

## Template

EDRi welcomes the amendments proposed to the LIBE 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 24 - Sophia in 't Veld, Cecilia Wikström, Marietje Schaake, Alexander Alvaro

Recital 36 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(36) In a context of progressive migration to 'all IP networks', the lack of availability of connectivity products based on the IP protocol for different classes of services with <b><i>assured service</i></b> quality <b><i>that enable communication paths across network domains and across network borders, both within and between Member States, hinders</i></b> the development of <b><i>applications</i></b> that rely on <b><i>access to other networks, thus limiting technological innovation.</i></b> <b><i>Moreover, this situation prevents the diffusion on a wider scale of efficiencies which are associated with the management and provision of IP-based networks and connectivity products with an assured service quality level, in particular enhanced security, reliability and flexibility, cost-effectiveness and faster provisioning, which benefit network operators, service providers and end users. A harmonised approach to the design and availability of these products is therefore necessary, on reasonable terms including, where requested, the possibility of cross-supply by the electronic communications undertakings concerned.</i></b></p>	<p>(36) In a context of progressive migration to 'all IP networks', the lack of availability of connectivity products based on the IP protocol for different classes of services with a <b><i>defined quality of service within closed communications networks using the Internet Protocol with strict admission control could hinder</i></b> the development of <b><i>services</i></b> that rely on <b><i>this defined quality in order to function adequately. A harmonised approach to the design and availability of these services is therefore necessary, including safeguards to guarantee that the enhanced quality is not functionally identical or to the detriment of the performance, affordability or quality of internet access services or undermines competition, innovation or net neutrality.</i></b></p>
<p>Comment: This amendment significantly modifies the Commission text and provides good provisions on the protection of the open internet. However, it is important that this amendment is</p>	

backed up with the adoption of a good definition of “net neutrality”.

## Amendment 25 - Judith Sargentini, Jan Philipp Albrecht

### Recital 45

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(45) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May 2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.</p>	<p>(45) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May 2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures. <b><i>Indeed, as stated by the European Parliament resolution of 17 November 2011 on the open internet and net neutrality in Europe 2011/2866, the internet's open character has been a key driver of competitiveness, economic growth, social development and innovation – which has led to spectacular levels of development in online applications, content and services – and thus of growth in the offer of, and demand for, content and services, and has made it a vitally important accelerator in the free circulation of knowledge, ideas and information, including in countries where access to independent media is limited.</i></b></p>

Comment: We welcome this amendment that recalls the European Parliament 's opinion on the benefits of the open internet for both the citizens and the economy.

#### Amendment 26 - Dimitrios Droutsas

Recital 45 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(45) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May 2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.</p>	<p>(45) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. <b><i>This ability is best ensured when all types of traffic are treated equally by providers of electronic communications to the public.</i></b> Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May 2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.</p>
<p>Comment: This amendment improves the Commission text by bringing clarification. However, amendment 27 is more comprehensive.</p>	

#### Amendment 27 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro

Recital 45 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(45) The internet has developed over the</p>	<p>(45) The internet has developed over the</p>

<p>past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May 2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.</p>	<p>past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. <b><i>The key driver of the unprecedented innovation and economic activity in the digital age has been the fact that all internet traffic is treated equally, without discrimination, restriction or interference, independent of its sender, receiver, type, content, device, service or application; conform the principle of net neutrality.</i></b> The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. Recently, however, the report of the Body of European Regulators for Electronic Communications (BEREC) on traffic management practices published in May 2012 and a study, commissioned by the Executive Agency for Consumers and Health and published in December 2012, on the functioning of the market of internet access and provision from a consumer perspective, showed that a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require clear rules <b><i>to enshrine the principle of net neutrality in law</i></b> at the Union level to maintain the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.</p>
<p>Comment: This amendment improves the Commission text by bringing clarification.</p>	

#### Amendment 28 - Cornelia Ernst

<p style="text-align: center;"><b>Recital 46</b> ++</p>	
<p style="text-align: center;"><i>Text proposed by the Commission</i></p>	<p style="text-align: center;"><i>Amendment</i></p>
<p><b><i>(46) The freedom of end-users to access and distribute information and lawful content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation defines the limits for any restrictions to this freedom by providers of</i></b></p>	<p><b><i>deleted</i></b></p>

<i>electronic communications to the public but is without prejudice to other Union legislation, including copyright rules and Directive 2000/31/EC.</i>	
Comment: Nothing on this Regulation will make illegal content legal, thus it is not necessary to recall the fact that Union and compatible national law will apply.	

**Amendment 29 - Judith Sargentini, Jan Philipp Albrecht**

Recital 46 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(46) The freedom of end-users to access and distribute information and <b>lawful</b> content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation defines the limits for any restrictions to this freedom by providers of electronic communications to the public but is without prejudice to other Union legislation, including copyright rules and Directive 2000/31/EC.	(46) The freedom of end-users to access and distribute information and content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation defines the limits for any restrictions to this freedom by providers of electronic communications to the public but is without prejudice to other Union legislation, including copyright rules and Directive 2000/31/EC.
Comment: This amendment goes the right direction by deleting the word “lawful” as it is redundant; all content is legal until it is deemed to be otherwise. If a court decision has been made regarding illegal content, it is clear that this will have to be respected by the providers. However, the relevance of referencing copyright legislation here is unclear in the context of this proposal and should be removed as its meaning is far from clear and is liable to be misinterpreted..	

**Amendment 30- Dimitrios Droutsas**

Recital 46 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(46) The <b>freedom</b> of end-users to access and distribute information and lawful content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation defines the limits for any restrictions to this <b>freedom</b> by providers of electronic communications to the public but is without prejudice to other Union legislation, including copyright rules and Directive 2000/31/EC.	(46) The <b>right</b> of end-users to access and distribute information and lawful content, run applications and use services of their choice is subject to the respect of Union and compatible national law. This Regulation defines the limits for any restrictions to this <b>right</b> by providers of electronic communications to the public but is without prejudice to other Union legislation, including copyright rules and Directive 2000/31/EC.
Comment: This amendment goes the right direction by changing “freedom” for “rights”. However	

the word “lawful” should be removed as it is redundant; all content is legal until it is deemed to be otherwise. If a court decision has been made regarding illegal content, it is clear that this will have to be respected by the providers. The meaning of the reference to the E-Commerce Directive is unclear and risks being misinterpreted.

