(i) the means of initiating procedures for the

settlement of disputes, including cross-border disputes, in accordance with Article 34 of Directive 2002/22/EC and Article 22 of this Regulation;

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

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

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

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

(c) other quality of service parameters;;

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

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

3. The information referred to in paragraphs 1 and 2 shall be provided in a clear, comprehensive and easily accessible manner and in an official language of the end-user's Member State of residence, and shall be

updated regularly. It shall form an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise. The end-user shall receive a copy of the contract in writing.

4. The Commission may adopt implementing acts specifying the details of the information requirements listed in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2).

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

Information on requirements for contracts is a necessary component of this Regulation. Its deletion from the proposed Regulation and proposed inclusion in the USD Directive from 2002 is not welcome.

Amendment 251 - Christian Engström

Article 26 – paragraph 1 – point b – point iv a (new)

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(iv a) any necessary technical information, free of charge, for the end-user to use the terminal equipment of his choice</i>
This amendment strengthens end-users' rights.	

Amendment 252 - Christian Engström

Article 26 – paragraph 1 – point c

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<i>Text proposed by the Commission</i>	<i>Amendment</i>

(c) details of prices and tariffs (<i>for consumers</i> including taxes and <i>possibly due additional charges</i>) and the means by which up-to-date information on all applicable tariffs and charges are made available;	(c) details of prices and tariffs, including taxes and <i>additional charges that may be levied</i> and the means by which up-to-date information on all applicable tariffs and charges are made available;
This amendment strengthens end-users' rights and brings legal clarity.	

Amendment 253 - Christian Engström

Article 26 – paragraph 1 – point e – point iii ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(iii) any charges due on early termination of the contract, including any cost recovery with respect to terminal equipment (on the basis of customary depreciation methods) and other promotional advantages (on a pro rata temporis basis);	(iii) any charges due on early termination of the contract, including any cost recovery with respect to terminal equipment, on the basis of customary depreciation methods and other promotional advantages, on a pro rata temporis basis;
This amendment provides legal clarity.	

Amendment 254 - Christian Engström

Article 26 – paragraph 1 – point f ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(f) any compensation and refund arrangements, including an explicit reference to statutory rights of the end-user, which apply if contracted service quality levels are not met;	(f) any compensation and refund arrangements, including an explicit reference to statutory rights of the end-user, which apply, <i>including the right to rescind the contract</i> , if contracted service quality levels are not met;
This amendment strengthens end-users' rights.	

Amendment 255 - Christian Engström

Article 26 – paragraph 1 – point g ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(g) where an obligation exists in accordance	(g) where an obligation exists in accordance with

with Article 25 of Directive 2002/22/EC, the end-users' options as to whether or not to include their personal data in a directory, and the data concerned;

Article 25 of Directive 2002/22/EC, the end-users' options as to whether or not to include their personal data in a directory, and the data concerned; ***in accordance with Article 12 of Directive 2002/58/EC, end-users should also be informed of the purposes of such a directory and use of this data for search functions, and end-users should be given information regarding the modalities of exercising their rights to verify, correct or withdraw their personal data from the directory in question.***

This amendment strengthens end-users' rights and provides legal clarity.

Amendment 256 - Christian Engström

Article 26 – paragraph 1 – point j

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
(j) the type of action that might be taken by the provider in reaction to security or integrity incidents or threats and vulnerabilities.	(j) the type of action that might be taken by the provider in reaction to security or integrity incidents or threats and vulnerabilities. <i>This information shall include information on the communications inspection techniques underlying such actions, as well as their effect on end user privacy and data protection rights</i>
This amendment strengthens end-users' rights.	

Amendment 257 - Josef Weidenholzer

Article 26 – paragraph 1 – point j

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(j) the type of action that might be taken by the provider in reaction to security or integrity incidents or threats and vulnerabilities.	(j) the type of action that might be taken by the provider in reaction to security or integrity incidents or threats and vulnerabilities, <i>its technical functioning and the objectives defined in Article 25(5). The impact of this action on data protection and the privacy of end-users shall also be described.</i>
This amendment strengthen end-users' rights and provides legal clarity.	

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Amendment 258 - Christian Engström

Article 26 – paragraph 1 – point j – point i (new) ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>i) the purposes for which end-user personal data will be processed, and justification thereof;</i>
This amendment strengthens end-users' rights.	

Amendment 259 - Christian Engström

Article 26 – paragraph 1 – subparagraph 1 (new) ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>1a) In addition to the information referred to in paragraph 1, if the contract includes the provision of internet access and data services, that contract shall include the following information:</i> <i>a) 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 basis, and any data speed limitations that may be applied.</i> <i>b) how end-users can monitor the current level of their consumption, and define the level of their preferred consumption limit</i> <i>c) the actual available data speed for download and upload at the main location of the end-user, as well as the minimum guaranteed speeds</i> <i>d) other quality of service of service parameters as defined in this Regulation, in addition Member States may impose additional parameters</i> <i>e) a clear and easily understood explanation of how any volume limitation, the actual available speeds and other quality of service parameters</i>

	<i>may have a practical impact on the use of content applications and services</i>
We welcome this amendment. It significantly strengthens end-users' rights.	

Amendment 260 - Franz Obermayr

Article 26 – paragraph 2 – point a ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(a) the level of applicable data volume limitations, if any; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and how end-users can at any moment monitor the current level of their consumption;	(a) the level of applicable data volume limitations, if any; <i>the services and specialised services included in the data volume</i> ; the prices for increasing the available data volume on an ad hoc or lasting basis; the data speed, and its cost, available after full consumption of the applicable data volume, if limited; and how end-users can at any moment monitor the current level of their consumption;
This amendment strengthen end-users' rights.	

Amendment 261 - Sabine Verheyen, Birgit Collin-Langen

Article 26 – paragraph 2 – point b +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(b) the actually available data speed for download and upload at the main location of the end-user, including <i>actual</i> speed ranges, speed averages and peak-hour speed, including the potential impact of allowing access to third parties through a radio local area network ;	(b) the actually available data speed for download and upload at the main location of the end-user, including <i>minimum</i> speed ranges, speed averages and peak-hour speed, including the potential impact of allowing access to third parties through a radio local area network ;
Information on the minimum speed range available is a good indication for users but they should also know their actual speed range, that might be higher.	

Amendment 262 - Christian Engström

Article 26 – paragraph 5 a (new) -	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

	<i>5 a. Member States may maintain or introduce additional requirements in relation to contracts to which this Article applies.</i>
This amendment might create fragmentation in the requirements for contracts and similarly fragment users' rights throughout Europe.	

Amendment 263 - Josef Weidenholzer

Article 26 – paragraph 5 a (new) ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>(5a) The end-user shall have the right to consult and delete all personal data collected by the provider.</i>
We welcome this amendment as it strengthens end-users' rights.	