

Comments on ITRE Amendments for TSM Regulation

EDRi generally welcomes the amendments to the ITRE 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 154 Giles Chichester Draft legislative resolution Paragraph 1 /	
<i>Draft legislative resolution</i>	<i>Amendment</i>
1. <i>Adopts its position at first reading hereinafter set out;</i>	1. <i>Rejects the Commission proposal;</i>
Comment: The motivations behind this amendment are understandable given the unreasonable timeline the European Parliament has been given to negotiate this proposal.	

Or. en

Amendment 155 Sabine Verheyen, Petra Kammerevert, Helga Trüpel, Doris Pack Proposal for a regulation /	
<i>Draft legislative resolution</i>	<i>Proposal for a rejection</i>
	<i>The European Parliament rejects [the Commission proposal].</i>
Comment: The motivations behind this amendment are understandable given the unreasonable timeline the European Parliament has been given to negotiate this proposal..	

Or. de

Amendment 252 Petra Kammerevert Proposal for a regulation Recital 47 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet access services , not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child	(47) In an open internet, providers of electronic communications to the public ought not to delete, block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a number of reasonable traffic management measures that are clearly defined in this Regulation and individually justified . Such measures must be transparent, necessary and proportionate.

<i>pornography. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</i>	
Comment : This amendment is welcome as it provides clarity.	

Amendment 253 Edit Herczog Proposal for a regulation Recital 47	
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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>	<p>(47) In an open Internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for Internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be relevant, efficient, transparent, proportionate and non-discriminatory, and in accordance with existing laws including, inter alia, privacy and data protection. Preserving the integrity and security of the network and minimising the effects of network congestion through traffic management measures should be considered reasonable provided that it occurs only temporarily or in exceptional circumstances and provided that equivalent types of traffic are treated equally.</p>
Comment : We welcome the clarifications provided in this amendment and the removal of 'voluntary actions', which are unrelated to the types of traffic management covered by the Regulation and which would, in any event, be in violation of Article 52 of the Charter of Fundamental Rights.	

Amendment 254 Catherine Trautmann, Dimitrios Droutsas, Edit Herczog Proposal for a regulation

Recital 47

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>	<p>(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet access services and the general characteristics of the service, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances and if, upon request from the competent national authorities, the provider can demonstrate that equal treatment of traffic would be substantially less efficient.</p> <p>When a provider of electronic communications takes such measures, it should also inform the content, applications and services providers which are affected.</p>
<p>Comment : This amendment goes in the right direction by clarifying the ground upon which traffic management can be considered reasonable, however a further improvement would be to remove “within contractually...and the general characteristics of the service”.</p>	

Amendment 255
Seán Kelly
Proposal for a regulation
Recital 47

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

<p>of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>	<p>of reasonable traffic management measures. Such measures should be efficient, appropriate, transparent, proportionate and non-discriminatory and in line with existing laws, including, inter alia, data protection. Reasonable traffic management encompasses the prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Preserving the integrity and security of the network and minimising the effects of network congestion through traffic management measures should be considered reasonable provided that it occurs only temporarily or in exceptional circumstances and provided that equivalent types of traffic are treated equally.</p>
<p>Comment : There is no need to reiterate that this Regulation will be in line with existing EU laws. Furthermore, the sentence “within contractually agreed... for internet access services” is problematic as it provides a loophole whereby ISPs can circumvent any obligations to refrain from discrimination by simply offering a variety of discriminatory contracts to end-users. Finally, traffic management measures are not “reasonable” when they encourage ISPs to block or filter content outside of the rule of law as this is contrary to Article 52 of the Charter of Fundamental Rights.</p>	

<p>Amendment 256 Teresa Riera Madurell Proposal for a regulation Recital 47</p>	
<p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</i></p>
<p>(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child</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 to the legitimate goal to be attained 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</p>

<p>pornography. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>	<p>congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances and that the provider is able to demonstrate at the request of the national competent authority that impartial traffic management would prove less efficient.</p> <p>When taking such measures providers of electronic communications should inform the content, applications and services providers concerned.</p>
<p>Comment : This amendment goes in the right direction as it removes a dangerous loophole (“within contractually agreed...access services”), however a further improvement would be to remove the reference to voluntary actions on behalf of ISPs, as such approaches, which are not based on law, are in violation of Article 52 of the Charter of Fundamental Rights.</p>	

<p>Amendment 257 Ioannis A. Tsoukalas Proposal for a regulation Recital 47</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>	<p>(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be relevant, transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes and should be in accordance with existing laws including, inter alia, privacy and data protection. Preserving the integrity and security of the network and minimising the effects of network congestion through traffic management measures should be considered reasonable provided that it occurs only temporarily or in exceptional circumstances.</p>
<p>Comment : There is no need to reiterate that this Regulation will be in line with existing EU laws. We welcome the proposed deletion of the sentence “within contractually agreed... for internet access services”. This is problematic as it provides a loophole whereby ISPs can circumvent any obligations to refrain from discrimination by simply offering a variety of</p>	

discriminatory contracts to end-users. Finally, traffic management measures are not “reasonable” when they encourage ISPs to block or filter content outside of the rule of law. This sentence must be deleted in order for the Regulation to be in line with Article 52 of the Charter of Fundamental Rights.

Or. en

Amendment 258
Jean-Pierre Audy
Proposal for a regulation
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, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>	<p>(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. <i>Any price discrimination or discriminatory conditions relating to data volumes and speeds in respect of specific content, applications or services should be prohibited.</i> Reasonable traffic management 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. <i>As soon as they implement such measures, providers of electronic communications to the public must notify the providers of content, applications or services.</i></p>
<p>Alternative comment: This text is broadly positive but is excessively complicated. It is better to remove the loophole of permitting agreements based on data volumes and speeds than leaving it in and then adding text that seeks to close that same loophole. The text on preventing serious crimes needs to be removed, as the Commission's proposed text is in clear breach of Article 52 of the Charter of Fundamental Rights.</p>	

Comment : This amendment goes in the right direction by explicitly forbidding price discrimination related to data volumes and speeds, however regrettably it fails to address existing loopholes including the sentence “within contractually agreed... for internet access services” which would allow ISPs to offer discriminatory contracts to end-users. Finally, traffic management measures are not “reasonable” when they encourage ISPs to block or filter content outside of the rule of law. This sentence must be deleted in order for the Regulation to be in line with Article 52 of the Charter of Fundamental Rights.

Or. fr

Amendment 259
Sabine Verheyen
Proposal for a regulation
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, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion should be considered reasonable <i>provided that network congestion occurs only temporarily or in exceptional circumstances.</i></p>	<p>(47) In an open internet, providers of electronic communications to the public should, within contractually agreed limits on data volumes and speeds for internet access services, not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion should be considered reasonable <i>in demonstrated temporary cases of acute traffic congestion, provided that equivalent types of traffic are treated equally.</i></p>
<p>Comment : The sentence “within contractually agreed... for internet access services” is problematic as it provides a loophole whereby ISPs can circumvent any obligations to refrain from discrimination by simply offering a variety of discriminatory contracts to end-users. Finally, traffic management measures are not “reasonable” when they encourage ISPs to block or filter content outside of the rule of law. This sentence must be deleted in order for the Regulation to be in line with Article 52 of the Charter of Fundamental Rights.</p>	

Amendment 260
Amelia Andersdotter
Proposal for a regulation
Recital 47

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<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 <i>reasonable</i> traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. <i>Reasonable traffic management encompasses prevention or impediment of serious crimes, including voluntary actions of providers to prevent access to and distribution of child pornography</i>. Minimising the effects of network congestion should be considered reasonable 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 <i>technically-reasonable, non-commercially based</i>, traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>
<p>Comment: These deletions provide legal clarity and strengthen the rights of users.</p>	

Amendment 261
Françoise Castex
Proposal for a regulation
Recital 47

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<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. 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</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 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</p>

network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.	congestion occurs only temporarily or in exceptional circumstances.
<p>Comment: While we support the removal of the phrase “within contractually agreed...”, the badly drafted Commission text on reasonable traffic management provisions is problematic and is not addressed by this amendment. First, there is no definition of “serious crime” in the text (nor elsewhere in the EU acquis) 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 permit ISPs to undertake measures that would fall outside the rule of law.</p>	

Or. en

<p>Amendment 262 Marietje Schaake, Nadja Hirsch Proposal for a regulation Recital 47 -</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(47) In an open internet, providers of electronic communications to the public <i>should, 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 <i>should</i> be transparent, proportionate and non-discriminatory. Reasonable traffic management <i>encompasses prevention or impediment of serious crimes, including</i> voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion <i>should</i> be considered reasonable 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 <i>clearly defined</i> reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory. Reasonable traffic management <i>could encompass</i> voluntary actions of providers to prevent access to and distribution of child pornography, <i>subject to judicial review.</i> Minimising the effects of network congestion <i>could</i> be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>
<p>Comment: While we support the removal of the phrase “within contractually agreed...”, the provision on voluntary actions of providers to prevent access to child pornography would permit ISPs to undertake measures that would fall outside the rule of law and outside a judicial framework. Such a provision would be contrary to Article 52 of the Charter.</p>	

Amendment 263 Jean-Pierre Audy
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Proposal for a regulation
Recital 47 a (new)
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<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(47 a) The Charter of Fundamental Rights of the European Union requires that limitations to the respect for private life, right of confidentiality of communications, right to data protection or freedom to receive or impart information must be provided for by law and respect the essence of those rights and freedoms. In the context of traffic management measures, the CJEU in Case C-70/10, SABAM v. Tiscali (Scarlet), with respect to general monitoring of electronic communications, states that an imposition of an obligation on an Internet service provider of electronic communications or services to indiscriminately monitor communications would constitute not only a serious infringement on the freedom of the provider to conduct its business, but may also infringe the fundamental rights of the customers of the provider. Any scheme involving general monitoring of communications by providers of electronic communications or services should therefore be specifically provided for by Union law, or national law adopted in conformity with Union law;</i></p>
<p>Comment: While this re-affirmation is useful, it contradicts the same Member's amendment 258, which permits infringement of freedom of communication which take place outside the rule of law.</p>	

Amendment 264
Petra Kammerevert
Proposal for a regulation
Recital 47 a (new)
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<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><i>(47a) This Regulation is without prejudice to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic</i></p>

	<i>communications sector (E-Privacy Directive).</i>
Comment: While it should not be necessary to clarify this point, there are elements of the proposed Regulation which could be understood as overriding and weakening existing legislation.	

Amendment 265 Jean-Pierre Audy Proposal for a regulation Recital 48 -	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow end-users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of electronic communications to the public to better adapt network capacities to expected data volumes. It is essential that end-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired.</p>	<p>(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow end-users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of electronic communications to the public to better adapt network capacities to expected data volumes. <i>In order to customize their offers to meet end-user demand for specific content, services or applications, providers of electronic communications may provide offers where the conveyance of data for such content, services or applications is not deducted from the customers data allowance.</i> It is essential that end-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired.</p>
Comment: This amendment allows ISP to discriminate on content and services by entering into preferential agreements with end-users and thus undermining their rights. This, in essence, would create exactly the same “sending party pays” problems for the Internet that the roaming provisions of this Regulation is seeking to remove.	

Recital 48

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow end-users to choose the tariff corresponding to their normal data consumption based on transparent information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of electronic communications to the public to better adapt network capacities to expected data volumes. It is essential that end-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired.</p>	<p>(48) Volume-based tariffs should be considered compatible with the principle of an open internet as long as they allow end-users to choose the tariff corresponding to their normal data consumption based on clear, transparent and explicit information about the conditions and implications of such choice. At the same time, such tariffs should enable providers of electronic communications to the public to better adapt network capacities to expected data volumes. It is essential that end-users are fully informed before agreeing to any data volume or speed limitations and the tariffs applicable, that they can continuously monitor their consumption and easily acquire extensions of the available data volumes if desired.</p>
<p>Comment: This amendment brings clarity.</p>	

Amendment 267

Seán Kelly

Proposal for a regulation

Recital 49

+

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(49) <i>There is also end-user demand for</i> services and applications <i>requiring</i> an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. <i>Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications.</i> End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services.</p>	<p>(49) Services and applications <i>delivered with</i> an enhanced level of assured service quality <i>can be</i> offered by providers of electronic communications to the public or by content, applications or service providers. End-users should therefore also be free to conclude agreements on the provision of <i>such</i> specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services. <i>Where such agreements are concluded with the internet access provider, the provider should ensure that the enhanced quality service does not diminish the general quality of internet access. Take-up by end-users and application and commercial service providers of specialised services</i></p>

	<i>should thus be on a voluntary and non-discriminatory basis.</i>
<p>Comment: This text is very unclear. For example, it is difficult to understand why, if the first line of the recital is meant to refer to (defined) specialised services, it does not refer to specialised services. It is also not clear if discrimination between services would be permitted by such provisions.</p>	

<p>Amendment 268 Lambert van Nistelrooij Proposal for a regulation Recital 49 +</p>	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services.</p>	<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services. <i>The provision of such specialised services should not impair the general quality of internet access. Furthermore, traffic management measures should not be applied in such a way as to discriminate against specialised services competing with those offered by the provider of internet access either directly or in partnership with other undertakings unless there is an objective justification.</i></p>
<p>Comment: It is not clear what “general quality” might mean. Furthermore, explicitly stating that discriminating against “specialised services competing with those offered by the” access provider implies that discrimination against online – but not specialised – services would be permitted</p>	