### Amendment 31 - Judith Sargentini, Jan Philipp Albrecht

Recital 46 a (new) ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<b><i>(46a) Potential anti-competitive and discriminative behaviour in traffic management would be contrary to the principle of net neutrality and the open internet, and should be therefore prevented, as also stated by the European Parliament in its initiative report 2013/2080;</i></b>
Comment: This amendment benefits end-users' rights by strengthening the non discrimination principle.	

### Amendment 32 - Judith Sargentini, Jan Philipp Albrecht

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, <b><i>within contractually agreed limits on data volumes and speeds for internet access services</i></b> , not block, slow down, degrade or discriminate against specific content, applications or services or specific classes thereof except for a limited number of <b><i>reasonable</i></b> traffic management measures. Such measures should be transparent, <b><i>proportionate and nondiscriminatory</i></b> . <b><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></b> . Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.	(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 <b><i>technically-reasonable, not commercially motivated</i></b> traffic management measures. Such measures should be transparent, <b><i>necessary, proportionate and nondiscriminatory</i></b> . Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.



Comment: These deletions provide legal clarity and strengthen the rights of users. It would have been better to refer to commercially neutral rather than « commercially motivated », as it is difficult to regulate intentions rather than outcomes.

### Amendment 33 – Dimitrios Droutsas

<b>Recital 47</b>	
++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(47) In an open internet, providers of electronic communications to the public should, <b><i>within contractually agreed limits on data volumes and speeds for internet access services</i></b>, 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 nondiscriminatory.</p> <p><b><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></b> 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 reasonable traffic management measures. Such measures should be transparent, proportionate and non-discriminatory.</p> <p><b><i>Legally mandated interferences in traffic flows does not constitute traffic management.</i></b> Minimising the effects of network congestion should be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>
<p>Comment: While problematic parts of the Commission text have been deleted, the addition that have been made undermined legal clarity.</p>	

### Amendment 34 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro

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

<p>of reasonable traffic management measures. Such measures <b>should</b> be transparent, proportionate and nondiscriminatory. Reasonable traffic management <b>encompasses prevention or impediment of serious crimes, including</b> voluntary actions of providers to prevent access to and distribution of child pornography. Minimising the effects of network congestion <b>should</b> be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>	<p><b>shall</b> be transparent, proportionate and non-discriminatory. Reasonable traffic management <b>could encompass</b> voluntary actions of providers to prevent access to and distribution of child pornography subject to judicial review. Minimising the effects of network congestion <b>could</b> be considered reasonable provided that network congestion occurs only temporarily or in exceptional circumstances.</p>
<p>Comment: While some problematic parts of the Commission text have been deleted, the provision on voluntary measures have not been amended adequately. Such 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, such as web blocking that could only be challenged ex post, if the injured party has the means to do so.</p>	

### Amendment 35 - Cornelia Ernst

<p style="text-align: center;"><b>Recital 47</b> ++</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, <b><i>within contractually agreed limits on data volumes and speeds for internet access services</i></b>, 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 nondiscriminatory. <b><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></b> 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 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.</p>
<p>Comment: These deletions provide legal clarity and strengthen the rights of users.</p>	



### Amendment 36 - Dimitrios Droutsas

Recital 49 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>(49) There is also end-user demand for services and applications <b>requiring an enhanced level of assured service quality</b> 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 <b>enhanced</b> 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 <b>optimisations in order to ensure adequate service characteristics</b> 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), videoconferencing and certain health applications. End-users should therefore also be free to conclude agreements on the provision of specialised services with an <b>optimised</b> quality of service with either providers of electronic communications to the public or providers of content, applications or services. <b>Where such agreements are implemented alongside Internet access services, the responsible providers should ensure that the optimised quality service does not impair the quality of Internet access.</b></p>
<p>Comment: This amendment brings clarity.</p>	

### Amendment 37 - Judith Sargentini, Jan Philipp Albrecht

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 timesensitive. The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public <b>is necessary for the provision of</b> specialised services and is expected to play an important role in the development of new services such as machine-to-machine (M2M)</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 timesensitive. The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public <b>could serve to provide</b> specialised services and is expected to play a role in the development of new services such as machine-to-machine (M2M) communications. At the</p>

<p>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 <b>substantially</b> impair the <b>general</b> quality of internet access services.</p>	<p>same time such arrangements should allow providers of electronic communications to the public to better balance traffic and prevent network congestion. <b><i>This should however not impair the development of the general purpose internet.</i></b> 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 <b><i>quality characteristics are technically necessary for the functionality of the service and</i></b> agreements do not impair the quality of internet access services.</p>
<p>Comment: This amendment brings clarity, although the wording “general purpose internet” is unclear.:-</p>	

### Amendment 38 – Dimitrios Droutsas

<p style="text-align: center;"><b>Recital 50</b> ++</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 timesensitive. 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</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 timesensitive. 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</p>

agreements do not <b>substantially</b> impair the <b>general</b> quality of internet access services.	agreements do not impair the quality of internet access services.
Comment: This is a welcome amendment that adds legal clarity as the words “substantially” and “general” are undefined qualifiers, which have no obvious meaning and will generate new barriers and new legal uncertainty.	

