

**COUNCIL OF** THE EUROPEAN UNION

Brussels, 27 February 2009

DS 177/09

**Interinstitutional Files:** 2007/0248 (COD)

LIMITE

## MEETING DOCUMENT

Presidency from:

Working Party on Telecommunications and Information Society

No. Cion prop.: 15387/07 TELECOM 151 MI 298 COMPET 392 CONSOM 133 CODEC 1297

Subject: Review of the EU regulatory framework for electronic communications networks

and services:

Proposal for 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 consumer protection cooperation

Delegations will find in annex a 4 columns table from the Presidency.

EV/ek LIMITE EN

DS 177/09 DG C II B

	application for winer a conficetion is		
	(4) A fundamental requirement of universal service is to provide users on request with a connection to the public communications network at a fixed location, at an affordable price. The requirement is limited to a single network connection, the provision of which may be restricted by Member States to the end-user's primary location/residence. There should be no constraints on the technical means by which the connection is provided, allowing for wired or wireless technologies, nor any constraints on which operators provide part or all of universal service obligations.  Connections to the public communications network at a fixed location should be capable of supporting speech and data communications at rates sufficient for access to online services such as those provided via the public Internet. The speed of Internet access experienced by a given user may depend on a number of factors including the provider(s) of Internet connectivity as well as the given		
			1.1. RECITALS
COMPROMISE PROPOSAL	EUROPEAN PARLIAMENT'S Draft Recommendation (before tabling office verification)	COUNCIL COMMON POSITION 16 February 2009	COMMISSION'S Amended Proposal 6 November 2008
	CITIZENS' RIGHTS DIRECTIVE	CITIZENS' RIG	
ANNEX			

ANNEX **EN** 

2 DG C II B

EV/ek

AUGUMAN CO PAGMACE A MEE COOL DAN GEN TON
messures produce a net cost harden for
where it does. Where such specific
connection to be brought up to the level
States should be able to require the
satisfactory Internet access, Member
location is clearly insufficient to support
communications network at a fixed
the connection to the public
relatively low. In specific cases where
traditional connections remains
States where household penetration of
particular importance in some Member
of the population. This may be of
universal service to a higher proportion
cellular wireless networks) to deliver
of wireless technologies (including
to, for example, exploit the capabilities
allowing Member States where relevant
supporting satisfactory data rates, while
that connections are capable of
measures where necessary to ensure
required to allow Member States to take
less of EU households. Flexibility is
the Internet has decreased to 10% or
rural areas and use of modems to access
available to 80% of the population in
speeds above 2 Mbit/s, broadband is
with access to the Internet have access
Currently almost half of Europeans
or bit rate at Community level.
appropriate to mandate a specific data
connection. For this reason it is not
terminal equipment as well as the
the capabilities of the subscriber's
communications network depends on
supported by a connection to the public
being used. The data rate that can be

ANNEX **EN** 

DS 177/09

3 DG C II B

EV/ek

(Universal Service) chooses to dispose of a substantial part, viewed in light of its universal service obligation, or all, of its local access network assets in the national territory to a separate legal entity under different ultimate ownership, the national regulatory authority should assess the effects of the transaction in order to ensure the continuity of universal service obligations in all or parts of the national regulatory authority which imposed the universal service obligations children to ensure the continuity of universal services of the national regulatory authority which imposed the		
rights of the disabled. (AM 2)  (??) When an undertaking designated to provide universal service as identified in Article 4 of Directive 2002/22/EC		
procedures and tendering services in- accordance with the provision of services relating to calls for tender, and by implementing legislation upholding the rights of the disabled (AM 2)	legislation upholding the rights of the disabled end-users.	
be achieved inter alia by referring to European standards, by introducing electronic accessibility (eAccessibility) requirements for public procurement	European standards, introducing electronic accessibility (eAccessibility) requirements for public procurement procedures and tendering services in accordance with	
(6) Member States should introduce measures to promote the creation of a market for widely available products and services incorporating facilities for disabled users. One way among others of achieving this is, with reference This can	(6) Member States should introduce measures to promote the creation of a market for widely available products and services incorporating facilities for disabled end-users. One way among others of achieving this is, with reference to	
those consumers concerned, the net effect may be included in any net cost calculation of universal service obligations. (AM 1)		