Herczog
Proposal for a regulation
Recital 49
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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(49) There is also end-user demand for services and applications requiring <i>an enhanced level of assured service quality</i> offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an <i>enhanced</i> quality of service with either providers of electronic communications to the public or providers of content, applications or services.</p>	<p>(49) There is also end-user demand for services and applications requiring <i>optimisations in order to ensure adequate service characteristics</i> offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an <i>optimised</i> quality of service with either providers of electronic communications to the public or providers of content, applications or services. <i>Where such agreements are implemented alongside Internet access services, the responsible providers should ensure that the optimised quality service does not impair the general quality of internet access.</i></p>
<p>Comment: This amendment brings needed clarification, assuming an appropriate definition of “specialised services” is adopted. “General quality” is also somewhat vague.</p>	

Amendment 270
Ioannis A. Tsoukalas
Proposal for a regulation
Recital 49
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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an</p>	<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an</p>

<p>enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services.</p>	<p>enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services. <i>Take-up by end-users or by providers of content, applications and services of commercial offers for specialised services should be on a voluntary and non-discriminatory basis.</i></p>
<p>Comment: This amendment brings clarification, assuming an appropriate definition of “specialised services” is adopted</p>	

<p>Amendment 271 Ivo Belet Proposal for a regulation Recital 49 +</p>	
<p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</i></p>
<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services.</p>	<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services. <i>However these specialised services should remain the exception and should not be marketed or widely used as a substitute for internet access service;</i></p>
<p>Comment: This amendment goes in the right direction but could be further improved. “widely” should be deleted in order to bring clarity. The acceptability of the amendment depends on the adoption of an adequate definition of “specialised services”</p>	

<p>Amendment 272 Gunnar Hökmark Proposal for a regulation Recital 49</p>	
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<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services.</p>	<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public or by content, applications or service providers. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with either providers of electronic communications to the public or providers of content, applications or services. <i>It should be ensured that such agreements do not impair the general quality of internet access and lead to a two speed Internet.</i></p>
<p>Comment: It is unclear what “general” means. The reference to a two speed internet risks being understood as saying that discrimination is possible as long as the scale does not fundamentally undermine the functioning of online networks.</p>	

Amendment 273 Jean-Pierre Audy Proposal for a regulation Recital 49 -	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public <i>or by content, applications or service providers.</i> Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with <i>either</i> providers of electronic communications to the public <i>or providers of content, applications or services.</i></p>	<p>(49) There is also end-user demand for services and applications requiring an enhanced level of assured service quality offered by providers of electronic communications to the public. Such services may comprise inter alia broadcasting via Internet Protocol (IP-TV), video-conferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an enhanced quality of service with providers of electronic communications to the public.</p>

Comment: The Commission's text is already unclear – it is bizarre, for example, for an EU regulation to establish that there is, for the duration of validity of the instrument – demand for a particular product or service. However, this proposal does not add any clarity.

Amendment 274
Petra Kammerevert
Proposal for a regulation
Recital 50
 ++

Text proposed by the Commission

Amendment

(50) In addition, there is demand on the part of content, applications and services providers, for the provision of transmission services based on *flexible* quality parameters, **including lower levels of priority for traffic which is not time-sensitive. 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.**

(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. **For the provision of specialised services in closed networks, it is necessary that content, applications and service providers have the opportunity to negotiate such a specific quality of service levels with providers of electronic communications to the public for a limited group of users. This** is expected to play an important role in the development of new services such as machine-to-machine (M2M) communications. **Specialised services must not impair the quality of open internet access services nor be marketed as a substitute for the internet or used as such. They are permissible only if there is a demonstrable technical and specific need for them, beyond economic self-interest, as a means of providing real-time-critical applications, or applications at a particular level of quality. If specialised services are offered or marketed by access network providers, the latter have an obligation to also offer an open internet access service within the meaning of recital 45. All open internet services are subject to the best-effort principle.**

Comment: This amendment creates some consistency. By narrowing the scope of what is considered to be a “specialised service”, the danger of this recital being abused to undermine net neutrality is reduced.

Amendment 275
Marietje Schaake, Nadja Hirsch

Proposal for a regulation**Recital 50**

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<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 <i>is necessary for the provision of specialised services and is expected to play an important role in</i> 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 <i>substantially</i> impair the <i>general</i> 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 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 <i>could foster</i> 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 <i>defined levels of quality are technically necessary for the functionality of the service and these</i> agreements do not impair the quality of internet access services, <i>in accordance with the principle of net neutrality</i>.</p>
<p>Comment: This amendment improves the Commission text, but relies on the inclusion of a definition of “net neutrality” in the Regulation.</p>	

Amendment

276

Jean-Pierre Audy**Proposal for a regulation****Recital 50**

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<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-</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-</p>

<p>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>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. <i>In that respect, the dynamic allocation of the capacity not used for specialised services, when they are switched off, to the internet access service contributes to its overall quality;</i></p>
<p>Comment: This amendment is well-intentioned but would not produce a practical benefit in practice.</p>	

<p>Amendment 277 Françoise Castex Proposal for a regulation Recital 50 ++</p>	
<p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</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 <i>is necessary for</i> the provision of specialised services and is expected to play an important role in the development of new services such as</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 <i>could serve to</i> the provision of specialised services and is expected to play an important role in the development of new services such as</p>

<p>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>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 quality characteristics are technically necessary for the functionality of the service and agreements do not impair the quality of internet access services.</p>
<p>Comment: This amendment improves the Commission text.</p>	

<p>Amendment 278 Amelia Andersdotter Proposal for a regulation Recital 50 ++</p>	
<p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</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 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</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 could be used 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 quality characteristics are technically</p>

<i>general</i> quality of internet access services.	<i>necessary for the functionality of the service and</i> agreements do not impair the quality of internet access services.
Comment: This amendment improves the Commission text.	

Amendment 279 Teresa Riera Madurell Proposal for a regulation 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 <i>is necessary for</i> 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 <i>substantially</i> impair the <i>general</i> 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 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 <i>opens the door to</i> 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.</p>
Comment: While we welcome the intention behind this amendment, further improvement might be needed. “open the door” could be replace by “could be used for”.	

Amendment 280 Róza Gräfin von Thun und Hohenstein Proposal for a regulation Recital 50 +	
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<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 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.</p>
<p>Comment: While we welcome the intention to bring more clarity, this amendment might need further improvement.</p>	

<p>Amendment 281 Catherine Trautmann Proposal for a regulation Recital 50 -</p>	
<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</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 may be</p>

<p>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>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>Comment: While we welcome the intention to bring more clarity, this amendment might need further improvement.</p>	

Amendment 282
 Marietje Schaake, Nadja Hirsch
 Proposal for a regulation
 Recital 51
 ++

Text proposed by the Commission	Amendment
<p>(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise this freedom to avail of open internet access. To this end national regulatory authorities should have monitoring and reporting obligations, and ensure compliance of providers of electronic communications to the public and the availability of non-discriminatory internet access services of high quality which are not impaired by specialised services. In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with specialised services, and quality as perceived by end-users. National regulatory authorities should be empowered to impose minimum quality of service requirements on all or individual providers of electronic communications to the</p>	<p>(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise this freedom to avail of open internet access. To this end national regulatory authorities should have monitoring and reporting obligations, and ensure compliance of providers of electronic communications to the public and the availability of non-discriminatory internet access services of high quality which are not impaired by specialised services. <i>National regulatory authorities should establish clear and comprehensible notification and redress mechanisms for end-users subjected to discrimination, restriction or interference of online content, services or applications.</i> In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with specialised</p>

<p>public if this is necessary to prevent general impairment/degradation of the quality of service of internet access services.</p>	<p>services, and quality as perceived by end-users. National regulatory authorities should be empowered to impose minimum quality of service requirements on all or individual providers of electronic communications to the public if this is necessary to prevent general impairment/degradation of the quality of service of internet access services.</p>
<p>Comment: The addition improves users' rights.</p>	

<p>Amendment 283 Giles Chichester Proposal for a regulation Recital 51 -</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</p>
<p>(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise this freedom to avail of open internet access. To this end national regulatory authorities should have monitoring and reporting obligations, and ensure compliance of providers of electronic communications to the public and the availability of non-discriminatory internet access services of high quality which are not impaired by specialised services. In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with specialised services, and quality as perceived by end-users. National regulatory authorities should be empowered to impose minimum quality of service requirements on all or individual providers of electronic communications to the public if this is necessary to prevent general impairment/degradation of the quality of service of internet access services.</p>	<p>(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise this freedom to avail of open internet access. To this end national regulatory authorities should have monitoring and reporting obligations, and ensure compliance of providers of electronic communications to the public and the availability of non-discriminatory internet access services of high quality. In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with enhanced quality services, and quality as perceived by end-users. National regulatory authorities should be empowered to impose minimum quality of service requirements on all or individual providers of electronic communications to the public if this is necessary to prevent general impairment/degradation of the quality of service of 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.</p>
<p>Comment: While this amendment goes in the right direction, NRAs obligation to monitor the impact of specialised services on the quality of the network should not be deleted.</p>	

Amendment 284
 Petra Kammerevert
 Recital 51
 ++

Text proposed by the Commission	Amendment
<p>(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise this freedom to avail of open internet access. To this end national regulatory authorities should have monitoring and reporting obligations, and ensure compliance of providers of electronic communications to the public and the availability of non-discriminatory internet access services of high quality which are not impaired by specialised services. In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with specialised services, and quality as perceived by end-users. National regulatory authorities should be empowered to impose minimum quality of service requirements on all or individual providers of electronic communications to the public if this is necessary to prevent general impairment/degradation of the quality of service of internet access services.</p>	<p>(51) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise the right to avail of open internet access. To this end national regulatory authorities should have monitoring and reporting obligations, and ensure compliance of providers of electronic communications to the public and the availability of non-discriminatory internet access services of high quality which are not impaired by specialised services. In their assessment of a possible general impairment of internet access services, national regulatory authorities should take account of quality parameters such as timing and reliability parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with specialised services, and quality as perceived by end-users. National regulatory authorities should be empowered to impose minimum quality of service requirements on all or individual providers of electronic communications to the public if this is necessary to prevent general impairment/degradation of the quality of service of internet access services.</p>
<p>Comment: The change from “freedom” to “right” brings clarity and legal certainty.</p>	

Amendment 340
 Petra Kammerevert
 Article 2 – paragraph 2 – point 11 a (new)
 ++

Text proposed by the Commission	Amendment
	<p><i>(11a) ‘Best effort principle’ means the assurance that requests for forwarding of data will be dealt with in chronological order of receipt as quickly as possible and irrespective of content, service, use, origin or destination;</i></p>

Comment: This amendment provides a good definition of the “best effort principle”.

Amendment 341

Ivo Belet

Article 2 – paragraph 2 – point 12

++

Text proposed by the Commission	Amendment
<i>(12) ‘assured service quality (ASQ) connectivity product’ means a product that is made available at the internet protocol (IP) exchange, which enables customers to set up an IP communication link between a point of interconnection and one or several fixed network termination points, and enables defined levels of end to end network performance for the provision of specific services to end users on the basis of the delivery of a specified guaranteed quality of service, based on specified parameters;</i>	<i>deleted</i>
Comment: We welcome this deletion if it comes together with the full deletion of article 19 as ASQ is superfluous and could hinder innovation and competition.	

Amendment 342

Catherine Trautmann, Teresa Riera Madurell

Article 2 – paragraph 2 – point 12

++

Text proposed by the Commission	Amendment
<i>(12) ‘assured service quality (ASQ) connectivity product’ means a product that is made available at the internet protocol (IP) exchange, which enables customers to set up an IP communication link between a point of interconnection and one or several fixed network termination points, and enables defined levels of end to end network performance for the provision of specific services to end users on the basis of the delivery of a specified guaranteed quality of service, based on specified parameters;</i>	<i>deleted</i>
Comment: We welcome this deletion if it comes together with the full deletion of article 19 as ASQ	

is superfluous and could hinder innovation and competition.

Amendment 343
Marietje Schaake
Article 2 – paragraph 2 – point 12
++

Text proposed by the Commission	Amendment
<i>(12) 'assured service quality (ASQ) connectivity product' means a product that is made available at the internet protocol (IP) exchange, which enables customers to set up an IP communication link between a point of interconnection and one or several fixed network termination points, and enables defined levels of end to end network performance for the provision of specific services to end users on the basis of the delivery of a specified guaranteed quality of service, based on specified parameters;</i>	<i>deleted</i>
Comment: We welcome this deletion if it comes together with the full deletion of article 19 as ASQ is superfluous and could hinder innovation and competition.	

Amendment 344
Petra Kammerevert
Article 2 – paragraph 2 – point 12
++

Text proposed by the Commission	Amendment
<i>(12) "assured service quality (ASQ) connectivity product" means a product that is made available at the internet protocol (IP) exchange, which enables customers to set up an IP communication link between a point of interconnection and one or several fixed network termination points, and enables defined levels of end to end network performance for the provision of specific services to end users on the basis of the delivery of a specified guaranteed quality of service, based on specified parameters;</i>	<i>deleted</i>
Comment: We welcome this deletion if it comes together with the full deletion of article 19 as ASQ	

is superfluous and could hinder innovation and competition.