**Amendment 39 - Sophia in 't Veld, Cecilia Wikström, Marietje Schaake, Alexander Alvaro**

<b>Recital 50</b> ++	
<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 timesensitive. The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public <b>is necessary for the provision of specialised services and is expected to play an important role in</b> 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 <b>substantially</b> impair the <b>general</b> 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 timesensitive. The possibility for content, applications and service providers to negotiate such flexible quality of service levels with providers of electronic communications to the public <b>could foster</b> 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 <b>defined levels of quality are technically necessary for the functionality of the service and these</b> agreements do not impair the quality of internet access services, <b>in accordance with the principle of net neutrality.</b></p>
<p>Comment: These deletions provide more legal clarity and strengthen user rights, although the value of the amendment depends in part on the inclusion of a definition of « net neutrality » in the legislation.</p>	

**Amendment 40 – Cornelia Ernst**

<b>Recital 50</b> ++
-------------------------

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

#### **Amendment 41 - Sophia in 't Veld, Cecilia Wikström, Marietje Schaake, Alexander Alvaro**

<b>Recital 51</b>	
++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<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</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</p>

<p>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>services. <b><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></b> 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 endusers. 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: This amendment strengthen end-users' rights.</p>	

#### Amendment 42 - Salvador Sedó i Alabart

<p align="center"><b>Recital 58 a (new)</b></p>	
<p align="center"><i>Text proposed by the Commission</i></p>	<p align="center"><i>Amendment</i></p>
	<p><b><i>(58a) The processing of personal data referred to in Regulation of the European Parliament and of the Council laying down measures concerning the European Single Market for electronic communications and to achieve a Connected Continent should comply with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.24a</i></b></p>
<p>Comment: Unfortunately, due to the unclear drafting by the Commission, this clarification is necessary.</p>	

#### Amendment 45 - Alexander Alvaro

<b>Article 1 – paragraph 2 – point e a (new)</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>ea) to ensure 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 strengthen end-users' rights by establishing the non discrimination principle as a regulatory principle of this Regulation.	

#### Amendment 46 - Sophia in 't Veld, Marietje Schaake, Alexander Alvaro, Cecilia Wikström

<b>Article 1 – paragraph 2 – point e a (new)</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<i>ea) to ensure 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 strengthen end-users' rights by establishing the non discrimination principle as a regulatory principle of this Regulation	

#### Amendment 48 - Sophia in 't Veld, Cecilia Wikström, Marietje Schaake, Alexander Alvaro

<b>Article 2 – paragraph 2 – point 12</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<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 support this deletion, as BEREC has pointed out several times that ASQ is	



superfluous and indeed could be (mis)used as another way to prioritise traffic for anti-competitive reasons.

**Amendment 49 - Alexander Alvaro**

**Article 2 – paragraph 2 – point 12 a (new)**

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<b><i>(12a) "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></b>
Comment: This amendment provides a good definition of net neutrality.	

**Amendment 50 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro**

**Article 2 – paragraph 2 – point 12 a (new)**

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<b><i>(12a) "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></b>
Comment: This amendment provides a good definition of net neutrality.	

**Amendment 51 - Judith Sargentini, Jan Philipp Albrecht**

**Article 2 – paragraph 2 – point 14**

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(14) ‘internet access service’ means a publicly available electronic communications service that provides connectivity to the internet, and thereby connectivity between virtually all end points 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; <b><i>It enables users to run any application utilising the electronic communications network of the internet.</i></b>
Comment: This amendment brings clarity.	

**Amendment 52 - Alexander Alvaro**

<b>Article 2 – paragraph 2 – point 15</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(15) ‘specialised service’ means an electronic communications service <b><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></b> internet access service;	(15) 'specialised service' means an electronic communications service, <b><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></b> internet access service;
Comment: This amendment adds legal clarity to the Commission's text and brings the definition in line with that of BEREC.	

**Amendment 53 - Judith Sargentini, Jan Philipp Albrecht**

<b>Article 2 – paragraph 2 – point 15</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
(15) ‘specialised service’ means an electronic communications service <b><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></b> internet access service;	(15) 'specialised service' means an electronic communications service <b><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</i></b> and that is not <b><i>functionally identical to services available over the public</i></b> internet access service;
Comment: This amendment adds legal clarity to the Commission's text and brings the definition in line with that of BEREC.	

**Amendment 54 – Dimitrios Droutsas**

<b>Article 2 – paragraph 2 – point 15</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

<p>(15) ‘specialised service’ means an electronic communications service or any other service <i>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</i>; and that is not <i>marketed or widely used as a substitute for internet access service</i>;</p>	<p>(15) 'specialised service' means an electronic communications service or any other 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</i> and that is not <i>functionally identical to services available over the public internet</i>;</p>
<p>Comment: This amendment adds legal clarity to the Commission's text and brings the definition in line with that of BEREC.</p>	

**Amendment 55- Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro**

<p align="center"><b>Article 2 – paragraph 2 – point 15</b> ++</p>	
<p align="center"><i>Text proposed by the Commission</i></p>	<p align="center"><i>Amendment</i></p>
<p>(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</i>; and that is not <i>marketed or widely used as a substitute for internet access service</i>;</p>	<p>(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 internet</i> access service;</p>
<p>Comment: This amendment adds legal clarity to the Commission's text and brings the definition in line with that of BEREC.</p>	

**Amendment 56 - Cornelia Ernst**

<p align="center"><b>Article 2 – paragraph 2 – point 15</b> ++</p>	
<p align="center"><i>Text proposed by the Commission</i></p>	<p align="center"><i>Amendment</i></p>
<p>(15) ‘specialised service’ means an electronic communications service or any other service <i>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</i></p>	<p>(15) ‘specialised service’ means an electronic communications service or any other service <i>operated within closed electronic communications networks using the Internet Protocol with strict admission control that is not marketed or used as a substitute for internet access service</i>; and that is not <i>functionally identical to services available over the</i></p>

<i>endpoints; and that is not <b>marketed or widely used as a substitute for internet access service;</b></i>	<i>public internet;</i>
Comment: This amendment adds legal clarity to the Commission's text and brings the definition in line with that of BEREC.	