ANNEX **EN** 

4 DG C II B

EV/ek

their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of the traffic management policies of the service and/or network provider with which they conclude the contract. Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them under Directive 2002/19/		
content they want to be able to send and receive, and which services, applications, hardware and software they want to use for such purposes, without prejudice to the need to preserve the integrity and security of networks and services. A competitive market with transparent offerings as provided for in Directive 2002/22/EC should ensure that end-users are able to access and distribute any content and to use any applications and/or services of	electronic communications for consumers and businesses, users should be fully informed of the traffic management policies of the service and/or network provider with which they conclude the contract. Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them under Directive 2002/19/ EC (Access Directive) to ensure that users' access to particular types of content or application is not unreasonably restricted.	
(XX) The provisions of this Directive should apply without prejudice to Community rules on consumer protection, in particular Directives 93/13/EEC, 97/7/EC and 2005/29/EC, and national rules in conformity with Community law.  (AM 4)	(72) City the increasing importance of	
advance of the disposal. The assessment of the national regulatory authority should not prejudice the completion of the transaction. (AM 3)		

DS 177/09
ANNEX **EN** 

5 DG C II B

EV/ek

DS 177/09
ANNEX **EN** 

6 DG C II B

EV/ek

charges. National regulatory authorities authorities should also be able to make publicly available information published statistics) and to ensure that third parties consumption patterns and other relevant pricing conditions which apply to it and account of the nature of the service, the regulatory authorities should take due categories of call requiring pricing national law. When determining the the call, unless otherwise provided for by by them, immediately prior to connecting certain categories of services determined should be able to require that such the type of service offered before they be adequately informed of the price and addition, end-users and consumers should thus belongs in the public domain. In where it has already been published and remuneration for the use of information Undertakings should not be entitled to any charge or at a reasonable price. the market has not provided them free of price guides available, in particular where by such undertakings. National regulatory have the right to use, without charge, regards information (including tariffs, and/or services greater transparency as electronic communications networks regulatory authorities should be able to make price comparisons easily, national whether it is offered by a provider who is information prior to connection, national information is provided generally, and, for purchase a service, in particular if a require from undertakings providing freephone number is subject to additional of information which had already been and whether it is offered by a provider connecting the call, unless it is otherwise and, for certain categories of services such information is provided generally, of the price and the type of service offered be able to make price guides available, in determined by them, immediately prior to to additional charges. National regulatory particular if a freephone number is subject consumers should be adequately informed domain. In addition, end-users and reasonable price. Undertakings should not National regulatory authorities should also by such undertakings, without charge. publicly available information published statistics) and to ensure that third parties consumption patterns, and other relevant regulatory authorities should have powers make price comparisons easily, national the pricing conditions which apply to it national regulatory authorities should take pricing information prior to connection, determining the categories of call requiring authorities should be able to require that before they purchase a service, in published and thus belongs in the public be entitled to any remuneration for the use provided them free of charge or at a particular where the market has not have the right to use <del>without charge</del> such information (including tariffs, and/or services better transparency on electronic communications networks to require from undertakings providing due account of the nature of the service, provided for by national law. When

DS 177/09

ANNEX EX

DG CIIB

EV/ek

(26) ensu serv it m com qual of se		cor prej (Dis) und Mei pub the inte
(26) A competitive market should ensure that users enjoy the quality of service they require, but in particular cases it may be necessary to ensure that public communications networks attain minimum quality levels so as to prevent degradation of service, the blocking of access and the slowing of traffic over networks.		communications services. Without prejudice to Directive 2000/31/EC (Directive on electronic commerce), undertakings should also, if required by Member States, provide subscribers with public interest information produced by the relevant public authorities regarding, inter alia, the most common infringements and their legal consequences.
(26) A competitive market should ensure that users receive the quality of service they require, but in particular cases it may be necessary to ensure that public communications networks attain minimum quality levels so as to prevent degradation of service, the blocking of access and the slowing of traffic over networks. <b>Since</b>	(??) The Member States should introduce single information points for all user queries. These information points, which could be administered by the 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. (AM 8)	communications services. Without prejudice to Directive 2000/31/EC on electronic commerce, undertakings should also, if required by Member States, provide to subscribers public interest information produced by the relevant public authorities, inter alia, on the most common acts of infringements and their legal consequences. Significant additional costs incurred by undertakings for dissemination of such information should be agreed between the undertakings and the relevant authorities and met by those authorities. (AM 7)