Amendment 345
Petra Kammerevert
Article 2 – Paragraph 2 – point 12 a (new)
+

Text proposed by the Commission	Amendment
	<i>(12a) ‘justified traffic management’ means traffic management which, derogating from the best effort principle, is permissible where it is dictated by technical constraints and is in line with the general principles of necessity, reasonability, efficiency assurance, non-discrimination and transparency as well as the other conditions of this regulation;</i>

Comment: This amendment provides a good basis for the definition of reasonable or justified traffic management. In addition to the principles stated in this amendment, traffic management measures should also be targeted, temporary and in accordance with the law.

Amendment 346
Marietje Schaake, Nadja Hirsch, Amelia Andersdotter
Article 2 – paragraph 2 – point 12 a (new)
++

Text proposed by the Commission	Amendment
	<i>(12 a) "net neutrality" means the principle that all internet traffic is treated equally, without discrimination, restriction or interference, independent of its sender, receiver, type, content, device, service or application;</i>

Comment: This amendment provides a good definition of net neutrality.

Amendment 347
Petra Kammerevert
Article 2 – paragraph 2 – point 14
++

Text proposed by the Commission	Amendment
(14) "internet access service" means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points	(14) ‘internet access service’ means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points

connected to the internet, irrespective of the network technology used;	connected to the internet, irrespective of the network technology used; <i>the Member States shall lay down appropriate minimum requirements for the quality of service of internet access services which shall continually be upgraded in line with technological developments; an internet access service enables end-users to use any internet-based application in accordance with the best effort principle; the only permissible derogation from this principle is proportionate, justified traffic management, in cases where the conditions for its use are clearly defined;</i>
Comment: The addition made on best effort principle brings clarification.	

Amendment 348 Sabine Verheyen, Ivo Belet, Doris Pack Article 2 – paragraph 2 – point 14 ++	
Text proposed by the Commission	Amendment
(14) ‘internet access service’ means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between <i>virtually</i> all end points connected to the internet, irrespective of the network technology used;	(14) <i>'open</i> internet access service' means a publicly available electronic communications service that provides connectivity to the internet <i>at a level of quality that reflects the advances in technology</i> , and thereby <i>allows for</i> connectivity between all end points connected to the internet, irrespective of the network technology used <i>and without any restrictions to the legal content exchanged. It enables end-users to run any application utilising the electronic communication function of the Internet. Unrestricted Internet access service is based on the best efforts principle, the only exceptions allowed are proportionate technical traffic management measures or implementation of court order;</i>
Comment: The word “open” adds no obvious meaning. The word “legal” also has no practical value as “illegal” content is covered by other legislation. However, the addition on the best effort principle and its exceptions brings clarity.	

Amendment 349
 Jean-Pierre Audy
 Article 2 – paragraph 2 – point 14

++	
Text proposed by the Commission	Amendment
(14) "internet access service" means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used;	(14) "internet access service" means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used. <i>It allows end-users to run any application using an electronic communications network on the basis of the 'best effort' principle;</i>
Comment: The addition on the best effort principle brings clarity.	

Amendment 350 Amelia Andersdotter Article 2 – paragraph 2 – point 14 ++	
Text proposed by the Commission	Amendment
(14) 'internet access service' means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used;	(14) 'internet access service' means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used; <i>It enables end-users to run any application utilising the electronic communications network of the internet.</i>
Comment: This amendment could be further improved by adding a mention to the best effort principle.	

Amendment 351 Catherine Trautmann Article 2 – paragraph 2 – point 14 +	
Text proposed by the Commission	Amendment
(14) 'internet access service' means a publicly available electronic communications service that provides connectivity to the internet, and <i>thereby</i> connectivity between virtually all end points <i>connected to</i> the internet, irrespective of the network <i>technology</i> used;	(14) 'internet access service' means a publicly available electronic communications service that provides connectivity to the internet, and <i>therewith</i> connectivity between virtually all end points <i>of</i> the internet, irrespective of the network <i>technologies</i> used;
Comment: This amendment does not substantially change the Commission proposal and would	

require more clarifications.

Amendment 352

Jürgen Creutzmann

Article 2 – paragraph 2 – point 14

+

Text proposed by the Commission

Amendment

(14) ‘internet access service’ means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology used;

(14) ‘internet access service’ means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points connected to the internet, irrespective of the network technology *or devices* used;

Comment: This amendment does not substantially change the Commission proposal and would require more clarifications.

Amendment 353

Petra Kammerevert

Article 2 – paragraph 2 – point 15

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Text proposed by the Commission

Amendment

(15) "specialised service" means an electronic communications service or any other service that ***provides the capability to access specific content, applications or services, or a combination thereof, and whose technical characteristics are controlled from end-to-end or provides the capability to send or receive data to or from a determined number of parties or endpoints; and that is not marketed or widely used as a substitute for internet access service;***

(15) ‘specialised service’ means an electronic communications service or any other service that ***is provided and operated only within closed electronic communications networks and is not marketed or used as an internet substitute or functionally identical to the*** content, applications or services ***of the open internet. A specialised service shall be admissible only where there is a manifest technical and factual need, over and above economic self-interest, for particular real-time critical applications meeting certain quality criteria. It is characterised by clearly-defined, guaranteed and customised quality-of-service parameters which are subject to continuous end-to-end management up to the ‘last mile’ by the specialised service provider. A specialised service may not be limited to an endpoint controlled by the service provider.***

Comment: This is a very thorough definition of “specialised service” which closes the loopholes of

the Commission text and leaves little room for misunderstanding.

Amendment 354

Amelia Andersdotter

Article 2 – paragraph 2 – point 15

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Text proposed by the Commission	Amendment
(15) ‘specialised service’ means an electronic communications service <i>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</i> internet access service;	(15) ‘specialised service’ means an electronic communications service <i>operated within closed electronic communications networks using the Internet Protocol with strict admission control; and that is not marketed as a substitute for internet access service or functionally identical to services available over the public</i> internet access service;
Comment: This amendment provides a clear definition of “specialised services” which closed the loopholes of the Commission text.	

Amendment 355

Marietje Schaake, Nadja Hirsch

Article 2 – paragraph 2 – point 15

++

Text proposed by the Commission	Amendment
(15) ‘specialised service’ means an electronic communications service <i>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</i> internet access service;	(15) ‘specialised service’ means an electronic communications service, <i>operated within closed electronic communications networks using the Internet Protocol with strict admission control; and that is not marketed or used as a substitute for internet access service or functionally identical to services available over the public</i> internet access service;
Comment: This amendment provides a clear definition of “specialised services” which closed the loopholes of the Commission text.	

Amendment 356

Françoise Castex

Article 2 – paragraph 2 – point 15

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Text proposed by the Commission	Amendment
(15) ‘specialised service’ means an electronic communications service <i>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</i> internet access service;	(15) ‘specialised service’ means an electronic communications service <i>operated within closed electronic communications networks using the Internet Protocol with strict admission control and that is not marketed or used as a substitute for internet access service or functionally identical to services available over the public</i> internet access service;
Comment: This amendment provides a clear definition of “specialised services” which closed the loopholes of the Commission text.	

Amendment 357
Sabine Verheyen, Ivo Belet, Doris Pack
Article 2 – paragraph 2 – point 15

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Text proposed by the Commission	Amendment
(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; and that is not marketed or widely used as a substitute for</i> internet access service;	(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;
Comment: This amendment adds no new meaning. Almost all electronic communications services” are closed in some way and rely on strict admission control, in order to ensure that only clients of the service provider use the service in question.	

Amendment 358
Angelika Niebler
Article 2 – paragraph 2 – point 15

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Text proposed by the Commission	Amendment
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<p>(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 <i>or receive</i> data to <i>or from</i> a determined number of parties or endpoints; <i>and that is not marketed or 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 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 data to a determined number of parties or endpoints <i>which are provided and operated in closed electronic communications networks using the Internet Protocol. These networks shall be subject to strict admissibility checks. A specialised service may not be</i> used as a substitute for internet access service.</p>
<p>Comment: This amendment adds no new meaning. Almost all electronic communications services” are closed in some way and rely on strict admission control, in order to ensure that only clients of the service provider use the service in question.</p>	

<p>Amendment 359 Jürgen Creutzmann Article 2 – paragraph 2 – point 15 -</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</p>
<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, 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>(15) ‘specialised service’ means an electronic communications service or any other service <i>using the Internet Protocol</i> that provides <i>to a determined number of parties optimised</i> access <i>to</i> 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>Comment: This amendment worsens the Commission's unclear proposal by further undermining legal clarity.</p>	

<p>Amendment 360 Catherine Trautmann, Teresa Riera Madurell, Dimitrios Droutsas, Edit Herczog Article 2 – paragraph 2 – point 15 ++</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</p>

<p>(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;</p>	<p>(15) ‘specialised service’ means an electronic communications service or any other service that provides the capability to access or use specific content, applications or services, or a combination thereof, in order to ensure adequate characteristics from end-to-end. A specialised service is operated within closed electronic communications networks and thus clearly separated from internet access services and is not marketed or used as a substitute for internet access service;</p>
<p>Comment: This amendment provides an improved definition of specialised services.</p>	

<p>Amendment 361 Jean-Pierre Audy Article 2 – paragraph 2 – point 15 -</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</p>
<p>(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;</p>	<p>(15) "specialised service" means an electronic communications service that provides the capability to access specific content, applications or services, or a combination thereof, that is subject to admission control and whose technical characteristics are controlled using traffic management in order to ensure adequate service characteristics 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</p>
<p>Comment: This amendment worsens the Commission's unclear proposal by further undermining legal clarity.</p>	

<p>Amendment 362 Giles Chichester Article 2 – paragraph 2 – point 15 -</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</p>
<p>(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</p>	<p>(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 with a defined quality of service or dedicated capacity, and whose technical characteristics are</p>

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;	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;
Comment: This amendment worsen the Commission text.	

Amendment 568 Amelia Andersdotter Chapter 4 – title ++	
Text proposed by the Commission	Amendment
<i>Harmonised rights of end-users</i>	<i>Users' rights to open internet access</i>
Comment: This amendment brings clarity.	

Amendment 569 Christian Ehler Article 21 – paragraph 1 +	
Text proposed by the Commission	Amendment
1. <i>The</i> freedom of end-users to use public electronic communications networks or publicly available electronic communications services provided by an undertaking established in another Member State shall not be restricted by public authorities.	1. <i>Digital freedoms and cross-border trade shall go hand in hand in order to create and optimise business opportunities for European companies and consumer protection in the global digital economy.</i> <i>The</i> freedom of end-users to use public electronic communications networks or publicly available electronic communications services provided by an undertaking established in another Member State shall not be restricted by public authorities.
Comment: The purpose of this addition is unclear and does not fall under the scope of the chapter on “harmonised rights of end-users”. One small improvement will be to change “freedom of end-users” for “right”.	

Amendment 570 Petra Kammerevert Article 21 – paragraph 1
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Text proposed by the Commission	Amendment
(1) The freedom of end-users to use public electronic communications networks or publicly available electronic communications services provided by an undertaking established in another Member State shall not be restricted by public authorities.	(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.
Comment: This amendment brings clarification.	

Amendment 571
Christian Ehler
Article 21 – paragraph 2

-

Text proposed by the Commission	Amendment
2. Providers of electronic communications to the public shall not apply any discriminatory requirements or conditions of access or use to end-users based on the end-user's nationality or place of residence unless such differences are objectively justified.	2. Providers of electronic communications to the public shall not apply any discriminatory requirements or conditions of access or use to end-users based on the end-user's nationality or place of residence unless such differences are objectively justified. <i>Unrestricted access to an open internet and the free flow of information and related services shall be ensured, in accordance with existing legislation.</i>
Comment: This amendment appears well-intentioned, but appears not to bring clear new meaning to the paragraph	

Amendment 572
Jean-Pierre Audy
Article 21 – paragraph 2

+

Text proposed by the Commission	Amendment
2. Providers of electronic communications to the public shall not apply any discriminatory requirements or conditions of access or use to end-users based on the end-user's nationality or place of residence unless such differences are objectively justified.	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 Member State of residence unless such differences are objectively justified.
Comment: This does not appear to change the meaning of the proposal	

Amendment 573

Jean-Pierre Audy

Article 21 – paragraph 3

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Text proposed by the Commission

Amendment

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

(a) as regards fixed communications, than tariffs for domestic long-distance communications;

(b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.

deleted

Comment: This is beyond our purview.

Amendment 574

Jürgen Creutzmann

Article 21 – paragraph 3

~

Text proposed by the Commission

Amendment

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

(a) as regards fixed communications, than tariffs for domestic long-distance communications;

(b) as regards mobile communications, than the euro-tariffs for regulated voice and SMS roaming communications, respectively, established in Regulation (EC) No 531/2012.

deleted

Comment: This is beyond our purview.

Amendment 580
Sabine Verheyen, Doris Pack
Article 23 – title
+

Text proposed by the Commission	Amendment
<i>Freedom to provide and avail of</i> open internet access, and reasonable traffic management	Open internet access, <i>specialised services</i> , and reasonable traffic management
Comment: This amendment does not add clarity.	