#### **Amendment 60 - Judith Sargentini, Jan Philipp Albrecht**

<b>Article 19</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>[...]</i>	<i>deleted</i>
Comment: We support this deletion, as BEREC has pointed out several times that ASQ is superfluous and indeed could be (mis)used as another way to prioritise traffic for anti-competitive reasons.	

#### **Amendment 61 - Sophia in 't Veld, Cecilia Wikström, Marietje Schaake, Alexander Alvaro**

<b>Article 19</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>[...]</i>	<i>deleted</i>
Comment: We support this deletion, as BEREC has pointed out several times that ASQ is superfluous and indeed could be (mis)used as another way to prioritise traffic for anti-competitive reasons.	

#### **Amendment 62 - Cornelia Ernst**

<b>Article 19</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>[...]</i>	<i>deleted</i>
Comment: We support this deletion, as BEREC has pointed out several times that ASQ is superfluous and indeed could be (mis)used as another way to prioritise traffic for anti-competitive reasons.	

#### **Amendment 63 - Dimitrios Droutsas**

<b>Article 19 – paragraph 4 – point e</b> +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>(e) ensuring that the rules on protection of privacy, personal data, security and</i>	<i>deleted</i>

<i>integrity of networks and transparency in accordance with Union law are respected.</i>	
Comment: While we welcome the deletion of this paragraph, a full deletion of Article 19 would be preferable as BEREC has pointed out several times that ASQ is superfluous and could be (mis)used as another way to prioritise traffic for anti-competitive reasons.	

#### Amendment 64 - Dimitrios Droutsas

Article 19 – paragraph 5 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b>5. The Commission shall be empowered to adopt delegated acts in accordance with Article 32 in order to adapt Annex II in light of market and technological developments, so as to continue to meet the substantive requirements listed in paragraph 4.</b>	<b>deleted</b>
Comment: While we welcome the deletion of this paragraph, a full deletion of Article 19 would be preferable as BEREC has pointed out several times that ASQ is superfluous and could be (mis)used as another way to prioritise traffic for anti-competitive reasons.	

#### Amendment 66 - Judith Sargentini, Jan Philipp Albrecht

Chapter 4 – title ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b>Harmonised rights of end-users</b>	<b>Users' rights to open internet access</b>
Comment: This amendment make it clear that all “users” of the online ecosystems have these rights, rather than simply “end-users”.	

#### Amendment 67 - Alexander Alvaro

Article 23 – paragraph 1 – subparagraph 1 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users <b>shall be free</b> to access and distribute information and content, run applications and use services of their choice via their internet access service.	End-users <b>have the right</b> to access and distribute information and content, run applications and use services <b>or devices</b> of their choice via their internet access service, <b>in accordance with the principle of net neutrality.</b>
Comment: We support the change from “freedom” to “rights” and the reference to the net	

neutrality principle.

#### Amendment 68 - Judith Sargentini, Jan Philipp Albrecht

##### Article 23 – paragraph 1 – subparagraph 1

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>End-users shall be free to access and distribute information and content, run applications and use services of their choice via their internet access service.</i>	<i>Providers of electronic communications to the public or providers of content, applications and services may offer specialized services to a limited number of users granted restricted access, through a closed electronic communications network. Specialized services may not be marketed or used as an internet substitute or offer content, applications or services functionally identical to those of the open internet. Specialized services shall not impair the quality of internet access services.</i>
Comment: We support the inclusion of the nondiscrimination clause.	

#### Amendment 69 - Sophia in 't Veld, Marietje Schaake, Alexander Alvaro, Cecilia Wikström

##### Article 23 – paragraph 1 – subparagraph 1

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users <b>shall be free</b> to access and distribute information and content, run applications and use services of their choice via their internet access service.	End-users <b>have the right</b> to access and distribute information and content, run applications and use services <b>or devices</b> of their choice via their internet access service, <b>in accordance with the principle of net neutrality</b> .
Comment: We support the change from “freedom” to “rights” and the reference to the net neutrality principle. However, the value of this amendment relies on the adoption of a clear amendment defining “net neutrality”.	

#### Amendment 70 – Dimitrios Droutsas

##### Article 23 – paragraph 1 – subparagraph 1

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall <b>be free</b> to access and distribute information and content, run	End-users shall <b>have the right</b> to access and distribute information and content, run



applications and use services of their choice via their internet access service.	applications, <i>connect hardware</i> and use services, <i>software and devices</i> of their choice via their internet access service.
Comment: We support the change from “freedom” to “rights”. The Commission's wording has no clear legal meaning.	

### Amendment 71 – Cornelia Ernst

Article 23 – paragraph 1 – subparagraph 1 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall <i>be free</i> to access and distribute information and content, run applications and use services of their choice via their internet access service.	End-users shall <i>have the right</i> to access and distribute information and content, run applications, <i>connect hardware</i> and use services, <i>and software</i> of their choice via their internet access service.
Comment: We support the change from “freedom” to “rights”, as the Commission's use of the word “free” has no obvious legal meaning.	

### Amendment 72 – Alexander Alvaro

Article 23 – paragraph 1 – subparagraph 2 -++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services <i>and, 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>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 fails to achieve what we believe to be its (positive) goal. The definitions proposed for “net neutrality” would not exclude the possibility, if combined with this text, of data, etc being treated equally <i>in the network</i> but being treated differently regarding how they are paid for. It would be possible, for example, allow certain online services to be included or excluded from volume-based billing, to the detriment of choice and competition.	

### Amendment 73 - Judith Sargentini, Jan Philipp Albrecht

Article 23 – paragraph 1 – subparagraph 2 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>End-users</i> shall <i>be free</i> to enter into	Users shall <i>have the right</i> to enter into

agreements on data volumes and speeds with providers of internet access services <b>and, in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.</b>	agreements <b>that differentiate</b> on data volumes and speeds with providers of internet access services <b>provided that these agreements do not contain any clauses that discriminate access to any specific content, application or service or classes thereof available to the user.</b>
Comment: We welcome the deletion of the Commission unclear text, the additions made to strengthen end-users' rights, and the change of “be free” for “have the right”.	