DS 177/09
ANNEX **EN** 

8 DG C II B

EV/ek

organical force care amonder a manager	torce carro annough a mannoch or mannocho	
originating voice calle through a number	voice calle through a number or numbers	
using any telephone service capable of	telephone service capable of originating	
access the emergency services provided	access the emergency services using any	
(31) End-users should be able to call and	(31) End-users should be able to call and	
10)	technical limitations.	
subscriber and technical limitations. (AM	of different types of subscriber and	
the priorities of different types of	majeure, taking into account the priorities	
cases of force majeure taking into account	network breakdown or in cases of force	
catastrophic network breakdown or in	services in the event of catastrophic	
emergency services in the event of	uninterrupted access to emergency	
networks and uninterrupted access to	communications networks and	
provided using public communications	services provided using public	
of publicly available telephone services	availability of publicly available telephone	
steps to be taken to ensure the availability	appropriate steps to be taken to ensure the	
should determine the most appropriate	States should determine the most	
provision of the network, Member States	from provision of the network, Member	
of a service may be separated from	provision of a service may be separated	
(27) In future IP networks where provision	(27) In future IP networks, where	
throughout the Community. (AM 9)		
order to achieve consistent application		
technical implementing measures in		
Community and, if necessary, adopt		
regulatory intervention across the		
regulatory authorities for possible		
any requirements set by national		
market, the Commission should assess		
impair the achievement of the internal		
inconsistent remedies will significantly		

ANNEX **EN** 

9 DG C II B

EV/ek

"112" and periodically to evaluate the supplement initiatives of the should continue both to support and to and billing material, that "112" can be directories, payphone kiosks, subscriber when travelling in any Member State, in end, citizens should be made fully aware, awareness of "112" in order to improve the "112" at least as expeditiously and be strengthened so as to increase the public's awareness of it. The obligation to Member States to heighten awareness of Member States, but the Commission primarily the responsibility of the throughout the Community. This is ports or airports and in telephone international bus terminals, train stations, particular through information provided in travelling in the European Union. To this level of protection and security of citizens numbers. It is important to increase effectively as calls to national emergency handle and answer calls to the number Emergency authorities should be able to in national telephone numbering plans. used as a single emergency number protection of citizens of the European provide caller location information should should be made fully aware, in particular and security of citizens travelling in the should be able to handle and answer calls Member States to heighten awareness of supplement initiatives of the should continue both to support and to and billing material, that "112" can be directories, payphone kiosks, subscriber European Union. To this end, citizens in order to improve the level of protection important to increase awareness of "112" other national emergency numbers. It is numbering plans. Emergency authorities "112" and periodically to evaluate the Member States, but the Commission international bus terminals, train stations, through information provided in expeditiously and effectively as calls to to the number "112" at least as or numbers in national telephone to increase the protection of citizens of the information should be strengthened so as obligation to provide caller location public's awareness of "112". The primarily the responsibility of the throughout the Community. This is used as a single emergency number ports or airports and in telephone

ANNEX **EN** DS 177/09 DG CIIB

EV/ek

	3	
with the same reliability as traditional	with the same reliability as traditional	
calls made through their service are routed	calls made through their service are routed	
not be able to ensure that the emergency	may not be able to ensure that emergency	
not have control over networks and may	may not have control over networks and	
The state of the s	i ceri ciii aixacpeixaciii cei ixee pio ixaexo	
Network-independent undertakings may	Network-independent service providers	
that electronic communications service.	that electronic communications service.	
remanify that is technically reasone for	and remanify as is technically reasible for	
	1 1:1:1:	
emergency services with the accuracy and	emergency services with such accuracy	
numbering plan provide access to	numbering plan provide access to	
numbers in a national telephone	number or numbers in a national telephone	
orriginating can's un ought a number of	designed for originating carrs un ough a	
originating calle through a number or	doctored for originating calls through a	
electronic communications service for	electronic communications service	
undertakings providing end-users with an	undertakings providing end-users with an	
(32) Member States should ensure that	(32) Member States should ensure that	
the European Union. (AM 11)		
Community for the benefit of citizens of		
implementation of "TIZ" in the		
implementation of "119" in the		
measures in order to ensure the effective		
able to adopt technical implementing		
information, the Commission should be		
increasingly precise accuracy of location		
developments, including those leading to		
order to respond to technological		
independently of the technology used. In	technology used.	
as the call reaches that service	reaches that service, independently of the	
location information to emergency as soon	to emergency services as soon as the call	
undertakings should make available caller	make caller location information available	
European Union. In particular,	Union. In particular, undertakings should	
1		