Amendment 581
Giles Chichester
Article 23 – paragraph 1 – subparagraph 1
+

Text proposed by the Commission	Amendment
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 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. <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> <i>Providers of electronic communications to the public shall ensure that end-users are able to run any application utilising the electronic communication function of the internet without any form of restriction on the content exchanged, except for the purposes of reasonable traffic management measures or to implement a court order.</i>
Comment: To ensure legal clarity and end-users rights, “free to” should be replace by “have the right to”.	
The second paragraph of this amendment doesn't seem to substantially change the meaning of the Regulation or the Directive 2002/20/EC, however it does enforce the rights of of users to choose their own terminal equipment.	

Amendment 582

Petra Kammerevert
 Article 23 – paragraph 1 – subparagraph 1
 ++

Text proposed by the Commission	Amendment
<p><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.</p>	<p><i>(1) 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.</i></p> <p><i>Access network operators shall be subject to a general forwarding obligation in accordance with the best-effort principle.</i></p>
<p>Comment: This amendment improves the text, reinforcing the non-discrimination principle.</p>	

Amendment 582
 Françoise Castex
 Article 23 – paragraph 1 – subparagraph 1
 ++

Text proposed by the Commission	Amendment
<p>End-users <i>shall be free</i> to access and distribute information and content, run applications and use services of their choice via their internet access service.</p>	<p>End-users <i>have the right</i> to access and distribute information and content, run applications and use services <i>and devices</i> of their choice via their internet access service.</p> <p><i>In order to guarantee a genuine users' freedom of choice, internet service providers shall not discriminate, restrict or interfere with the transmission of Internet traffic.</i></p>
<p>Comment: This amendment clarifies the Commission's text and reinforces the rights of users and the non-discrimination principle.</p>	

Amendment 584
 Amelia Andersdotter
 Article 23 – paragraph 1 – subparagraph 1
 ++

Text proposed by the Commission	Amendment
<p><i>End-users shall be free</i> to access and distribute</p>	<p><i>Users shall have the right</i> to access and</p>

information and content, run applications and use services of their choice via their internet access service.	distribute information and content, run and provide applications and services and use devices of their choice via an internet access. Internet service providers shall not discriminate, restrict or interfere with the transmission of Internet traffic.
Comment: This amendment clarifies the Commission's text and reinforces the rights of users and the non-discrimination principle.	

Amendment 585 Catherine Trautmann, Patrizia Toia, Teresa Riera Madurell, Dimitrios Droutsas, Edit Herczog Article 23 – paragraph 1 – subparagraph 1 +	
Text proposed by the Commission	Amendment
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 to access and distribute information and content, run applications and use services and devices of their choice, irrespective of their origin or destination , via their internet access service.
Comment: While we support the intentions behind this amendment, to ensure legal clarity and end-users rights amendments replacing “free to”, “have the right to” are preferred.	

Amendment 586 Jürgen Creutzmann Article 23 – paragraph 1 – subparagraph 1 +	
Text proposed by the Commission	Amendment
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, using devices of their choice , to access and distribute information and content, run applications and use services of their choice, irrespective of their origin or destination , via their internet access service.
Comment: While we support the intentions behind this amendment, to ensure legal clarity and end-users rights amendments replacing “free to”, “have the right to” are preferred.	

Amendment 587 Marietje Schaake, Nadja Hirsch Article 23 – paragraph 1 – subparagraph 1 ++	
Text proposed by the Commission	Amendment
End-users shall be free to access and distribute information and content, run applications and use	End-users have the right to access and distribute information and content, run applications and use

services of their choice via their internet access service.	services <i>or devices</i> of their choice via their internet access service, <i>in accordance with the principle of net neutrality</i> .
Comment: This amendment clarifies the Commission text.	

Amendment 588 Ioannis A. Tsoukalas Article 23 – paragraph 1 – subparagraph 1 +	
Text proposed by the Commission	Amendment
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 to access and distribute information and content, run applications and use services <i>and devices</i> of their choice via their internet access service.
Comment: While we support the intentions behind this amendment, to ensure legal clarity and end-users rights amendments replacing “free to”, “have the right to” are preferred.	

Amendment 589 Jürgen Creutzmann Article 23 – paragraph 1 – subparagraph 2 ++	
Text proposed by the Commission	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.</i>	<i>deleted</i>
Comment: We support this deletion as the Commission text appears to create a “freedom” for endusers to sign up to services where access providers discriminate for or against certain online content, applications and services.	

Amendment 590 Sabine Verheyen, Doris Pack Article 23 – paragraph 1 – subparagraph 2 +	
Text proposed by the Commission	Amendment
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services <i>and, in accordance with any such agreements relative to data volumes,</i>	End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services. <i>Providers of Internet access services shall advertise with the</i>

<i>to avail of any offers by providers of internet content, applications and services.</i>	<i>minimum guaranteed data volume and speed they can provide for, not the maximum speed.</i>
<p>Comment: This amendment requires improvement as it fails to add the needed safeguards to the Commission's proposal. Namely, the Regulation needs to be clear that providers of internet access services may 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”.</p>	

Amendment 591
Petra Kammerrevert
Article 23 – paragraph 1 – subparagraph 2
++

Text proposed by the Commission	Amendment
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services <i>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>	End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services.

Comment: This amendment goes in the right direction by deleting the Commission's unclear text. To ensure legal clarity, “free” should be changed to “shall have the right” throughout the regulation although this is less important in the context of this amendment.

Amendment 592
Teresa Riera Madurell
Article 23 – paragraph 1 – subparagraph 2
-

Text proposed by the Commission	Amendment
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services <i>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>	End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services. <i>Users shall always be informed in advance of these agreements and shall give their explicit consent to their conclusion. End-users shall be free</i> in accordance with any such agreements to avail of any offers by providers of internet content, applications and services.

Comment: This amendment fails to resolve the problem in the original Commission text, which would the same generate “sending party pays” on the internet that it has taken decades to solve in the telephony market.

Amendment 593
Marietje Schaake, Nadja Hirsch
Article 23 – paragraph 1 – subparagraph 2
++

Text proposed by the Commission	Amendment
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.	<i>With due account to the principle of net neutrality,</i> end-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services, <i>provided they freely and explicitly give their informed consent,</i> and to avail of any offers by providers of internet content, applications and services.
Comment: This amendment goes in the right direction by deleting the Commission's unclear text. To ensure legal clarity, “free” should be changed to “shall have the right” throughout the regulation although this is less important in the context of this amendment.	

Amendment 594 Amelia Andersdotter Article 23 – paragraph 1 – subparagraph 2 ++	
Text proposed by the Commission	Amendment
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, <i>in accordance with any such agreements relative to data volumes,</i> to avail of any offers by providers of internet content, applications and services.	<i>Provided that they freely give their explicit, specific and informed consent,</i> end-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and to avail of any offers by providers of internet content, applications and services.
Comment: This amendment goes in the right direction by deleting the Commission's unclear text. To ensure legal clarity, “free” should be changed to “shall have the right” throughout the regulation although this is less important in the context of this amendment.	

Amendment 595 Françoise Castex Article 23 – paragraph 1 – subparagraph 2 ++	
Text proposed by the Commission	Amendment
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, <i>in accordance with any such agreements relative to data volumes,</i> to avail of any offers by providers of internet content, applications and services.	<i>Provided that they freely give their explicit, specific and informed consent,</i> end-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and to avail of any offers by providers of internet content, applications and services.
Comment: This amendment goes in the right direction by deleting the Commission's unclear text. To ensure legal clarity, “free” should be changed to “shall have the right” throughout the regulation although this is less important in the context of this amendment.	

Amendment 596

Angelika Niebler
Article 23 – paragraph 1 – subparagraph 2

Text proposed by the Commission	Amendment
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such agreements <i>relative to data volumes</i> , 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, <i>as well as general performance characteristics</i> , with providers of internet access services and, in accordance with any such agreements, to avail of any offers by providers of internet content, applications and services.
Comment: This amendment worsens the Commission's unclear proposal by further undermining clarity.	

Amendment 597
Silvia-Adriana Țicău
Article 23 – paragraph 1 – subparagraph 2

Text proposed by the Commission	Amendment
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.	End-users shall be free to enter into agreements on data volumes and speeds 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>The tariffs may not exceed the eurotariffs.</i>
Comment: This amendment does not improve the Commission unclear text.	

Amendment 598
Petra Kammerevert
Article 23 – paragraph 1 – subparagraph 2 a
++

Text proposed by the Commission	Amendment
	<i>Where agreements on data volumes and speeds are entered into, specific content, services or applications may not be omitted from the calculation of volume use or exempted from ‘throttling’ when the agreed data volume limit is reached.</i>
Comment: We welcome this amendment that brings clarification on possible discrimination on data	

volumes and speeds agreements.

Amendment 599

Petra Kammerevert

Article 23 – paragraph 1 a (new)

++

Text proposed by the Commission

Amendment

(1a) It shall not be permissible for providers to impose any form of restriction on access to communication networks, content, applications or services on the basis of end-users' using terminal equipment not supplied or recommended by the provider.

Comment: This amendment enforces the rights of of users to choose their own terminal equipment.

Amendment 600

Seán Kelly

Article 23 – paragraph 2 – subparagraph 1

-

Text proposed by the Commission

Amendment

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

Providers of electronic communication services or providers of content, applications and services shall be allowed to offer specialised services with an enhanced quality of service in addition to internet access services, provided that such offers are not detrimental to internet access services or their performance, affordability or quality.

Take-up by end-users and application and commercial service providers of specialised services should thus be on a voluntary and non-discriminatory basis.

Comment: We welcome the motivations behind this amendment. However, we feel that it is inadequate. If definition of specialised services is brought in line with BEREC's definition, then this amendment becomes redundant. If it is not brought into line with BEREC's definition, it is not adequate to solve the problems that would be created. Moreover, allowing offer specialised services “with an enhanced quality of services” leaves a possibility for ISP to discriminate on content.

Amendment 601

Petra Kammerevert

Article 23 – paragraph 2 – subparagraph 1

+	
Text proposed by the Commission	Amendment
<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>	Providers of electronic communications to the public or providers of content, applications and services may provide specialised services, via a closed, electronic communications network, to a limited user group, access to which is controlled. Specialised services may not be marketed or used as substitutes for the internet and may not be identical to content, applications or services available on the open internet.
<p>Comment: We welcome the motivations behind this amendment. However, we feel that it is inadequate. If definition of specialised services is brought in line with BEREC's definition, then this amendment becomes redundant. If it is not brought into line with BEREC's definition, it is not adequate to solve the problems that would be created.</p>	

Amendment 602 Jürgen Creutzmann Article 23 – paragraph 2 – subparagraph 1 -	
Text proposed by the Commission	Amendment
<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>	Providers of electronic communications to the public and providers of content, applications and services shall be free to provide to end-user specialised services with an enhanced quality of service, 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.
<p>Comment: This amendment adds no obvious meaning and creates new levels of unclarity such as « general quality »</p>	

Amendment 603 Marietje Schaake, Nadja Hirsch Article 23 – paragraph 2 – subparagraph 1 +	
Text proposed by the Commission	Amendment
End-users shall also be free to agree with either providers of electronic communications to the public or with providers of content, applications	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.	and services on the provision of specialised services with an enhanced quality of service. <i>Where such agreements are concluded with the provider of internet access services, that provider shall ensure that the enhanced quality of service is not to the detriment of the performance, affordability or quality of internet access services, in accordance with the principle of net neutrality.</i>
Comment: We welcome the motivations behind this amendment. However, we feel that it is inadequate. If definition of specialised services is brought in line with BEREC's definition, then this amendment becomes redundant. If it is not brought into line with BEREC's definition, it is not adequate to solve the problems that would be created.	

Amendment 604 Catherine Trautmann, Patrizia Toia, Teresa Riera Madurell, Dimitrios Droutsas, Edit Herczog Article 23 – paragraph 2 – subparagraph 1 +	
Text proposed by the Commission	Amendment
End-users shall also be free to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service.	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 <i>operated in closed electronic networks</i> with an enhanced quality of service. <i>Providers of electronic communications to the end-user shall not discriminate against contents, services or applications from other sources that are competing with their own specialised services.</i>
Comment: Very few electronic networks are “open”, so we cannot see what “closed” means in this context. We welcome the motivations behind this amendment. However, we feel that it is inadequate. If definition of specialised services is brought in line with BEREC's definition, then this amendment becomes redundant. If it is not brought into line with BEREC's definition, it is not adequate to solve the problems that would be created.	

Amendment 605 Patrizia Toia Article 23 – paragraph 2 – subparagraph 1 -	
Text proposed by the Commission	Amendment
End-users shall also be free to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised	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.	services with an enhanced quality of service, <i>provided that this does not undermine the overall quality of internet access, unless in emergency conditions or due to a genuine substantiated need.</i>
Comment: This amendment worsen the Commission text by further undermining clarity.	

Amendment 606 Jean-Pierre Audy Article 23 – paragraph 2 – subparagraph 1 -	
Text proposed by the Commission	Amendment
End-users shall also be free to <i>agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of</i> specialised services with an enhanced quality of service.	End-users shall also be free to <i>access</i> specialised services with an enhanced quality of service.
Comment: This amendment worsen the Commission text by further undermining clarity.	

Amendment 607 Amelia Andersdotter Article 23 – paragraph 2 – subparagraph 1 ++	
Text proposed by the Commission	Amendment
<i>End-users</i> 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.	<i>Users</i> 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.
Comment: We support this amendment which brings legal clarity to the text by reaffirming the rights of the end-user. It should be noted, however, that the proposed wording is solving a problem that does not and almost certainly could not exist – namely a prohibition on the right of end-users to avail of legal services.	