**Amendment 74 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro**

<b>Article 23 – paragraph 1 – subparagraph 2</b>	
-	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services <b>and, in accordance with any such agreements relative to data volumes,</b> to avail of any offers by providers of internet content, applications and services.	<b>With due account to the principle of net neutrality,</b> end-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services, <b>provided they freely and explicitly give their informed consent, and</b> to avail of any offers by providers of internet content, applications and services.
Comment: This amendment fails to achieve what we believe to be its (positive) goal. The definitions proposed for “net neutrality” would not exclude the possibility, if combined with this text, of data, etc being treated equally <i>in the network</i> but being treated differently regarding how they are paid for. It would be possible, for example, allow certain online services to be included or excluded from volume-based billing, to the detriment of choice and competition.	

**Amendment 75 – Dimitrios Droutsas**

<b>Article 23 – paragraph 1 – subparagraph 2</b>	
++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b>End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.</b>	<b>Provided that they do not discriminate based on the content, application or service themselves or specific classes,</b> providers of internet access services <b>may offer agreements that differentiate according to data volumes and speeds.</b>
Comment: This amendment improves the Commission text. It is clear that discrimination that would include/exclude certain services from volume-based bundles, to the detriment of innovation and choice would be excluded.	

## Amendment 76 – Cornelia Ernst

<b>Article 23 – paragraph 1 – subparagraph 2</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b><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></b>	<b><i>Providers of internet access services may however offer agreements that differentiate according to data volumes and speeds provided that they do not discriminate based on the content, application or service themselves, or specific classes.</i></b>
Comment: It is clear that discrimination that would include/exclude certain services from volume-based bundles, to the detriment of innovation and choice would be excluded.	

## Amendment 77 - Judith Sargentini, Jan Philipp Albrecht

<b>Article 23 – paragraph 1 – subparagraph 2 a (new)</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<b><i>Under agreements concerning data volumes and speeds, selected content, services or applications may not be deducted from consumption volumes or exempted from data speed restriction on consumption of agreed data volumes.</i></b>
Comment: It is clear that discrimination that would include/exclude certain services from volume-based bundles, to the detriment of innovation and choice would be excluded.	

## Amendment 78 – Alexander Alvaro

<b>Article 23 – paragraph 2 – subparagraph 1</b> +	
<i>Text proposed by the Commission</i>	<i>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.	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. <b><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,</i></b>

	<i>affordability or quality of internet access services, in accordance with the principle of net neutrality.</i>
Comment: The value of this amendment relies on the adoption of a clear definition of net neutrality.	

**Amendment 79 - Judith Sargentini, Jan Philipp Albrecht**

<b>Article 23 – paragraph 2 – subparagraph 1</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>End-users</i> shall also <b><i>be free</i></b> 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 <b><i>have the right</i></b> 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: This fixes the lack of clarity in the Commission's text	

**Amendment 80 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro**

<b>Article 23 – paragraph 2 – subparagraph 1</b> +	
<i>Text proposed by the Commission</i>	<i>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.	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. <b><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></b>
Comment: This text would still permit discrimination (such as on the basis of differential pricing for data downloads) that would fall outside the definition of net neutrality.	

**Amendment 81 – Dimitrios Droutsas**

<b>Article 23 – paragraph 2 – subparagraph 1</b> ++	
--	--

<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall also <b><i>be free</i></b> 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 <b><i>have the right</i></b> 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: This replaces the legally meaningless “free” wording with a legally meaningful word.	

#### Amendment 82 – Cornelia Ernst

<b>Article 23 – paragraph 2 – subparagraph 1</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
End-users shall also <b><i>be free</i></b> 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 <b><i>have the right</i></b> 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: This replaces the legally meaningless “free” wording with a legally meaningful word.	

#### Amendment 84 – Alexander Alvaro

<b>Article 23 – paragraph 2 – subparagraph 2</b> ++	
<i>Text proposed by the Commission</i>	<i>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 <b><i>in a recurring or continuous manner the general quality of</i></b> 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 <b><i>within closed electronic communications networks</i></b> as specialised services with a defined quality of service or dedicated capacity, <b><i>which are not functionally identical to services available over the public internet access service.</i></b> The provision of specialised services shall not impair <b><i>the quality of internet access services. Where network capacity is</i></b>

	<i>shared between</i> internet access services and specialised services, <i>the provider of these services shall publish clear and unambiguous criteria based on which network capacity is shared.</i>
Comment: This is a useful clarification, in particular with regard to functionally identical services.	

**Amendment 84 - Judith Sargentini, Jan Philipp Albrecht**

Article 23 – paragraph 2 – subparagraph 2 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
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> quality of internet access services.	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 access services.
Comment: This fixes some of the bizarrely unclear wording of the Commission.	

**Amendment 85 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro**

Article 23 – paragraph 2 – subparagraph 2 ++	
<i>Text proposed by the Commission</i>	<i>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 <i>in a recurring or continuous manner the general quality of</i> 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 <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. Where network capacity is shared between</i> internet access services <i>and specialised services, the provider of these services shall publish clear and unambiguous criteria based on which network capacity is shared.</i>
Comment: This proposal is significantly clearer than the Commission's text.	

#### Amendment 86 - Dimitrios Droutsas

Article 23 – paragraph 2 – subparagraph 2	
+	
<i>Text proposed by the Commission</i>	<i>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 <b><i>shall be free to</i></b> 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 <b><i>in a recurring or continuous manner the general</i></b> 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 <b><i>may</i></b> 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 <b><i>the</i></b> quality of internet access services.
Comment: This amendment adds clarity to the Commission's unclear proposal.	