ANNEX **EN** 

11 DG C II B

EV/ek

(33a) <b>Development of</b> the international		
providers. (AM 12)		
traditional integrated telephone service		
information at the same level as		
undertakings. provide caller location		
comparable to that required of other		
to emergency services at a level-		
also fulfil the obligations related to access-		
service providers undertakings should		
are in place, all network-independent		
and connection to the emergency services		
place ensuring accurate, reliable routing		
internationally recognized standards are in		
that is technically possible. Once		
lower level of caller location information		
authority should be able to impose the		
that authority, the national regulatory	undertakings.	
and services as soon as the call reaches	a level comparable to that required of other	
the authority handling emergency calls	related to access to emergency services at	
provide caller location information to	providers should also fulfil the obligations	
technically impossible for them to	in place, network-independent service	
regulatory authority that it is	connection to the emergency services are	
such undertakings prove to the national	ensuring accurate and reliable routing and	
direct control of these undertakings. If	Once internationally-recognised standards	
the infrastructure are not under their the	infrastructure are not under their control.	
availability, given that problems related to	availability, given that problems related to	
they may not be able to guarantee service	they may not be able to guarantee service	
integrated telephone service providers, as	integrated telephone service providers, as	

ANNEX **EN** 

12 DG C II B

EV/ek

Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bineaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Code "388" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom (BERT) or, following the example of the implementation of the "cat" op-level domain, to a separate organisation, designated by the Commission on the basis of an open, transparent and non-discriminatory selection procedure, and with operating rules which form part of Community law. (AM 13)  (27) Considering the particular aspects related to reporting missing children and the currently limited availability of that service, Member States should not only reserve a number, but also ensure	that a service for reporting missing
Numbering Space (EFINS)) is currently hindered by insufficient avareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International code "3833" should delegate responsibility for its designment and promotion either to the Body of European Regulators in Telecom  (BERT) or, following the example of the implementation of the "eat" top-level domain, to a separate organisation, designated by the Commission on the basis of an open, transparent and non-discriminatory selection procedure, and with operating missing children and the currently limited availability of that service, Member States should not	only reserve a number, but also ensure
Numbering Space (EINS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Union has assigned the international Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecomm (BERT) or, following the example of the implementation of the ".eu" top-level domain, to a separate organisation, designated by the Commission on the basis of an open, transparent and non-discriminatory selection procedure, and with operating rules which form part of Community law. (AM 13)  [27] Considering the particular aspects related to reporting missing children and the currently imited availability of	that service, Member States should not
Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom (BERT) or, following the example of the implementation of the "en" top-level domain, to a separate organisation, designated by the Commission on the basis of an open, transparent and non-discriminatory selection procedure, and with operating rules which form part of Community law. (AM 13)  (??) Considering the particular aspects related to reporting missing children	and the currently limited availability of
Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Teleconnumunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Teleconn (BERT) or, following the example of the implementation of the "cei" top-level domain, to a separate organisation, designated by the Commission on the basis of an open, transparent and non-discriminatory selection procedure, and with operating rules which form part of Community law. (AM 13)  (7?) Considering the particular aspects	related to reporting missing children
Numbering Space (ETNS)) is currently hindered by insufficient avareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3833" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom (BERT) or, following the example of the implementation of the "ea" top-level domain, to a separate organisation, designated by the Commission on the basis of an open, transparent and non-discriminatory selection procedure, and with operating rules which form part of Community law, (AM 13)	(??) Considering the particular aspects
Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3882" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom (BERT) or, following the example of the implementation of the "en" top-level domain, to a separate organisation, designated by the Commission on the basis of an open, transparent and nondiscriminatory selection procedure, and with operating rules which form part of	Community law. (AM 13)
Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom (BERT) or, following the example of the implementation of the ".eu" top-level domain, to a separate organisation, designated by the Commission on the basis of an open, transparent and non-discriminatory selection procedure, and	with operating rules which form part of
Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International  Telecommunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom  (BERT) or, following the example of the implementation of the "een" top-level domain, to a separate organisation, designated by the Commission on the basis of an open, transparent and non-	discriminatory selection procedure, and
Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom (BERT) or, following the example of the implementation of the "eu" top-level domain, to a separate organisation, designated by the Commission on the	basis of an open, transparent and non-
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom (BERT) or, following the example of the implementation of the ".eu" top-level domain, to a separate organisation,	designated by the Commission on the
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom (BERT) or, following the example of the implementation of the ".eu" top-level	domain, to a separate organisation,
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom (BERT) or, following the example of the	implementation of the ".eu" top-level
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of European Regulators in Telecom	
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and promotion either to the Body of	
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should delegate responsibility for its management, number assignment and	promotion either to the Body of
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should delegate responsibility for its	management, number assignment and
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned the international code "3883" should	delegate responsibility for its
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International Telecommunications Union has assigned	the international code "3883" should
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to which the International	Telecommunications Union has assigned
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the development of ETNS, the countries to	which the International
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of demand. In order to foster the	development of ETNS, the countries to
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural requirements and, in consequence, lack of	<b>demand.</b> In order to foster the
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness, overly bureaucratic procedural	requirements and, in consequence, lack of
code "3883" (the European Telephony Numbering Space (ETNS)) is currently hindered by insufficient awareness,	overly bureaucratic procedural
code "3883" (the European Telephony Numbering Space (ETNS)) is currently	hindered by insufficient awareness,
code "3883" (the European Telephony	Numbering Space (ETNS)) is currently
	code "3883" (the European Telephony