Amendment 608 Angelika Niebler Article 23 – paragraph 2 – subparagraph 1 -	
Text proposed by the Commission	Amendment

End-users shall also be free to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service.	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 for closed user groups with an enhanced quality of service.
Comment: This amendment worsen the Commission text by further undermining clarity.	

Amendment 609 Jürgen Creutzmann Article 23 – paragraph 2 – subparagraph 2 +	
Text proposed by the Commission	Amendment
<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>	<i>deleted</i>
Comment : The only possible reason for the Commission including this text is to give end-users the dubious « freedom » to avail of anti-competitive, anti-innovation non-neutral services in a way which would limit the ability of NRAs to do their job.	

Amendment 610 Catherine Trautmann Article 23 – paragraph 2 – subparagraph 2 Para 1: - / Para 2: +	
Text proposed by the Commission	Amendment
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	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. Providers of electronic communications shall take the

<p><i>recurring or continuous manner the general quality</i> of internet access services.</p>	<p><i>necessary measures to ensure that the effect of the provision of specialised services through their network is always transparent and does not impair the general quality of internet access services in terms of performance, affordability and availability. In so doing, they should maintain internet access services of sufficient capacity and quality to accommodate the advertised internet speeds offered to their end users without congestion.</i></p> <p><i>In order for national regulatory authorities to be able to assess such potential impairment, providers of electronic communications to the public shall make available, upon request, precise information explaining how capacities are assigned to the two types of services, and if necessary provide justifications about the measures put in place to prevent impairment of internet access services by the specialised services.</i></p>
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Comment : The first paragraph of the amendment achieves nothing other than repeating the Commission's incoherence with new words. The second paragraph does add meaning and improves the Commission's text

Amendment 611
Angelika Niebler
Article 23 – paragraph 2 – subparagraph 2
 - -

Text proposed by the Commission	Amendment
<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>Where such agreements with internet access providers are entered into, the provider shall ensure that the higher quality of service does not impair the general quality of internet access services. Providers of specialised services who are also network operators or providers of internet access services may not discriminate against other providers who are reliant on the network operator's forwarding services, and they shall be required to charge for forwarding in a transparent manner and at fair market prices.</i></p>

Comment : It is clear from the experience of NRAs that unclear terminology like « general quality » is unhelpful in practice. The added meaning provided by the second half of the last sentence is also unclear

Amendment 612
 Petra Kammerevert
 Article 23 – paragraph 2 – subparagraph 2
 ++

Text proposed by the Commission	Amendment
<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>The provision of specialised services <i>shall not impair the quality of internet access services. Neither shall these services impair existing, generally recognised technical standards and their development. Specialised services shall thus be permissible only if there is a demonstrable technical and specific need for them, beyond economic self-interest, as a means of providing genuinely time-critical applications, or applications with a particular security requirement, at a particular level of quality.</i></p>
<p>Comment : This wording is clearer than the Commission's proposal and also closes off the Commission's loophole whereby access providers could provide discriminatory conditions for certain online services.</p>	

Amendment 613
 Sabine Verheyen
 Article 23 – paragraph 2 – subparagraph 2
 -

Text proposed by the Commission	Amendment
<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>Comment : This amendment is clearly well-intentioned, but is impractical. Firstly, « general » quality is unenforceable. Secondly, it is possible to have « open internet access » that is significantly slower than a specialised service » by default – the moving target of « reflecting</p>	

technological progress » is likely to be too difficult to regulate.. The final sentence of the amendment is unlikely to have a significantly positive effect in practice.

<p>Amendment 614 Giles Chichester Article 23 – paragraph 2 – subparagraph 2 ++</p>	
Text proposed by the Commission	Amendment
<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 provided that such offers are in addition to internet access services and are not to the material detriment of their affordability or quality.</i></p>
<p>Comment : This is a clear improvement on the Commission's text. The addition of the word « material » is unfortunate. Regulators would clearly not have had the interest or resources to take frivolous actions regarding immaterial limitations, while the inclusion of the word reduces clarity unnecessarily.</p>	

<p>Amendment 615 Marietje Schaake, Nadja Hirsch Article 23 – paragraph 2 – subparagraph 2 ++</p>	
Text proposed by the Commission	Amendment
<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 <i>in a recurring or continuous manner the general quality of</i> 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 <i>within closed electronic communications networks</i> as specialised services with a defined quality of service or dedicated capacity, <i>which are not functionally identical to services available over the public internet access service.</i> The provision of specialised services shall not impair <i>the quality of internet access services.</i> <i>Where network capacity is shared between internet access services and specialised services, the provider of these services shall publish clear</i></p>

	<i>and unambiguous criteria based on which network capacity is shared.</i>
Comment : This text is significantly clearer than the Commission's proposal and will allow for easier, more predictable implementation by NRAs.	

Amendment 616 Ioannis A. Tsoukalas Article 23 – paragraph 2 – subparagraph 2 -	
Text proposed by the Commission	Amendment
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.	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>Take-up by end-users or by providers of content, applications and services of commercial offers for specialised services should be on a voluntary and non-discriminatory basis.</i>
Comments : While the intentions of this amendment are clearly positive, the proposed wording appears inadequate, as it is not obvious, for example, what « voluntary » would mean in this context.	

Amendment 617 Amelia Andersdotter Article 23 – paragraph 2 – subparagraph 2 +	
Text proposed by the Commission	Amendment
In order to enable the provision of specialised services to <i>end-users</i> , providers of content, applications and services and providers of electronic communications to the public <i>shall be free to</i> 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 <i>in a recurring or continuous manner the general</i>	In order to enable the provision of specialised services to <i>users</i> , providers of content, applications and services and providers of electronic communications to the public <i>may</i> 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 <i>the</i> quality of internet

quality of internet access services.	access services.
Comments : This amendment does not preclude the possibility of discriminatory, innovation-unfriendly « agreements » with users. On the plus side, the amendment does, at least, remove the (deliberately) ambiguous wording of the Commission.	

Amendment 618 Ivo Belet Article 23 – paragraph 2 – subparagraph 2 +	
Text proposed by the Commission	Amendment
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 <i>in a recurring or continuous manner</i> the general quality of internet access services.	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 the general quality of internet access services.
Comments : This amendment does not preclude the possibility of discriminatory, innovation-unfriendly « agreements » with users. On the plus side, the amendment does, at least, remove the (deliberately) ambiguous wording of the Commission.	

Amendment 619 Teresa Riera Madurell Article 23 – paragraph 2 – subparagraph 2 +	
Text proposed by the Commission	Amendment
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 <i>in a recurring or continuous manner</i> the <i>general</i> quality of internet access services.	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 the quality of internet access services.
Comments : This amendment does not preclude the possibility of discriminatory, innovation-	

unfriendly « agreements » with users. On the plus side, the amendment does, at least, remove the (deliberately) ambiguous wording of the Commission.

Amendment 620

Jean-Pierre Audy

Article 23 – paragraph 2 – subparagraph 2

+

Text proposed by the Commission	Amendment
<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 <i>in a recurring or continuous manner</i> the <i>general</i> 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 the quality of internet access services.</p>
<p>Comments : This amendment does not preclude the possibility of discriminatory, innovation-unfriendly « agreements » with users. On the plus side, the amendment does, at least, remove the (deliberately) ambiguous wording of the Commission.</p>	

Amendment 621

Petra Kammerevert

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

++

Text proposed by the Commission	Amendment
	<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 they shall be required to charge for forwarding in a transparent manner and at fair market prices.</i></p>
<p>Comments : This is a positive addition, although it could be more comprehensive – covering also positive discrimination, for example.</p>	

Amendment 622

Giles Chichester Article 23 – paragraph 2 – subparagraph 2 a (new) ++	
Text proposed by the Commission	Amendment
	<i>For national authorities to be able to assess such potential material detriment, providers of electronic communications 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>
Comments : This is a good, clear, pragmatic amendment, aimed at helping NRAs do their job more effectively.	

Amendment 623 Jean-Pierre Audy Article 23 – paragraph 2 a (new) ++	
Text proposed by the Commission	Amendment
	<i>2a. Vertically integrated providers of electronic communications to the public shall not discriminate in any way against traffic from providers of content, applications or services offering content, services or applications competing with their own services or with services provided under exclusive arrangements;</i>
Comment : This is a good amendment. However, it is not obvious why there should be a rule covering vertically-integrated operators discriminating <i>against</i> other providers which does not cover non-vertically-integrated operators discriminating for/against other services for anti-competitive reasons, restricting the market, freedom of communication and innovation.	

Amendment 624 Amelia Andersdotter Article 23 – paragraph 3 ++	
Text proposed by the Commission	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.</i>	<i>deleted</i>

Comments: It is a mystery why the Commission proposed this text in the first place. It displays an incomprehensible lack of basic principles of relevant parts of the EU acquis.

Amendment 625
Róza Gräfin von Thun und Hohenstein
Article 23 – paragraph 3
++

Text proposed by the Commission	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.</i>	<i>deleted</i>
Comments: It is a mystery why the Commission proposed this text in the first place. It displays an incomprehensible lack of basic principles of relevant parts of the EU acquis.	

Amendment 626
Petra Kammerevert
Article 23 – paragraph 3
++

Text proposed by the Commission	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.</i>	<i>deleted</i>
Comments : It is a mystery why the Commission proposed this text in the first place. It displays an incomprehensible lack of basic principles of relevant parts of the EU acquis.	

Amendment 627
Sabine Verheyen
Article 23 – paragraph 4
- / +

Text proposed by the Commission	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).</i>	<i>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</i>

	<i>distribution of information, content, applications and services as specified in paragraphs 1 and 2.</i>
<p>Comments: It is good to demand as much transparency as possible. So, the first part of the amendment is positive. As regards the second part of the paragraph, “reasonable” traffic management <i>must</i> be Traffic management defined and regulated in a way which ensures that it does not affect access to and distribution of content. The second part of this amendment could be misinterpreted as meaning that interferences are acceptable, as long as there is information about this deterioration of service.</p>	

<p>Amendment 628 Petra Kammerevert Article 23 – paragraph 4 ++</p>	
Text proposed by the Commission	Amendment
(4) The exercise of the <i>freedoms</i> 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 <i>rights</i> 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).
<p>Comments : This amendment fixes the rather bad and rather bizarre drafting of the Commission's proposal.</p>	

<p>Amendment 629 Edit Herczog Article 23 – paragraph 5 – subparagraph 1 – introductory part ++</p>	
Text proposed by the Commission	Amendment
<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 <i>blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof</i> , except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures <i>shall be transparent, non-discriminatory, proportionate and necessary to:</i>	5. Providers of Internet access services shall not restrict the freedoms provided for in paragraph 1 by <i>discriminating against, restricting, or otherwise interfering with the transmission of Internet traffic</i> except in cases where it is necessary to apply reasonable traffic management measures <i>or to implement a court order. Traffic management measures shall be deemed 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 that equivalent types of traffic are treated equally. These measures should be shown to</i>

	<p><i>comply with the general criteria of relevance, proportionality, efficiency, non-discrimination between parties and transparency, and in accordance with existing laws, including inter alia, privacy and data protection.</i></p> <p><i>Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this article.</i></p>
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Comments : The overall direction of the amendment is positive, although the drafting is rather long-winded. For example, there is nothing in the proposal or the wider EU acquis that could be interpreted in a way whereby access providers could be prevented from implementing a court order, so this wording is superfluous, as is the requirement that the traffic management in question respect the law.

Amendment 630
 Petra Kammerevert
 Article 23 – paragraph 5 – subparagraph 1 – introductory part
 ++

Text proposed by the Commission	Amendment
<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 <i>or services</i>, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. <i>Reasonable traffic management</i> measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>	<p>(5) Providers of internet access services shall not restrict the <i>rights</i> provided for in paragraph 1 by:</p> <p>(a) <i>deleting</i>, blocking, slowing down, degrading or discriminating against specific content, applications, <i>services or terminal devices</i>, or specific classes thereof,</p> <p>(b) <i>prioritising specific content, applications, services or terminal devices, or specific classes thereof, or</i></p> <p>(c) <i>concluding special pricing agreements with the end-user which make accessing particular content, applications, services or terminal devices or specific classes thereof seem less economically attractive,</i></p> <p>except in cases where it is necessary to apply justified and reasonable traffic management measures. <i>Such</i> measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>

Comment : The Commission's text appears to have been written to promote anti-competitive behaviour, contrary to the Commission's duties and stated aims. This amendment seeks to achieve

the stated aims of the Regulation – non-discrimination, harmonisation and competition.

