Electronic communications: processing of personal data, protection of privacy

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The committee adopted the report by Marco CAPPATO (IND, I) amending the Council's common position under the second reading of the codecision procedure. The committee retabled a number of amendments adopted by Parliament at first reading, which had not been taken up by the Council. In particular, it reiterated Parliament's position that user data should not be stored by electronic service providers for longer than necessary for billing purposes and that any restrictions by Member States on the provisions of the directive (in order to conduct criminal investigations or safeguard national or public security) should be appropriate, proportionate and limited in time. Moreover, general or exploratory electronic surveillance on a large scale should not be allowed. As regards the use of "cookies", the committee concurred with the Council position that users should have the right to refuse cookies, but felt that it would suffice merely to guarantee users the possibility of accessing clear information on the purposes of cookies. It thus rejected the Council's view that users should receive this information in advance. On the issue of "spamming", the committee reiterated Parliament's position at first reading that it should be left up to the Member States to decide whether users should give prior permission before being sent unsolicited commercial e-mail (the "opt-in" system) or should merely have the right to demand that they be removed from an existing mailing list ("opt-out"). Another retabled first reading amendment provided for subscribers to be entitled, 30 months after the directive's entry into force, to ask service providers to use technical solutions enabling them to view the sender and subject line of e-mails, and also to delete them, without having to download the rest of the contents or any attachments. The committee also restated Parliament's view that users should only be sent SMS messages for the purpose of direct marketing if they had given their prior consent. As regards directories, the committee retabled Parliament's first reading amendment stipulating that subscribers should have the right to request that their names or certain details be removed from printed or electronic directories and that personal data over and above what is necessary to identify a particular subscriber should be listed only with that person's unambiguous consent. Lastly, the report repeated Parliament's call for the Commission to submit an impact report on the implementation of the directive as a whole, and not just on the implementation of Article 13 (unsolicited communications).