DS 177/09
ANNEX **EN** 

13 DG C II B

EV/ek

call charges for numbers accessible	numbers accessible through standard	
freephone numbers, such as international	such as international call charges for	
manner of any charges applicable to	charges applicable to freephone numbers,	
fully informed in advance in a clear	in advance and in a clear manner of any	
economically unfeasible. Users should be	unfeasible. Users should be fully informed	
short code), or when technically or	when it is technically or economically	
having a national scope only (e.g. national	scope only (e.g. a national short code) or	
services) when the number is defined as	the number is defined as having a national	
connection with certain premium-rate	with certain premium-rate services), when	
combat fraud, and abuse (e.g. in	combat fraud or abuse (e.g. in connection	
objectively justified cases, for example to	objectively justified cases, for example to	
service should not be prevented except in	services should not be prevented, except in	
numbering resources and to its associated	numbering resources and associated	
Numbers (UIFN). Cross-border access to	Numbers (UIFN). Cross-border access to	
Universal International Freephone	Universal International Freephone	
Telephone Numbering Space (ETNS) and	Telephone Numbering Space (ETNS) and	
access numbers from the European	access numbers from the European	
numbers. End-users should also be able to	numbers. End-users should also be able to	
others, freephone and premium rate	others, freephone and premium rate	
within the Community including, among	within the Community, including, among	
services using non-geographic numbers	services using non-geographic numbers	
of other Member States, and to access	of other Member States and to access	
included in the national numbering plans	included in the national numbering plans	
users are able to access all numbers	users are able to access all numbers	
(36) A single market implies that end-	(36) A single market implies that end-	
(AM 14)		
territories under the number 116000.		
children is actually available in their		

ANNEX **EN** 

14 DG C II B

EV/ek

exceed one day., so that the number is	exceed one day. Competent national	
technical transfer of the number should not	technical transfer of the number should not	
minimum of delay <del>In any case, the-</del>	with the minimum delay. In any case, the	
and should be implemented with the	communications. It should be implemented	
markets for electronic communications, It-	in competitive markets for electronic	
effective competition in competitive	consumer choice and effective competition	
is a key facilitator of consumer choice and	Number portability is a key facilitator of	
in consumer contracts. Number portability	contractual periods in consumer contracts.	
reasonable minimum contractual periods	imposition of reasonable minimum	
etc. This does not preclude imposing	and so on. This does not preclude the	
contractual conditions, procedures, charges	contractual conditions, procedures, charges	
technical or practical obstacles, including	technical or practical obstacles, including	
can do so without being hindered by legal,	can do so without being hindered by legal,	
interest. It is essential to ensure that they	interests. It is essential to ensure that they	
and to change providers when it is in their	and to change providers when it is in their	
should be able to make informed choices	should be able to make informed choices	
competitive environment, consumers	competitive environment, consumers	
(37) In order to take full advantage of the	(37) In order to take full advantage of the	
the operator they choose. (AM 15)		
order to exchange data, regardless of		
end-users (especially via IP numbers) in		
should also be able to connect to other		
implementing measures. End-users		
Commission should be able to adopt		
services in the Community, the		
have effective access to numbers and		
codes. In order to ensure that end-users		
through standard international dialling	international dialling codes.	