#### Amendment 87 – Cornelia Ernst

Article 23 – paragraph 2 – subparagraph 2	
+	
<i>Text proposed by the Commission</i>	<i>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 <b><i>shall be free to</i></b> 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 <b><i>in a recurring or continuous manner the general</i></b> 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 <b><i>may</i></b> 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 <b><i>the</i></b> quality of internet access services.

Comment: This amendment adds clarity to the Commission's unclear proposal.

#### **Amendment 88 - Judith Sargentini, Jan Philipp Albrecht**

<b>Article 23 – paragraph 3</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b>3. This Article is without prejudice to Union or national legislation related to the lawfulness of the information, content, application or services transmitted.</b>	<b>deleted</b>
Comment: It is a complete mystery why the Commission added this quite obviously unnecessary text to its proposal.	

#### **Amendment 89 – Dimitrios Droutsas**

<b>Article 23 – paragraph 3</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b>3. This Article is without prejudice to Union or national legislation related to the lawfulness of the information, content, application or services transmitted.</b>	<b>deleted</b>
Comment: It is a complete mystery why the Commission added this quite obviously unnecessary text to its proposal.	

#### **Amendment 90 – Cornelia Ernst**

<b>Article 23 – paragraph 3</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b>3. This Article is without prejudice to Union or national legislation related to the lawfulness of the information, content, application or services transmitted.</b>	<b>deleted</b>
Comment: It is a complete mystery why the Commission added this quite obviously unnecessary text to its proposal.	

**Amendment 91 - Michael Cashman**

Article 23 – paragraph 3 +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
3. This Article is <b><i>without prejudice to</i></b> Union or national legislation related to the lawfulness of the information, content, application or services transmitted.	3. This Article is <b><i>compatible with</i></b> Union or national legislation related to the lawfulness of the information, content, application or services transmitted.
Comment: If the proposed text is correct, it is superfluous. It is clearer to simply delete the pointless Commission text.	

**Amendment 92 – Alexander Alvaro**

Article 23 – paragraph 5 – subparagraph 1 – introductory part ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b><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,</i></b> 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 <b><i>treat all internet traffic in accordance with the principle of net neutrality,</i></b> except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate, <b><i>subject to clear, comprehensible and accessible redress mechanisms</i></b> and necessary to:
Comment: This amendment generates more meaning in fewer words than the Commission's proposal.	

**Amendment 93 - Judith Sargentini, Jan Philipp Albrecht**

Article 23 – paragraph 5 – subparagraph 1 – introductory part ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b><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</i></b>	Providers of internet access services shall not restrict the <b><i>rights</i></b> provided for in paragraph 1 by blocking, slowing down, degrading, <b><i>altering</i></b> or discriminating against specific content, applications or services, or specific classes thereof, except

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:	in <i>certain special</i> cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, <i>and strictly</i> proportionate and necessary to
Comment: This is clearer than the Commission's proposal.	

#### Amendment 94 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro

Article 23 – paragraph 5 – subparagraph 1 – introductory part ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>Within the limits of any contractually agreed data volumes or speeds for internet access services, providers of internet access services shall <b>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,</b> 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 <b><i>treat all internet traffic in accordance with the principle of net neutrality,</i></b> except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate, <b><i>subject to clear, comprehensible and accessible redress mechanisms</i></b> and necessary to:
Comment: This is clearer than the Commission's text.	

#### Amendment 95 – Dimitrios Droutsas

Article 23 – paragraph 5 – subparagraph 1 – introductory part ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<i>Within the limits of any contractually agreed data volumes or speeds for internet access services, providers of internet access services shall not restrict the <b>freedoms</b> 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</i>	Providers of internet access services shall not restrict the <b>rights</b> 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, <b><i>and strictly</i></b> proportionate and necessary to

management measures shall be transparent, non-discriminatory, proportionate and necessary to:	
Comment: This is clearer than the Commission's text.	

#### Amendment 96 – Cornelia Ernst

Article 23 – paragraph 5 – subparagraph 1 – introductory part ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<b><i>Within the limits of any contractually agreed data volumes or speeds for internet access services</i></b> , providers of internet access services shall not restrict the <b><i>freedoms</i></b> 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 <b><i>rights</i></b> provided for in paragraph 1 by blocking, slowing down, degrading, <b><i>altering</i></b> or discriminating against specific content, applications or services, or specific classes thereof, except in <b><i>certain special</i></b> cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, <b><i>and strictly</i></b> proportionate and necessary to
Comment: This is clearer than the Commission's text.	

#### Amendment 97 - Judith Sargentini, Jan Philipp Albrecht

Article 23 – paragraph 5 – subparagraph 1 – point a ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
a) implement a <b><i>legislative provision or a court order, or prevent or impede serious crimes</i></b> ;	a) implement a court order;
Comment: The Commission's proposal is in quite obvious breach of Article 52 of the European Charter of Fundamental Rights. This amendment resolves this problem.	

#### Amendment 98 - Sophia in 't Veld, Cecilia Wikström, Marietje Schaake, Alexander Alvaro

Article 23 – paragraph 5 – subparagraph 1 – point a ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
a) implement a legislative provision or a court order, <b><i>or prevent or impede serious</i></b>	a) implement a legislative provision or a court order;

<i>crimes;</i>	
Comment: The Commission's proposal is in quite obvious breach of Article 52 of the European Charter of Fundamental Rights. This amendment resolves this problem.	

#### Amendment 99 – Dimitrios Droutsas

<b>Article 23 – paragraph 5 – subparagraph 1 – point a</b> +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
a) implement a legislative provision or a court order, <b><i>or prevent or impede serious crimes;</i></b>	a) implement a legislative provision or a court order;
Comment: The Commission's proposal is in quite obvious breach of Article 52 of the European Charter of Fundamental Rights. This amendment resolves this problem.	