Amendment 631
 Angelika Niebler
 Article 23 – paragraph 5 – subparagraph 1 – introductory part
 - -

Text proposed by the Commission	Amendment
<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, <i>degrading or discriminating against specific content, applications or services, or specific classes thereof</i>, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and <i>necessary</i> 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 freedoms provided for in paragraph 1 by <i>limiting or otherwise impairing the flow of internet traffic, e.g. by blocking, slowing down or degrading it or by means of discrimination</i>, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures <i>should not be applied in a manner directed against particular providers' content or applications or which downgrades particular providers</i>. Reasonable traffic management measures shall be transparent, non-discriminatory and proportionate and <i>shall include inter alia the processing of data in order</i> to:</p>
<p>Comments : This amendment replaces unclear text from the Commission with equally unclear text. It fails to address the Commission wording which invites operators to discriminate on the basis of download limits, for example.</p>	

Amendment 632
 Sabine Verheyen, Ivo Belet
 Article 23 – paragraph 5 – subparagraph 1 – introductory part
 ++

Text proposed by the Commission	Amendment
<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 <i>and necessary</i> to:</p>	<p>Providers of internet access services shall not 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. 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</i></p>

	<i>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, and proportionate.</i>
Comments : The reference to court orders is superfluous. Apart from that, the amendment offers more clarity than the Commission's proposal.	

Amendment 633 Marietje Schaake, Nadja Hirsch Article 23 – paragraph 5 – subparagraph 1 – introductory part ++	
Text proposed by the Commission	Amendment
<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>	Providers of internet access services shall <i>treat all internet traffic in accordance with the principle of net neutrality</i> , except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate, <i>subject to clear, comprehensible and accessible redress mechanisms</i> and necessary to:
Comments : This is clearer and less ambiguous than the Commission's proposal. However, in the absence of a definition of « net neutrality » (or a proposal for a definition) in the EU acquis, this aspect of the amendment may be more difficult to implement in practice than it appears. Consequently	

Amendment 634 Ioannis A. Tsoukalas Article 23 – paragraph 5 – subparagraph 1 – introductory part -	
Text proposed by the Commission	Amendment
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.	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

<p>Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>	<p>apply reasonable traffic management measures.</p> <p><i>These measures should be shown to comply with the general criteria of relevance, proportionality, efficiency, non-discrimination between parties and transparency, and in accordance with existing laws, including inter alia, privacy and data protection.</i></p> <p>Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>
<p>Comments : The « non discrimination between parties » wording is a neat and innovative way of covering both positive and negative discrimination and should be included in any compromise amendment on this topic. However, it appears to us that the amendment does not solve the problem of the discrimination on the basis of download limits that would be possible under the first paragraph.</p>	

<p>Amendment 635 Jean-Pierre Audy Article 23 – paragraph 5 – subparagraph 1 – introductory part ++</p>	
<p>Text proposed by the Commission</p> <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>Amendment</p> <p>Providers of internet access services shall not block, slow down or discriminate 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>Comments : This is a significant improvement on the Commission text. However, it is not completely clear whether positive discrimination would also be covered. For complete clarity, it would be good to import the « discriminate between » wording from amendment 634.</p>	

<p>Amendment 636 Giles Chichester Article 23 – paragraph 5 – subparagraph 1 – introductory part -</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</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 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>5. 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. <i>Furthermore, traffic management measures shall not be applied in such a way as to discriminate against services competing with those offered by the provider of internet access.</i></p> <p>Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate</p>
<p>Comment. This (very welcome) amendment fails to achieve its intended goals. It does not address the discrimination that would be possible through exploitation of the Commission's « download limit » wording. The wording « discriminate against services competing with those offered by the provider of internet access » appears to leave a loophole for third party services that have an agreement with the access provider.</p>	

<p>Amendment 637 Gunnar Hökmark Article 23 – paragraph 5 – subparagraph 1 – introductory part</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</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 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 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>Traffic management measures shall not be applied in such a way as to discriminate against services competing with those offered by the provider of internet access.</i> Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p>
<p>Comments : This (very welcome) amendment fails to achieve its intended goals. It does not address the discrimination that would be possible through exploitation of the Commission's « download limit » wording. The wording « discriminate against services competing with those offered by the provider of internet access » appears to leave a loophole for third party services that have an</p>	

agreement with the access provider.

Amendment 638

Amelia Andersdotter

Article 23 – paragraph 5 – subparagraph 1 – introductory part

++

Text proposed by the Commission

Amendment

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:

Providers of internet access services shall not restrict the **right** provided for in paragraph 1 by blocking, slowing down, degrading, **altering** or discriminating against specific content, applications or services, or specific classes thereof, except in **certain special** cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, **and strictly** proportionate and necessary to:

Comments : This amendment eliminates the Commission's loophole on download limits and adds helpful additional safeguards.

Amendment 639

Françoise Castex

Article 23 – paragraph 5 – subparagraph 1 – introductory part

++

Text proposed by the Commission

Amendment

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:

Providers of internet access services shall not restrict the **right** 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:

Comments : This amendment addresses the two biggest problems with the Commission's text – it removes the « download limit » loophole and replaces the unclear « freedom » wording with the legally meaningful word « right ».

Amendment 640
 Jean-Pierre Audy
 Article 23 – paragraph 5 – subparagraph 1 – introductory part
 - -

Text proposed by the Commission	Amendment
<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 <i>necessary</i> 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 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 <i>efficient. Reasonable traffic management includes the processing of data</i> to:</p>
<p>Comments : Of the two amendments tabled by Mr Audy to this sub-paragraph, we prefer the other one – amendment 635.</p>	

Amendment 641
 Jürgen Creutzmann
 Article 23 – paragraph 5 – subparagraph 1 – introductory part

Text proposed by the Commission	Amendment
<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>
<p>Comments : This amendment takes the loophole proposed by the Commission and makes it significantly wider – give the possibility to access providers to offer services discriminate, not just via differing download limits, but also speeds and undefined «general quality characteristics». This text would be disastrous for the open internet, freedom of communication, innovation and competition.</p>	

Amendments 642 - 645

Giles Chichester / Edit Herczog / Petra Kammerevert / Sabine Verheyen / Ivo Belet

Article 23 – paragraph 5 – subparagraph 1 – point a

++

Text proposed by the Commission

Amendment

(a) implement a legislative provision or a court order, or prevent or impede serious crimes; ~~deleted~~

Comments : The Commission's proposal is legally incompetent as there is nothing in the Regulation that could possibly be understood in a way which would prevent a court order from being implemented. The « prevent or impede serious crimes » wording is in clear and obvious breach of Article 52 of the Charter of Fundamental Rights.

Amendment 646

Amelia Andersdotter

Article 23 – paragraph 5 – subparagraph 1 – point a

++

Text proposed by the Commission

Amendment

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

(a) implement a court order;

Comments : This amendment leaves the superfluous wording on serious crimes, but removes the illegal wording on serious crimes.

Amendment 647

Françoise Castex

Article 23 – paragraph 5 – subparagraph 1 – point a

++

Text proposed by the Commission

Amendment

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

(a) implement a court order;

Comments : This amendment leaves the superfluous wording on serious crimes, but removes the illegal wording on serious crimes.

Amendment 648

Marietje Schaake

Article 23 – paragraph 5 – subparagraph 1 – point a

++

Text proposed by the Commission

Amendment

(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;
Comments : This amendment leaves the superfluous wording on serious crimes, but removes the illegal wording on serious crimes.	

Amendment 649 Jürgen Creutzmann Article 23 – paragraph 5 – subparagraph 1 – point a ++	
Text proposed by the Commission	Amendment
(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;
Comments : This amendment leaves the superfluous wording on serious crimes, but removes the illegal wording on serious crimes.	

Amendment 650 Giles Chichester Article 23 – paragraph 5 – subparagraph 1 – point b ++	
Text proposed by the Commission	Amendment
<i>(b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;</i>	<i>deleted</i>
Comments : Mr Chichester's approach in his package of amendments is clear, inclusive and unbureaucratic.	

Amendment 651 Edit Herczog Article 23 – paragraph 5 – subparagraph 1 – point b ++	
Text proposed by the Commission	Amendment
<i>(b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;</i>	<i>deleted</i>
Comments : This amendment is acceptable in conjunction with an appropriate definition of traffic management that fixes the incoherence of the Commission's text.	

Amendment 652 Sabine Verheyen, Ivo Belet Article 23 – paragraph 5 – subparagraph 1 – point b ++	
Text proposed by the Commission	Amendment
<i>(b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;</i>	<i>deleted</i>
Comments : This amendment is acceptable in conjunction with an appropriate definition of traffic management that fixes the incoherence of the Commission's text.	

Amendment 653 Amelia Andersdotter Article 23 – paragraph 5 – subparagraph 1 – point b ++	
Text proposed by the Commission	Amendment
(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 <i>European electronic communication provider's</i> network, services provided via this network, and the end-users' terminals;
Comments : This amendment is acceptable in conjunction with an appropriate definition of traffic management that fixes the incoherence of the Commission's text.	

Amendment 654 Petra Kammerevert Article 23 – paragraph 5 – subparagraph 1 – point b ++	
Text proposed by the Commission	Amendment
(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, services provided via this network, and the end-users' terminals, <i>or</i>
Comments : This amendment is acceptable in conjunction with an appropriate definition of traffic management that fixes the incoherence of the Commission's text.	

Amendment 655 Giles Chichester Article 23 – paragraph 5 – subparagraph 1 – point c ++	
--	--

Text proposed by the Commission	Amendment
<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>
Comments : Mr Chichester's approach in his package of amendments is clear, inclusive and unbureaucratic.	

Amendment 656 Edit Herczog Article 23 – paragraph 5 – subparagraph 1 – point c ++	
Text proposed by the Commission	Amendment
<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>
Comments : This amendment is acceptable in conjunction with an appropriate definition of traffic management that fixes the incoherence of the Commission's text.	

Amendment 657 Amelia Andersdotter Article 23 – paragraph 5 – subparagraph 1 – point c +	
Text proposed by the Commission	Amendment
<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>
Comments : This amendment is acceptable in conjunction with an appropriate definition of traffic management that fixes the incoherence of the Commission's text.	

Amendment 658 Petra Kammerevert Article 23 – paragraph 5 – subparagraph 1 – point c ++	
Text proposed by the Commission	Amendment
<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>

Comments : This amendment is acceptable in conjunction with an appropriate definition of traffic management that fixes the incoherence of the Commission's text.

Amendment 659
Sabine Verheyen, Ivo Belet
Article 23 – paragraph 5 – subparagraph 1 – point c
++

Text proposed by the Commission	Amendment
<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>

Comments : This amendment is acceptable in conjunction with an appropriate definition of traffic management that fixes the incoherence of the Commission's text.

Amendment 660
Jean-Pierre Audy
Article 23 – paragraph 5 – subparagraph 1 – point c
+

Text proposed by the Commission	Amendment
(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;

Comments : The Commission's text is not very clear and this amendment fails to add clarity.

Amendment 661
Jürgen Creutzmann
paragraph 5 – subparagraph 1 – point c
-

Text proposed by the Commission	Amendment
(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;

Comments : The Commission's text is not very clear and this amendment fails to add clarity. The Rapporteur is factually wrong in his justification – there is no barrier whatsoever in practice to obtaining explicit consent from individual users. It is certainly false to suggest that it is « not possible ».

Amendment 662 Françoise Castex Article 23 – paragraph 5 – subparagraph 1 – point c +	
Text proposed by the Commission	Amendment
(c) prevent the transmission of unsolicited communications to end-users who have given their prior consent to such restrictive measures;	(c) prevent the transmission of unsolicited communications <i>for direct marketing purposes</i> to end-users who have <i>freely</i> given their prior <i>explicit and informed</i> consent to such restrictive measures;
Comments : This amendment does not fix the lack of clarity of the Commission's proposal.	

Amendment 663 Catherine Trautmann Article 23 – paragraph 5 – subparagraph 1 – point c +	
Text proposed by the Commission	Amendment
(c) prevent the transmission of <i>unsolicited</i> communications to end-users who have given their prior consent to such restrictive measures;	(c) prevent the transmission of <i>specific</i> communications to end-users who have given their prior consent to such restrictive measures;
Comments : This amendment does not fix the lack of clarity of the Commission's proposal.	

Amendment 664 Giles Chichester Article 23 – paragraph 5 – subparagraph 1 – point d ++	
Text proposed by the Commission	Amendment
<i>(d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.</i>	<i>deleted</i>
Comments : Mr Chichester's approach in his package of amendments is clear, inclusive and unbureaucratic.	

Amendment 665 Edit Herczog Article 23 – paragraph 5 – subparagraph 1 – point d ++	
Text proposed by the Commission	Amendment

<i>(d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.</i>	<i>deleted</i>
Comments : This is acceptable in conjunction with an appropriate definition.	

Amendment 666 Sabine Verheyen. Ivo Belet Article 23 – paragraph 5 – subparagraph 1 – point d ++	
Text proposed by the Commission	Amendment
<i>(d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.</i>	<i>deleted</i>
Comments : This is acceptable in conjunction with an appropriate definition.	

Amendment 667 Amelia Andersdotter Article 23 – paragraph 5 – subparagraph 1 – point d ++	
Text proposed by the Commission	Amendment
(d) <i>minimise</i> the effects of temporary <i>or</i> exceptional network congestion provided that equivalent types of traffic are treated equally.	(d) <i>mitigate</i> the effects of temporary <i>and</i> exceptional network congestion, <i>primarily by means of application-agnostic measures or, when these measures do not prove efficient, by mean of application-specific measures</i> , provided that equivalent types of traffic are treated equally.
Comment : This is more thorough, predictable and implementable than the Commission's proposal.	