ANNEX **EN** 

15 DG C II B

EV/ek

	concelletion and to appropriately address	consultation and to appropriately address	
	STOLICOTITIES III (CITIES OF COTISETICE	and reduings in terms of consumer	
	shortcomings in terms of consumer	shortcomings in terms of consumer	
	(39) In order to overcome existing	(39) In order to overcome existing	
	16)		
	setting of speedy corrective action. (AM		
	the limitation of porting abuse and the		
	consumers. This protection may include		
	making the process less attractive for		
	throughout the switching process, without		
	guarantee that consumers are protected		
	necessary to minimise such risks and to		
	regarding the switching process as are		
	minimum proportionate measures		
	States should be able to impose such		
	law-enforcement authorities, Member		
	that should primarily be addressed by		
	without consent. While that is a matter		
	risk of consumers being switched		
1	Member States has shown that there is a	corrective action.	
	development. Experience in certain	porting abuse and the setting of speedy	
	where necessary, appropriate-	protection may include the limitation of	
ı	contracts and technological <del>feasibility and,</del>	throughout the switching process. This	
	taking into account national provisions on	ensuring that consumers are protected	
	global process of the porting of numbers,	where necessary, appropriate measures	
	national authorities may prescribe the	contracts and technical feasibility, and,	
	the request of the consumer. Competent	into account national provisions on	
	undertaking within one working day of	process of the porting of numbers, taking	
	available for use with the new	authorities may establish the global	

16 DG C II B

EV/ek

י זו מכור ס(ס)(ו) מוכו כסו, מוכ כסוווווווסוסוו		
Article 3(3)(f) thereof the Commission		
disability requirements pursuant to		
1999/5/EC and in particular the		
without prejudice to Directive		
equipment for disabled users, and		
communications services and terminal		
of the access to and use of electronic		
there is a need to address the facilitation		
surveillance of internet usage. Where	surveillance of internet usage.	
however, not allow for the systematic	however, not allow for the systematic	
pursuant to such a mechanism should,	pursuant to such a mechanism should,	
Any cooperation procedures agreed	Any cooperation procedures agreed	
relating to the promotion of lawful content.	relating to the promotion of lawful content.	
enabling appropriate cooperation on issues	enabling appropriate cooperation on issues	
could be established for the purpose of	could be established for the purpose of	
consultations. Furthermore, a mechanism	consultation. Furthermore, a mechanism	
existing mechanisms for stakeholders'	existing mechanisms for stakeholder	
transparent manner and contribute to the	transparent manner and contribute to the	
suppliers, and which would operate in a	suppliers, and which would operate in a	
behaviour and mechanisms for changing	behaviour and mechanisms for changing	
consumer-related issues such as consumer	consumer-related issues, such as consumer	
service providers, carry out research on	providers, carry out research into	
national regulatory authority and from	national regulatory authority and service	
which would, independently from the	which would, independently of the	
mechanism could take the form of a body	mechanism could take the form of a body	
consultation mechanism. Such a	consultation mechanism. Such a	
should put in place an appropriate	should put in place an appropriate	
the interests of citizens, Member States	the interests of citizens, Member States	