#### Amendment 100 – Cornelia Ernst

<b>Article 23 – paragraph 5 – subparagraph 1 – point a</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
a) implement a legislative provision or a court order, <b><i>or prevent or impede serious crimes;</i></b>	a) implement a legislative provision or a court order;
Comment: The Commission's proposal is in quite obvious breach of Article 52 of the European Charter of Fundamental Rights. This amendment resolves this problem.	

#### Amendment 101 - Judith Sargentini, Jan Philipp Albrecht

<b>Article 23 – paragraph 5 – subparagraph 1 – point b</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;	b) preserve the integrity and security of the <b><i>European electronic communication provider's</i></b> network, services provided via this network, and the end-users' terminals;
Comment: We guess that this is what the Commission probably meant.	

#### Amendment 102 – Dimitrios Droutsas

<b>Article 23 – paragraph 5 – subparagraph 1 – point b</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;	b) preserve the integrity and security of the <b><i>European electronic communication provider's</i></b> network, services provided via this network, and the end-users' terminals;
Comment: We guess that this is what the Commission probably meant.	

#### Amendment 103 – Cornelia Ernst

<b>Article 23 – paragraph 5 – subparagraph 1 – point b</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;	b) preserve the integrity and security of the <b><i>European electronic communication provider's</i></b> network, services provided via this network, and the end-users' terminals;
Comment: We guess that this is what the Commission probably meant.	

#### Amendment 104 - Judith Sargentini, Jan Philipp Albrecht

<b>Article 23 – paragraph 5 – subparagraph 1 – point c</b> /	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
c) prevent the transmission of unsolicited communications <b><i>to end-users</i></b> who have given their prior consent to such restrictive measures;	c) prevent the transmission of unsolicited communications <b><i>for direct marketing purposes to users</i></b> who have given their <b><i>free, informed, explicit and</i></b> prior consent to such restrictive measures;
Comment: As e-mail filtering requires significant amounts of processing of personal data, this need to ask for consent should already be clear from existing privacy legislation.	

#### Amendment 105 – Cornelia Ernst

<b>Article 23 – paragraph 5 – subparagraph 1 – point c</b> /	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
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 <b><i>for direct marketing purposes</i></b> to end-users who have given their prior consent to such restrictive measures;
Comment: As e-mail filtering requires significant amounts of processing of personal data, this need to ask for consent should already be clear from existing privacy legislation.	



### Amendment 106 – Alexander Alvaro

#### Article 23 – paragraph 5 – subparagraph 1 – point d

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
d) minimise the effects of temporary or exceptional network congestion provided that <b>equivalent types of traffic are</b> treated equally.	d) minimise the effects of temporary or exceptional network congestion provided that <b>all</b> traffic <b>is</b> treated equally.
Comment: This adds clarity to the Commission's unclear text.	

### Amendment 107 - Judith Sargentini, Jan Philipp Albrecht

#### Article 23 – paragraph 5 – subparagraph 1 – point d

-

<i>Text proposed by the Commission</i>	<i>Amendment</i>
d) <b>minimise</b> the effects of temporary <b>or</b> exceptional network congestion provided that equivalent types of traffic are treated equally.	d) <b>mitigate</b> the effects of temporary <b>and</b> exceptional network congestion, <b>primarily by means of application-agnostic measures</b> , provided that equivalent types of traffic are treated equally.
Comment: This amendment does not add clarity	

### Amendment 108 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro

#### Article 23 – paragraph 5 – subparagraph 1 – point d

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
d) minimise the effects of temporary or exceptional network congestion provided <b>that equivalent types of traffic are</b> treated equally.	d) minimise the effects of temporary or exceptional network congestion provided <b>all</b> traffic <b>is</b> treated equally.
Comment: This is less ambiguous than the Commission's text.	

### Amendment 109 – Cornelia Ernst

#### Article 23 – paragraph 5 – subparagraph 1 – point d

++

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

Comment: The Commission's use of “or” in this paragraph is illogical.

#### Amendment 110 – Alexander Alvaro

##### Article 23 – paragraph 5 – subparagraph 2

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.	Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph. <b><i>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.</i></b>

Comment: This is an important clarification. However, an overarching amendment stating that the entire Regulation is without prejudice to data protection legislation in force would be clearer.

#### Amendment 111 - Judith Sargentini, Jan Philipp Albrecht

##### Article 23 – paragraph 5 – subparagraph 2

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.	Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph. <b><i>Processing of any information concerning the content of the communication for these purposes is not permitted</i></b>

Comment: This is an important clarification. However, an overarching amendment stating that the entire Regulation is without prejudice to data protection legislation in force would be clearer.

#### Amendment 112 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro

##### Article 23 – paragraph 5 – subparagraph 2

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.	Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph. <b><i>Therefore all techniques to inspect or analyse data shall</i></b>

	<i>be in accordance with privacy and data protection legislation. By default, such techniques should only examine header information.</i>
Comment: This is an important clarification. However, an overarching amendment stating that the entire Regulation is without prejudice to data protection legislation in force would be clearer.	

#### Amendment 113 – Dimitrios Droutsas

<b>Article 23 – paragraph 5 – subparagraph 2</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.	Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph. <b><i>Processing of the content part of the communication during transmission for these purposes is not permitted.</i></b>
Comment: This is an important clarification. However, an overarching amendment stating that the entire Regulation is without prejudice to data protection legislation in force would be clearer.	

#### Amendment 114 – Cornelia Ernst

<b>Article 23 – paragraph 5 – subparagraph 2</b> =	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.	Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph. <b><i>Processing of the content part of the communication during transmission for these purposes is not permitted. In no case, sensitive data as defined in Article 8 paragraph 1 of Directive 95/46/EC shall be processed.</i></b>
Comment: This is an important clarification. However, the final sentence seems to be trying to set up a hierarchy of fundamental principles (no content data and absolutely no sensitive data), which seems logically problematic.	

#### Amendment 115 - Judith Sargentini, Jan Philipp Albrecht

<b>Article 23 – paragraph 5 – subparagraph 2 a (new)</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>

	<i>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>
Comment: This seeks to cover the types of discrimination that can be practiced while nonetheless respecting the principle of net neutrality.	

