

Electronic communications: universal service, users' rights relating to networks and services, processing of personal data, protection of privacy, consumer protection cooperation. 'Telecoms Package'

2007/0248(COD) - 31/03/2009

The Committee on the Internal Market and Consumer Protection adopted the recommendation for second reading by Malcolm HARBOUR (EPP-ED, UK) modifying, under the second reading of the codecision procedure, the Council's common position for adopting a directive of the European Parliament and of the Council amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

The main amendments are as follows:

Public pay telephones and other public voice telephony access points: in order to ensure technological neutrality and continued access by the public to voice telephony, national regulatory authorities should be able to impose obligations on undertakings in order to ensure that public pay telephones or other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled users and the quality of services.

Disabled end-users: Equivalence in disabled end-users' access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent such that disabled end-users benefit from the same usability of services as other end-users, but by different means.

Contracts: MEPs consider it necessary to increase the level of detail of information to be provided in contracts. Therefore, the contract shall specify in a clear, comprehensive and easily accessible form a number of elements, including: (i) whether or not access to emergency services and caller location information is being provided, and/or any limitations on the provision of emergency services; (ii) information on any other conditions limiting access to and/or use of services and applications, where such conditions are allowed under national law in accordance with Community law; (iii) any minimum usage required to benefit from promotional terms; (iv) information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link and on how those procedures could impact on service quality; (v) any compensation arrangements which apply if security or integrity incidents occur.

Emergency services: Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing an electronic communications service for originating **national and/or international calls** through a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services.

In order to ensure the effective implementation of "**112**" services in the Member States, the Commission, having consulted BERT, may adopt technical implementing measures. In order to respond to

technological developments, the Commission should be empowered to adopt technical implementing measures in order to ensure the effective implementation of “112” in the Community for the benefit of citizens of the Union.

Harmonised numbers for harmonised services of social value: in order to ensure the effective implementation of the '116' numbering range, in particular the missing children hotline number 116000, in the Member States, including access for disabled end-users when travelling in other Member States, the Commission, having consulted BERT, may adopt technical implementing measures, in accordance with the regulatory procedure with scrutiny.

European Telephony Numbering Space: a legal entity, established within the Community and designated by the Commission, shall have sole responsibility for the management, including number assignment, and promotion of the European Telephony Numbering Space. The Commission shall adopt the necessary implementing rules.

Access to numbers and services: the competent national authorities shall take all necessary measures to ensure that end-users may also access and use services through text telephones, video telephones and products which help elderly people or people with disabilities to communicate, at least as regards emergency calls. In order to ensure that end users have effective access to numbers and services in the Community, the Commission may adopt technical implementing measures, in accordance with the regulatory procedure with scrutiny.

Number portability: subscribers who have concluded an agreement to port a number to a new undertaking shall have that number activated within **one working day**. National regulatory authorities shall be able to impose appropriate **sanctions** on undertakings, including an obligation to compensate subscribers in the case of delay in porting or abuse of porting by them or on their behalf. Member States shall also ensure that undertakings offer users the possibility to subscribe to a contract with a maximum duration of 12 months.

Access to content, services and applications: Member States shall ensure that any restrictions on the rights of users to access content, services and applications, if such restrictions are necessary, are implemented by appropriate measures, in accordance with the principles of proportionality, effectiveness and dissuasiveness. Those measures shall not have the effect of hindering the development of the information society, in particular electronic commerce, in the Internal Market, and shall not conflict with the fundamental rights of citizens, including the right to privacy and the right to due process.

Single information points: Member States should introduce single information points for all user queries. These information points, which could be administered by national regulatory authorities together with consumer associations, should also be able to provide legal assistance in case of disputes with operators. Access to these information points should be free of charge and users should be informed of their existence by regular information campaigns.

Out-of-court procedures: Member States shall ensure that transparent, non-discriminatory, simple and inexpensive out-of-court procedures are available for dealing with unresolved disputes between consumers and undertakings providing electronic communications networks and/or services. Such procedures shall enable disputes to be settled impartially and shall not deprive the consumer of the legal protection afforded by national law. Member States may extend these obligations to cover disputes involving other end-users.

Member States shall ensure that the bodies in charge of such procedures, which can be single points of contact, provide relevant information for statistical purposes to the Commission and the competent national authorities. With specific regard to the interaction of audiovisual and electronic communications, Member States shall encourage reliable out-of-court procedures.

Security of services and protection of personal data: the provider of a publicly available electronic communications service or an information society service should take appropriate technical and organisational measures to ensure the security of its services.

Without prejudice to Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data, the measures taken in this area shall at least: (i) ensure that personal data can be accessed only by authorised personnel for legally authorised purposes; (ii) protect personal data stored or transmitted against accidental or unlawful destruction, accidental loss or alteration, and unauthorised or unlawful storage, processing, access or disclosure; (iii) implement a security policy with respect to the processing of personal data.

When the personal data breach is likely to adversely affect the personal data and privacy of a subscriber or an individual, the provider shall notify the subscriber or individual of the breach without undue delay. If the provider has not already notified the subscriber or individual of a personal data breach, the competent national authority, having considered the likely adverse effects of the breach, may require it to do so.

Providers shall maintain an inventory of personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken.

Review: the Commission shall, having consulted the Working Party on the Protection of Individuals with regard to the Processing of Personal Data and the European Data Protection Supervisor, submit to the European Parliament and the Council, not later than three years from the date of transposition, a report on the application of this Directive and its impact on economic operators and consumers, in particular as regards the provisions on unsolicited communications and breach notifications, taking into account the international environment. Where appropriate, the Commission shall submit proposals to amend this Directive.