ANNEX **EN** DS 177/09 17 DG C II B

measures. (AM I)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/257/EC of 30  March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.\text{Member States may either use existing dispute resolution bodies for that purpose, provided those bodies meet the applicable requirements, or establish new bodies. Furthermore, when dealing with out-of-court procedures, Member States should make every effort to ensure that those procedures are transparent and exercised impartially, in particular in view of Recommendation 98/257/EC, so that the effectiveness, safeguarded, (AM 18)	(??) Directive 2002/58/EC provides for the harmonisation of the provisions of	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/257/EC of 30  March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes¹.  Member States may either use existing dispute resolution bodies for that purpose, provided those bodies meet the applicable requirements, or establish new bodies. Furthermore, when dealing with out-of-court procedures, Member States should make every effort to ensure that those procedures are transparent and exercised impartially, in particular in view of Recommendation 98/257/EC, so that the	effectiveness, fairness and legality of the procedure is safeguarded. (AM 18)	
measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/25/EC of 30  March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.\(^1\)  Member States may either use existing dispute resolution bodies for that purpose, provided those bodies meet the applicable requirements, or establish new bodies. Furthermore, when dealing with out-of-court procedures, Member States should make every effort to ensure that those procedures are transparent and exercised impartially,	in particular in view of Recommendation 98/257/EC, so that the	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/257/EC of 30  March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.'  Member States may either use existing dispute resolution bodies for that purpose, provided those bodies meet the applicable requirements, or establish new bodies. Furthermore, when dealing with out-of-court procedures, Member States should make every effort to	transparent and exercised impartially,	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/25/FC of 30  March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.  Member States may either use existing dispute resolution bodies for that purpose, provided those bodies meet the applicable requirements, or establish new bodies. Furthermore, when dealing with out-of-court procedures.	States should make every effort to	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of- court settlement of consumer disputes¹. Member States may either use existing dispute resolution bodies for that purpose, provided those bodies meet the applicable requirements, or establish	new bodies. Furthermore, when dealing with out-of-court procedures. Member	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/257/EC of 30  March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.  Member States may either use existing dispute resolution bodies for that	applicable requirements, or establish	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/257/EC of 30  March 1998 on the principles applicable to the bodies responsible for out-of- court settlement of consumer disputes¹.  Member States may either use existing	dispute resolution bodies for that	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/257/EC of 30  March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes¹.	Member States may either use existing	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/257/EC of 30  March 1998 on the principles applicable to the bodies responsible for out-of-	court settlement of consumer disputes <sup>1</sup> .	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission Recommendation 98/257/EC of 30  March 1998 on the principles applicable	to the bodies responsible for out-of-	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum principles established by Commission  Decommendation 08/25/TEC of 20	March 1998 on the principles applicable	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure conforms at least to the minimum	principles established by Commission  Recommendation 98/257/FC of 30	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies are used, and that the procedure	conforms at least to the minimum	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that independent dispute resolution bodies	are used, and that the procedure	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be strengthened by ensuring that	independent dispute resolution bodies	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court dispute resolution should be	strengthened by ensuring that	
should be able to adopt implementing measures. (AM 17)  (??) The procedure for out-of-court	dispute resolution should be	
should be able to adopt implementing measures. (AM 17)	(??) The procedure for out-of-court	
should be able to adopt implementing	measures. (AM 17)	
	should be able to adopt implementing	

ANNEX **EN** DS 177/09 18 DG C II B

EV/ek

Party) as well as all other relevant
Supervisor and the Article 29 Working
(ENISA, the European Data Protection
European authorities and organisations
Commission should consult all relevant
procedure with scrutiny, the
in accordance with the regulatory
measures on the security of processing,
(??) When defining the implementing
neutrality. (AM 19)
respect the principle of technology
87/95/EEC, such measures should
1999/5/EC or Council Decision
are adopted pursuant to Directive
protection of personal data and privacy
constructed so as to safeguard the
ensure that terminal equipment is
Community. Where measures aiming to
equipment and services in the
data and of electronic communications
to ensure the free movement of such
electronic communications sector, and
to the processing of personal data in the
the right to confidentiality, with respect
in particular the right to privacy and
fundamental rights and freedoms, and
an equivalent level of protection of
the Member States required to ensure

ANNEX **EN** DS 177/09 19 DG C II B

		-
(43) In line with the objectives of the regulatory framework for electronic communications networks and services and with the principles of proportionality and subsidiarity, and for the purposes of legal certainty and efficiency for European businesses and national regulatory authorities alike, this Directive focuses on public electronic communications		
(43) In line with the objectives of the EU electronic communications regulatory framework, with the principles of proportionality and subsidiarity, and for purposes of legal certainty and efficiency for European businesses and national regulatory authorities alike, this Directive focuses on public electronic communications networks and services.	(??) IP addresses are essential to the working of the Internet. They identify network participating devices, such as computers or mobile smart devices, by a number. Given the variety of scenarios in which IP addresses are used, and the related technologies which are rapidly evolving, questions have arisen about the use of such addresses as personal data in certain circumstances. The Commission should therefore, on the basis of a study regarding IP addresses and their uses, present such proposals as may be. (AM 21)	stakeholders, particularly in order to be informed of the best available technical and economic methods for improving the implementation of Directive 2002/58/EC. (AM 20)