Amendment 668 Catherine Trautmann Article 23 – paragraph 5 – subparagraph 1 – point d ++	
Text proposed by the Commission	Amendment
(d) <i>minimise</i> the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.	(d) <i>mitigate</i> the effects of temporary or exceptional network congestion, <i>primarily by means of application-agnostic measures or, when these measures do not prove efficient, by means of application-specific measures</i> , provided that equivalent types of traffic are

	treated equally.
Comment : This is more thorough, predictable and implementable than the Commission's proposal.	

Amendment 669 Françoise Castex Article 23 – paragraph 5 – subparagraph 1 – point d ++	
Text proposed by the Commission	Amendment
(d) <i>minimise</i> the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.	(d) <i>mitigate</i> the effects of temporary or exceptional network congestion, <i>primarily by means of application-agnostic measures or, when these measures do not prove efficient, by mean of application-specific measures</i> , provided that equivalent types of traffic are treated equally.
Comment : This is more thorough, predictable and implementable than the Commission's proposal.	

Amendment 670 Petra Kammerevert Article 23 – paragraph 5 – subparagraph 1 – point d ++	
Text proposed by the Commission	Amendment
(d) minimise the effects of temporary <i>or</i> exceptional network congestion provided that <i>equivalent types of traffic</i> are treated <i>equally</i> .	(d) <i>(b)</i> minimise the effects of temporary <i>and</i> exceptional network congestion provided that, <i>in so doing, all content, applications and services</i> are treated <i>in accordance with the best-effort principle</i> .
Comment : This is more thorough, predictable and implementable than the Commission's proposal.	

Amendment 671 Angelika Niebler Article 23 – paragraph 5 – subparagraph 1 – point d -	
Text proposed by the Commission	Amendment
(d) minimise the effects of <i>temporary or exceptional</i> network congestion provided that equivalent types of traffic are treated equally.	(d) minimise <i>or prevent</i> the effects of network congestion provided that equivalent types of traffic are treated equally.
Comments : This amendment adds a new layer of inclarity to the Commission's initial effort.	

Amendment 672
 Teresa Riera Madurell
 Article 23 – paragraph 5 – subparagraph 1 – point d

Text proposed by the Commission	Amendment
(d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.	(d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally, <i>avoiding, wherever possible, measures which discriminate between applications, content, services or devices.</i>
Comments : This amendment makes the Commission's unclear text less clear.	

Amendment 673
 Jürgen Creutzmann
 Article 23 – paragraph 5 – subparagraph 1 – point d

Text proposed by the Commission	Amendment
(d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.	(d) <i>prevent network congestion and</i> minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.
Comments : This amendment is solving a problem that does not exist. Either there is a current problem, which is covered by the original text, or there is not, in which case expected congestion can be solved by investing in a network that is capable of handling expected traffic levels.	

Amendment 674
 Marietje Schaake, Nadja Hirsch
 Article 23 – paragraph 5 – subparagraph 1 – point d
 ++

Text proposed by the Commission	Amendment
(d) minimise the effects of temporary or exceptional network congestion provided that <i>equivalent types of</i> traffic are treated equally.	(d) minimise the effects of temporary or exceptional network congestion provided that <i>all</i> traffic are treated equally.
Comments : This amendment is somewhat clearer than the Commission proposal.	

Amendment 675
 Jean-Pierre Audy

Article 23 – paragraph 5 – subparagraph 1 – point d	
Text proposed by the Commission	Amendment
(d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.	(d) minimise the effects of any recorded temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.
Comment : We do not understand this amendment.	

Amendment 676 Edit Herczog Article 23 – paragraph 5 – subparagraph 2	
Text proposed by the Commission	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.</i>	<i>deleted</i>
Comments : This is acceptable in conjunction with an appropriate definition.	

Amendment 677 Petra Kammerevert Article 23 – paragraph 5 – subparagraph 2	
Text proposed by the Commission	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.</i>	<i>deleted</i>
Comments : This is acceptable in conjunction with an appropriate definition.	

Amendment 678 Catherine Trautmann, Teresa Riera Madurell, Dimitrios Droutsas Article 23 – paragraph 5 – subparagraph	
Text proposed by the Commission	Amendment
Reasonable traffic management <i>shall</i> only entail processing of data that is necessary and	<i>National Regulatory Authorities shall monitor whether the practices in their market respect</i>

proportionate to achieve the purposes set out in this paragraph.

these criteria, in particular whether reasonable traffic management ***measures*** only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph. ***To that purpose, they shall in particular:***

(a) be mandated to regularly monitor and report on Internet traffic management practices and usage policies, in order to ensure network neutrality, evaluate the potential impact of the aforementioned practices and policies on fundamental rights, ensure the provision of a sufficient quality of service and the allocation of a satisfactory level of network capacity to the Internet. Reporting should be done in an open and transparent way and reports shall be made freely available to the public;

(b) put in place appropriate, clear, open and efficient procedures aimed at addressing network neutrality complaints. To this end, all Internet users shall be entitled to make use of such complaint procedures in front of the relevant authority;

(c) respond to the complaints within a reasonable time and be able to use necessary measures in order to sanction the breach of the network neutrality principle.

These authorities must have the necessary resources to undertake the aforementioned duties in a timely and effective manner. They shall, in cooperation with other competent national authorities and the European Data Protection Supervisor, also monitor the effects of specialised services on cultural diversity, competition and innovation. National regulatory authorities shall report on an annual basis to the public, the Commission and BEREC on their monitoring and findings.

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

Comments : This is a strong amendment but would necessitate the inclusion of an effective

definition of « network neutrality » in the Regulation

Amendment 679

Giles Chichester

Article 23 – paragraph 5 – subparagraph 2

++

Text proposed by the Commission

Amendment

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

By 1st January 2015, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down general guidelines for the application of reasonable traffic management measures, on the basis of this Article.

Comments : Mr Chichester's approach in his package of amendments is clear, inclusive and unbureaucratic.

Amendment 680

Marietje Schaake, Nadja Hirsch

Article 23 – paragraph 5 – subparagraph 2

++

Text proposed by the Commission

Amendment

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 that is necessary and proportionate to achieve the purposes set out in this paragraph. ***Therefore all techniques to inspect or analyse data shall be in accordance with privacy and data protection legislation. By default, such techniques should only examine header information.***

Comments: This is a useful clarification. However, it would be clearer if there was one overarching statement that the Regulation is without prejudice to all existing data protection legislation.

Amendment 681

Amelia Andersdotter

Article 23 – paragraph 5 – subparagraph 2

++

Text proposed by the Commission	Amendment
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 that is necessary and proportionate to achieve the purposes set out in this paragraph. <i>The processing of data shall not reveal any information concerning the content of the communication the end users access.</i>
Comments: It is to be hoped that data protection authorities would, even without the proposed text, ensure that content data would not be processed in such circumstances.	

Amendment 682 Petra Kammerevert Article 23 – paragraph 5 – subparagraph 2 a (new) ++	
Text proposed by the Commission	Amendment
	<i>No packet inspection going beyond checking of the headers of the data packets shall take place.</i>
Comments: It is to be hoped that data protection authorities would, even without the proposed text, ensure that content data would not be processed in such circumstances.	

Amendment 683 Petra Kammerevert Article 23 – paragraph 5 a (new) ++	
Text proposed by the Commission	Amendment
	<i>(5a) The Commission shall be empowered to adopt delegated acts in accordance with Article 32 to lay down the technical criteria in accordance with Article 23(5) for determining with maximum accuracy whether exceptional circumstances, as described therein, apply. The requirements to be met in order for exceptional circumstances to apply should be as stringent as possible.</i>
Comments : This suggestion will permit harmonisation measures to be taken, if necessary.	

Amendment 684 Amelia Andersdotter Article 23 – paragraph 5 a (new) /

Text proposed by the Commission	Amendment
	<i>5a. The prices of internet access services from providers of electronic communications to the public shall not depend on the internet content, applications and services used or offered through the same internet access services</i>
Comments : The intent, as described in the proposer's justification, of this amendment is positive. However, the usefulness of the amendment is entirely dependent on how « specialised services » are defined, making it impossible to assess it in isolation. It appears unlikely that the proposed text would have a negative impact	

Amendment 685
Sabine Verheyen, Doris Pack, Ivo Belet
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), <i>compliance with Article 23 (5)</i> , and the continued availability of <i>non-discriminatory</i> 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 <i>monitor</i> the effects of specialised services <i>on</i> 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 <i>open</i> 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 <i>ensure that</i> the effects of specialised services <i>do not impair</i> cultural diversity, <i>media pluralism</i> and innovation. <i>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 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.

Comments: While being a positive amendment, the text fails to achieve an appropriate balance. It references only cultural diversity and innovation – both of which will be impossible for NRAs to measure, monitor and regulate. It also assumes a degree of harm created by “specialised services”, which is acceptable as long as the level of such harm is not at a level that leads to a legally

provable impairment of cultural diversity, media diversity or innovation.

Amendment 686
Françoise Castex
Article 24 – paragraph 1
++

Text proposed by the Commission	Amendment
<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 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. <i>To that purpose, the competent national regulatory authority shall:</i></p> <p><i>(a) be mandated to regularly monitor and report on Internet traffic management practices and usage policies, in order to ensure network neutrality, evaluate the potential impact of the aforementioned practices and policies on fundamental rights, ensure the provision of a sufficient quality of service and the allocation of a satisfactory level of network capacity to the Internet. Reporting should be done in an open and transparent fashion and reports shall be made freely available to the public;</i></p> <p><i>(b) put in place appropriate, clear, open and efficient procedures aimed at addressing network neutrality complaints. To this end, all Internet users shall be entitled to make use of such complaint procedures in front of the relevant authority;</i></p> <p><i>(c) respond to the complaints within a reasonable time and be able to use necessary measures in order to sanction the breach of the network neutrality principle.</i></p> <p><i>This authority must have the necessary resources to undertake the aforementioned duties in a timely and effective manner.</i></p> <p>They shall, in cooperation with other competent national authorities <i>and the European Data Protection Supervisor</i>, also monitor the effects</p>

	of specialised services on cultural diversity, competition and innovation. National regulatory authorities shall report on an annual basis to the public, the Commission and BEREC on their monitoring and findings.
Comments : This amendment is positive, but needs a strong definition of net neutrality to be included in the Regulation. The rôle of the EDPS regarding cultural diversity, competition and innovation is not obvious.	

Amendment 687 Amelia Andersdotter Article 24 – paragraph 1 ++	
Text proposed by the Commission	Amendment
<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 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. To that purpose, the competent national regulatory authority shall:</p> <p>(a) be mandated to regularly monitor and report on Internet traffic management practices and usage policies, in order to ensure network neutrality, evaluate the potential impact of the aforementioned practices and policies on fundamental rights, ensure the provision of a sufficient quality of service and the allocation of a satisfactory level of network capacity to the Internet. Reporting should be done in an open and transparent fashion and reports shall be made freely available to the public;</p> <p>(b) put in place appropriate, clear, open and efficient procedures aimed at addressing network neutrality complaints. To this end, all Internet users shall be entitled to make use of such complaint procedures in front of the</p>

	<p><i>relevant authority;</i></p> <p><i>(c) respond to the complaints within a reasonable time and be able to use necessary measures in order to sanction the breach of the network neutrality principle.</i></p> <p><i>This authority must have the necessary resources to undertake the aforementioned duties in a timely and effective manner.</i></p> <p><i>They shall, in cooperation with other competent national authorities and the European Data Protection Supervisor, also monitor the effects of specialised services on cultural diversity, competition and innovation. National regulatory authorities shall report on an annual basis to the public, the Commission and BEREC on their monitoring and findings.</i></p>
<p>Comments : This amendment is positive, but needs a strong definition of net neutrality to be included in the Regulation. The rôle of the EDPS regarding cultural diversity, competition and innovation is not obvious.</p>	

<p>Amendment 688 Ioannis A. Tsoukalas Article 24 – paragraph 1</p>	
+	
<p>Text proposed by the Commission</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 and findings.</p>	<p>Amendment</p> <p>1. The European Commission and 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 broad availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. Actual Internet speeds and quality of service for individual applications, for types of applications as well as for specialised services should be monitored and tested on an ongoing basis and the findings of this monitoring should be made publicly available.</p>
	<p>The European Commission and national regulatory authorities shall, in cooperation with</p>

	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.
Comment : This reference to « broad » availability does not provide the level of clarity that is needed in a legal instrument of this kind.	

Amendment 689 Seán Kelly Proposal for a regulation -	
Text proposed by the Commission	Amendment
<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. <i>The European Commission and National Regulatory Authorities (NRAs)</i> 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 <i>specialised services</i>. <i>Real levels of quality of service should be monitored on an ongoing basis, including, inter alia, the testing internet speeds and quality of service for individual applications or for categories of applications, as necessary, as well as for specialised services.</i> 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>
Comments: This proposal does not fix the problems of the Commission's lack of clarity	

Amendment 690 Giles Chichester Article 24 – paragraph 1 ++	
Text proposed by the Commission	Amendment

<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. In exercising their powers under Article 30a with respect to Article 23, national regulatory authorities shall closely monitor the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology. National regulatory authorities shall publish reports on a regular basis regarding their monitoring and findings, and provide those reports to the Commission and BEREC.</p>
<p>Comments: This text is much clearer than that of the Commission.</p>	

<p>Amendment 690 Petra Kammerevert Article 24 – paragraph 1 ++</p>	
<p>Text proposed by the Commission</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 and findings.</p>	<p>Amendment</p> <p>(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 continued availability of open internet access services, within the meaning of Article 2(2)(14), that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on freedom of opinion and information, linguistic and cultural diversity, media freedom and diversity, and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.</p>
<p>Comments : This amendment addresses some of the problems of the Commission text.</p>	

Amendment 692
Angelika Niebler
Article 24 – paragraph 1

/	
Text proposed by the Commission	Amendment
<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 <i>linguistic and cultural diversity, freedom of opinion and information, media pluralism</i> and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.</p>
<p>Comments : The intent behind this amendment is welcome. However, there should be no negative effect on these important issues in the first place and it will be impossible in practice to rely on an impossible to measure impact as a safeguard if such problems arise.</p>	

Amendment 693 Róza Gräfin von Thun und Hohenstein Article 24 – paragraph 1 ++	
Text proposed by the Commission	Amendment
<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, competition 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>

Comments: This is a helpful proposal to increase transparency and public access to information. It should be monitored how specialised services increase competition on the market. Those reports should be accessible to the public.

