

Open internet access

2013/0309(COD) - 02/10/2015 - Commission communication on Council's position

As all amendments to the Commission proposal were discussed during the informal tripartite discussions, **the Commission can accept the amendments that the Council adopted in its first reading position.**

The Commission supported the Council position which **limits the scope of the proposal to net neutrality and roaming**, and this was confirmed in the negotiations with the European Parliament. The Commission recalled that the [Digital Single Market strategy](#) announced by the Commission on 6 May 2015 makes clear that spectrum will be part of the telecom review to be presented in 2016.

Overall **the Council's position endorses the core objectives of the Commission proposal**, namely to abolish retail roaming surcharges and ensure open internet access while allowing innovative services. However, the Council makes some changes regarding how to achieve these goals. Its amendments involve:

- **defining a clear end-date for roaming surcharges** while ensuring the sustainability of such abolition, in particular by appropriately timing the review of wholesale roaming markets and establishing an appropriate mechanism to address exceptional and specific cases where domestic charging models would be unsustainable even after the review of wholesale roaming markets;
- clarifying that equal treatment of traffic allows for **reasonable day-to-day traffic management** based on justified objective technical requirements and independently of the traffic's origin or destination;
- **a ban on blocking, throttling and discrimination against specific content**, services or applications, or categories thereof, with three narrowly circumscribed necessary exceptions, namely for compliance with EU or national laws or measures giving effect to such laws, for network security purposes, and for management of temporary or exceptional network congestion;
- establishing that services other than internet access services, which are optimised for specific content, applications or services, may be provided under certain conditions: (i) that optimisation is necessary to meet the quality requirements of these content, applications or services; (ii) that they are not marketed or usable as a substitute to internet access services; (iii) that sufficient capacity is available; and (iv) that their provision is not detrimental to the quality of internet access services for end-users;
- obliging the competent regulatory authorities to ensure, **through monitoring and enforcement action**, compliance with the rules of the Regulation and that the rights of end-users, including providers of content, services and applications, are not impaired;
- establishing certain **end-users' rights** which are necessary to apply the provisions on roaming and net neutrality effectively.