#### Amendment 116 – Cornelia Ernst

<b>Article 23 – paragraph 5 a (new)</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<b>5a. Providers of electronic communications to the public do not make the prices for internet access services subject to the internet content, applications and services used or offered through the Internet access service.</b>
Comment: This seeks to cover the types of discrimination that can be practised while nonetheless respecting the principle of net neutrality.	

#### Amendment 117 – Alexander Alvaro

<b>Article 24 – paragraph 1</b> +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of nondiscriminatory 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	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 nondiscriminatory internet access services <b>in accordance with the principle of net neutrality and</b> 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

monitoring and findings.	basis to the Commission and BEREC on their monitoring and findings.
Comment: It would have been helpful to replace the unclear word “freedoms” with the more legally meaningful word “rights”.	

### Amendment 118 -Judith Sargentini, Jan Philipp Albrecht

#### Article 24 – paragraph 1

++

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. National regulatory authorities shall closely <b>monitor and</b> 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 nondiscriminatory 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 endusers to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of nondiscriminatory 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. <b><i>To that purpose, the competent national regulatory authority shall:</i></b></p> <p><b><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></b></p> <p><b><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></b></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>Comment: While this amendment is overwhelmingly positive, it would have been helpful to put an obligation on NRAs to take action when breaches of the present Regulation have been identified.</p>	

**Amendment 119 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro**

<p align="center"><b>Article 24 – paragraph 1</b> ++</p>	
<p align="center"><i>Text proposed by the Commission</i></p>	<p align="center"><i>Amendment</i></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 nondiscriminatory 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 nondiscriminatory internet access services <b><i>in accordance with the principle of net neutrality and</i></b> 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>Comment: This improves the Commission's text.</p>	

**Amendment 120 – Dimitrios Droutsas**

<b>Article 24 – paragraph 1</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of nondiscriminatory 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 <b>and BEREC</b> 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) <b>and Article 2 (15)</b>, 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, <b>BEREC and the public</b> on their monitoring and findings.</p>
<p>Comment: This helps to add transparency.</p>	

**Amendment 121 – Cornelia Ernst**

<b>Article 24 – paragraph 1</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of nondiscriminatory 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) <b>and Article 2 (15)</b>, 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 <b>the public</b>, the Commission and BEREC on their monitoring and findings.</p>
<p>Comment: This helps to add transparency.</p>	



--

**Amendment 122 – Alexander Alvaro**

**Article 24 – paragraph 1 a (new)**  
++

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

Comment: While a positive amendment, it is unfortunate that the right is just proposed for “end-users” rather than anyone whose rights are abused by such activities.

**Amendment 123 - Sophia in 't Veld, Marietje Schaake, Cecilia Wikström, Alexander Alvaro**

**Article 24 – paragraph 1 a (new)**  
++

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

Comment:

**Amendment 124 – Dimitrios Droutsas**

**Article 24 – paragraph 2 – subparagraph 2**  
+

<i>Text proposed by the Commission</i>	<i>Amendment</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 <b>may</b> , having	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 <b>shall</b> , having

<p>examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. The envisaged requirements shall not be adopted during a period of two months from the receipt of complete information by the Commission unless otherwise agreed between the Commission and the national regulatory authority, or the Commission has informed the national regulatory authority of a shortened examination period, or the Commission has made comments or recommendations. National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.</p>	<p>examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. The envisaged requirements shall not be adopted during a period of two months from the receipt of complete information by the Commission unless otherwise agreed between the Commission and the national regulatory authority, or the Commission has informed the national regulatory authority of a shortened examination period, or the Commission has made comments or recommendations. National regulatory authorities shall take the utmost account of the Commission's comments or recommendations and shall communicate the adopted requirements to the Commission and BEREC.</p>
<p>Comment: It seems unlikely that this would have much practical impact.</p>	

#### Amendment 125 – Dimitrios Droutsas

<b>Article 24 – paragraph 3</b> +	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>3. The Commission <i>may</i> adopt <b>implementing</b> acts defining uniform conditions for the <b>implementation of the</b> obligations of national competent authorities under this Article. Those <b>implementing</b> acts shall be adopted in accordance with <b>the examination procedure referred to in Article 33 (2)</b>.</p>	<p>3. The Commission <b>shall</b> adopt, <b>after consultation with BEREC and other stakeholders, delegated</b> acts defining uniform conditions for the obligations of national competent authorities under this Article. Those acts shall be adopted in accordance with Article 32.</p>
<p>Comment: It is difficult to assess whether the Commission should be obliged to adopt delegated acts in situations where it would not otherwise have done so.</p>	

#### Amendment 126 – Cornelia Ernst

<b>Article 24 – paragraph 3</b> ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>3. The Commission may adopt implementing acts defining uniform conditions for the implementation of the obligations of national competent</p>	<p>3. The Commission may adopt, <b>after consultations with BEREC and other stakeholders,</b> implementing acts defining uniform conditions for the implementation</p>

authorities under this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33 (2).	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: Effective consultation will improve the Commission's decision-making	

### Amendment 127 - Judith Sargentini, Jan Philipp Albrecht

Article 25 – paragraph 1 – subparagraph 1 – point e – point iv a (new) ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<b><i>(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.</i></b>
Comment: Current technologies permit very extensive intrusions into privacy and freedom of communication. All available safeguards should be put in place.	

### Amendment 128 – Cornelia Ernst

Article 25 – paragraph 3 ++	
<i>Text proposed by the Commission</i>	<i>Amendment</i>
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 <b><i>or at a reasonable price</i></b> , national regulatory authorities or other competent national	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 <b><i>and free and/or open source software and open methodologies</i></b> , 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

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.

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 facilities.

Comment: This appears to be more in line with the Commission's current policies on data formats than the Commission's own proposal.