Amendment 694 Marietje Schaake, Nadja Hirsch Article 24 – paragraph 1 ++	
Text proposed by the Commission	Amendment
<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 <i>in accordance with the principle of net neutrality and</i> 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>Comments: This is a positive amendment but must be backed up with a good definition of net neutrality. A good compromise would merge this amendment with amendment 693</p>	

Amendment 695 Jean-Pierre Audy Article 24 – paragraph 1 +	
Text proposed by the Commission	Amendment
<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</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</p>

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.	national authorities, also monitor the effects of specialised services on cultural and linguistic diversity, media freedom and plurality and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.
Comment: The intent behind this amendment is welcome. However, there should be no negative effect on these important issues in the first place and it will be impossible in practice to rely on an impossible to measure impact as a safeguard if such problems arise.	

Amendment 696 Petra Kammerevert Article 24 – paragraph 1 a (new) ++	
Text proposed by the Commission	Amendment
	<i>(1a) Providers of public electronic communications services shall be obliged to document, and to report without delay to the competent national regulatory authority, all occurrences of the exceptional circumstances provided for in Article 23(5) and all traffic management measures taken in each case.</i>
Comments :This is a useful proposal to improve transparency	

Amendment 697 Marietje Schaake, Nadja Hirsch Article 24 – paragraph 1 a (new) +	
Text proposed by the Commission	Amendment
	<i>1a. National regulatory authorities shall establish clear and comprehensible notification and redress mechanisms for end-users subjected to discrimination, restriction, interference, blocking or throttling of online content, services or applications.</i>
Comments : Particularly bearing in mind the difficulties that NRAs have in implementing existing legislation, this amendment would help improve users' rights. However, it should be remembered that any such impairment will – almost by default – mean that the rights of online services (such as blogs) will also have had their rights impaired.	

Amendment 698

Text proposed by the Commission	Amendment
<p><i>(2) 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></p> <p><i>National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. 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.</i></p>	<p><i>deleted</i></p>

Comments : The Commission's text appears to be deliberately vague and bureaucratic. It is impossible to guess what any NRA would consider to be a « general » impairment. Faced with this ill-defined breach of the rights of both citizens and online resources, the response is a report from the national regulator to the Commission and, indirectly to BEREC, followed by «comments » and an assessment of how the measures taken to minimise the damage to the open online market would restrict the online market – with the comments then going back to the NRA, which is obliged to take undefined « utmost » account of the comments. The Commission's proposal is beyond parody.

Sabine Verheyen
 Article 24 – paragraph 2 – subparagraph 2
 ++

Text proposed by the Commission	Amendment
<p>National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. <i>The envisaged requirements shall not be adopted during a period of two months from the receipt of complete information by the Commission unless otherwise agreed between the Commission and the national regulatory authority, or the Commission has informed the national regulatory authority of a shortened examination period, or the Commission has made comments or recommendations. 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.</i></p>	<p>National regulatory authorities shall, in good time before imposing any such requirements, provide the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. <i>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. BEREC shall lay down and develop general guidelines for the application of reasonable traffic management in close cooperation with the Commission and all stakeholders on the basis of Article 23 and this Article.</i></p>
<p>Comments : This amendment makes a valiant effort to fix the absurd bureaucracy that the Commission seeks to put in the way of effective regulatory action being taken by NRAs.</p>	

Amendment 700
 Jean-Pierre Audy
 Article 24 – paragraph 2 – subparagraph 2
 -

Text proposed by the Commission	Amendment
<p>National regulatory authorities shall, in good time before imposing any such requirements, <i>provide</i> the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such information, make comments or recommendations thereupon, in particular to</p>	<p>National regulatory authorities shall, in good time before imposing any such requirements, <i>consult with providers of electronic communications to the public before providing</i> the Commission with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The Commission may, having examined such</p>

<p>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>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>Comments : This leaves the Commission's excessive, absurd, bureaucracy in place.</p>	

<p>Amendment 701 Sabine Verheyen Article 24 – paragraph 2 – subparagraph 2 a (new) ++</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</p>
	<p><i>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.</i></p>
<p>Comments : This is slightly more comprehensive than amendment 697 as it covers both ends of any restricted communications.</p>	

<p>Amendment 702 Sabine Verheyen Article 24 – paragraph 3 +</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</p>
<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</p>	<p><i>deleted</i></p>

<i>referred to in Article 33 (2).</i>	
Comments: The incoherent, bureaucratic approach of the Commission in this Article suggests that increasing its powers would probably not improve harmonisation.	

Amendment 703 Giles Chichester Article 24 – paragraph 3 ++	
Text proposed by the Commission	Amendment
3. The Commission <i>may adopt implementing acts</i> 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. <i>BEREC shall, after consulting stakeholders and in cooperation with</i> the Commission, <i>lay down guidelines</i> 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).
Comment: This is a useful clarification.	

Amendment 704 Silvia-Adriana Țicău Article 24 – paragraph 3 +	
Text proposed by the Commission	Amendment
(3) The Commission may adopt <i>implementing acts</i> 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 <i>the examination procedure referred to in Article 33 (2)</i> .	(3) The Commission may adopt <i>delegated acts</i> 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 Article 32.
Comments :	

Amendment 705 Róza Gräfin von Thun und Hohenstein Article 24 – paragraph 3 -	
Text proposed by the Commission	Amendment
3. The Commission <i>may</i> adopt implementing acts defining uniform conditions for the	3. The Commission <i>shall, after consulting BEREC</i> , adopt implementing acts defining

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).	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).
Comments: As commented previously, the bureaucratic approach of the Commission suggests that such powers (or obligations, as in this amendment) would not be used effectively.	

Amendment 706
Patrizia Toia
Article 25 – paragraph 1 – subparagraph 1 – introductory part
++

Text proposed by the Commission	Amendment
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:	Providers of electronic communications to the public shall, save for offers which are individually negotiated, publish transparent, comparable, comprehensible , adequate and up-to-date information on:

Comment: Sadly, every possible loophole tends to be exploited by large operators, so such amendments are, in reality, useful.

Amendment 707
Sabine Verheyen
Article 25 – paragraph 1 – subparagraph 1 – point d
/

Text proposed by the Commission	Amendment
(d) the quality of their services, in accordance with implementing acts provided for in paragraph 2;	(d) the quality of their services;

Comment : This amendment appears superfluous

Amendment 708
Jean-Pierre Audy
Article 25 – paragraph 1 – subparagraph 1 – point e – point I
++

Text proposed by the Commission	Amendment
(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 at peak-hours; and the means made available to the end-user to check, at any time, the actual data speed for download

	<i>and upload, together with a breakdown of the data speed actually available during the period covered by the contract;</i>
Comment : This is useful for transparency. However, it should not be left primarily to the end-user to monitor their own service – NRAs should also carry out adequate surveillance to ensure that any problems can be addressed effectively – in court if necessary.	

Amendment 709 Petra Kammerevert Article 25 – paragraph 1 – subparagraph 1 – point e – point I ++	
Text proposed by the Commission	Amendment
(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 at peak-hours, <i>and the tools available at any time for end-users to monitor for themselves in real time and using generally recognised procedures the upload and download speeds available to them for the duration of the contract;</i>
This is useful for transparency. However, it should not be left primarily to the end-user to monitor their own service – NRAs should also carry out adequate surveillance to ensure that any problems can be addressed effectively – in court if necessary.	

Amendment 710 Sabine Verheyen Article 25 – paragraph 1 – subparagraph 1 – point e – point I ++	
Text proposed by the Commission	Amendment
(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 guaranteed data speed for download and upload</i> at peak-hours;
Comment : This is a useful amendment, but amendments 708 and 709 would be preferable	

Amendment 711 Petra Kammerevert Article 25 – paragraph 1 – subparagraph 1 – point e – point iv ++	
Text proposed by the Commission	Amendment

(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;	(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, together with all measures under Article 23(5); the tools available at any time for end-users, using generally recognised and comprehensible procedures, to access information regarding the traffic monitoring and management applications and measures referred to in Article 23(5) shall also be indicated;
Comment : This is useful. However, it is essential that procedures be put in place to ensure that legally verifiable tests are automatically carried out when such tools indicate that there are problems.	

Amendment 712 Jean-Pierre Audy Article 25 – paragraph 1 – subparagraph 1 – point e – point iv +	
Text proposed by the Commission	Amendment
(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;	(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; and the means made available to the end-user to ensure that traffic orientation measures are applied effectively;
Comment : This text, while welcome, appears to give the end-user a surveillance and regulatory role – the end user, in fact and in law, will not be able to «ensure » this function without being able to rely on the NRA for the necessary tools and legal resources.	

Amendment 713 Amelia Andersdotter Article 25 – paragraph 1 – subparagraph 1 – point e – point iv a (new) ++	
Text proposed by the Commission	Amendment
	(iva) the communication inspection techniques used for traffic management measures, instituted for the purposes listed in article 23.5, and their repercussions on users privacy and data protection right.

Comment : This will allow easier verification of compatibility with European data protection legislation.

Amendment 714
Françoise Castex
Article 25 – paragraph 1 – subparagraph 1 – point e – point iv a (new)
+

Text proposed by the Commission	Amendment
	<i>(iva) the communication inspection techniques used for traffic management measures, instituted for the purposes listed in article 23.5 and their repercussions on end users privacy and data protection right.</i>

Comment : This will allow easier verification of compatibility with European data protection legislation. However, it is not useful for the repercussions on privacy and data protection to be included here, as it suggests that such repercussions are expected and permissible.

Amendment 715
Patrizia Toia
Article 25 – paragraph 1 – subparagraph 2
++

Text proposed by the Commission	Amendment
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, exhaustive and easily accessible and comprehensive form, through the use of standardised and open file formats , 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.

Comment : This is a very good proposal to maximise transparency.

Amendment 716
Silvia-Adriana Țicău
Article 25 – paragraph 2
/

Text proposed by the Commission	Amendment

<p>(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).</p>	<p>(2) The Commission may adopt delegated 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 Article 32.</p>
<p>Comment :</p>	

<p>Amendment 717 Amelia Andersdotter Article 25 – paragraph 3 ++</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</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 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. 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 and open source software and publically known methodologies, 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 , 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, provided in open data formats, free of charge, for the purposes of making available comparison</p>

	facilities.
Comment: Open data formats will permit more innovation and transparency.	

Amendment 718
 Petra Kammerevert
 Article 25 – paragraph 4
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Text proposed by the Commission	Amendment
<p><i>(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:</i></p> <p><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></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><i>deleted</i></p>

Comment : These provisions in existing EU legislation have proven entirely without merit, purpose or value.

Amendment 719
 Petra Kammerevert
 Article 26 – paragraph 1 – point b – point iv
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Text proposed by the Commission	Amendment

<i>(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;</i>	<i>deleted</i>
Comment : This text is – or at least should be – superfluous.	

Amendment 720 Silvia.AdrianaȚicău Article26–paragraph1–point e–point /	
Text proposed by the Commission	Amendment
(i) any minimum usage or duration required to benefit from promotional terms;	(i) any minimum usage or duration required to benefit from promotional terms. <i>The minimum duration may not exceed 12 months;</i>
Comment : This is outside our scope of interest.	

Amendment 721 Sabine Verheyen Article26–paragraph 2–point b +	
Text proposed by the Commission	Amendment
(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 guaranteed</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;
Comment : This is a useful improvement to transparency.	

Amendment 722 Paul Rübige Article 26 – paragraph 3 /	
Text proposed by the Commission	Amendment
(3) The information <i>referred to in paragraphs 1 and 2</i> shall be provided in a clear, comprehensive and easily accessible manner and	(3) The information <i>required of suppliers under Services Directive 2002/22/EC, as amended by Directive 2009/136/EG,</i> shall be provided in a

<p>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. <i>The end-user shall receive a copy of the contract in writing.</i></p>	<p>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. <i>A standard layout shall be established for the whole of Europe to ensure that the information is provided in a transferable and consumer-friendly form.</i> It shall form an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise.</p>
<p>Comment</p>	

<p>Amendment 723 Ioannis A. Tsoukalas Article 26 – paragraph 3 /</p>	
<p>Text proposed by the Commission</p>	<p>Amendment</p>
<p>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.</p>	<p>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. <i>Member States may maintain or introduce in their national law language requirements regarding the contractual information, so as to ensure that such information is easily understood by the consumer or other end-user.</i></p>
<p>Comment:</p>	