ANNEX **EN** 

20 DG C II B

EV/ek

monitoring and preventive, corrective and	processing of personal data should be	
identify vulnerabilities in the system, and	security policy with respect to the	
provider should be established in order to	services, are protected. Moreover, a	
appropriate to the operations of the	or transmitted, as well as the network and	
processing of personal data and	purposes, and that the personal data stored	
security policy with respect to the	authorised personnel for legally authorised	
services, are protected. Moreover, a	that personal data can be accessed only by	
or transmitted, as well as the network and	of such data <sup>1</sup> , such measures should ensure	
purposes, and that the personal data stored	of personal data and on the free movement	
authorised personnel for legally authorised	individuals with regard to the processing	
that personal data can be accessed only by	October 1995 on the protection of	
95/46/EC, such measures should ensure	Parliament and of the Council of 24	
services. Without prejudice to Directive	to Directive 95/46/EC of the European	
measures to ensure the security of its	security of its services. Without prejudice	
appropriate technical and organisational	organisational measures to ensure the	
information society service should take	take appropriate technical and	
electronic communications service <b>or an</b>	electronic communications service should	
(45) The provider of a publicly available	(45) The provider of a publicly available	
corporate networks. (AM 22)		
as in the case of closed user groups and		
groups of identifiable individuals such		
services made available to limited		
<b>public,</b> _and does <b>therefore</b> not apply to		
those services are available to the		
electronic communications networks, if		
mainly in the conveyance of signals on	networks.	
remuneration and consisting wholly or	to closed user groups and corporate	
i.e. services normally provided for	networks and services, and does not apply	

OJ L 281, 23.11.1995, p. 31.

DS 177/09

21 DG C II B

EV/ek

LIMITE

ANNEX **EN** 

resulting in the loss or compromising of	loss or compromising of personal data of	
(47) A <b>personal data</b> breach of security	(47) A breach of security resulting in the	
all personal data breaches. (AM 24)		
and should inform those authorities of		
by the competent national authorities		
enable further analysis and evaluation		
detailing all personal data breaches to		
maintain comprehensive records		
Providers should therefore keep and		
electronic communications services.		
providers of publicly available		
and disseminate best practices among		
They should monitor measures taken		
data of individuals being compromised.		
incidents that have led to the personal		
reliable data about actual security		
duties, including comprehensive and		
necessary means to perform their		
privacy. To this end, they must have the		
level of protection of personal data and		
alia, contributing to ensuring a high		
citizens of the European Union by, inter		
( ) Competent national authorities should promote the interests of the</th <th></th> <th></th>		
	carried out.	
	mitigating and prevenuve, corrective and mitigating action should be regularly	
carried out. (AM 23)	vulnerabilities in the system, and	
mitigating action should be negatively	octablished in order to identify	

ANNEX **EN** 

22 DG C II B

EV/ek

about measures taken by the provider to subscribers concerned by security opportunities or physical harm). The context and the security measures in establishing the type of data affected by manner, result in substantial economic loss address the breach, as well as notification should include information take the necessary precautions. The without delay in order to allow them to damage to reputation) should be notified physical harm, significant humiliation or to their privacy (e.g. identity theft or fraud, incidents that could result in a serious risk the breach (e.g. identity theft, financial place), the cause and extent of the breach, the breach (including their sensitivity, assess the risks associated with it, e.g. by that such a breach has occurred, it should communications service becomes aware publicly available electronic and social harm, including identity fraud. addressed in an adequate and timely an individual subscriber may, if not possible harm for subscribers as a result of the number of subscribers affected and the loss, loss of business or employment Therefore, as soon as the provider of should assume that any identified economic loss and social harm, including subscribers or individuals of a personal promptly with all care reasonable, and communications, as soon as the provider opportunities, physical harm, significant adverse effects of a breach, such as, services should assess the possible as the provider of publicly available timely manner, result in substantial effects on them, the requirement to adverse effects are about to materialise. occurred, it or information society electronic communications services individual concerned. Therefore, as soonnotify without undue delay should be data breach likely to have an adverse For the purpose of notification to assessment should be conducted becomes aware of the breach. The access to emails and other humiliation or damage to reputation, and inter alia, identity theft, fraud, financial becomes aware that such a breach has <del>identity fraud</del> to the subscriber or may, if not addressed in an adequate and <del>personal data of an individual subscriber</del> loss, loss of business or employment

DS 177/09

ANNEX **EN** 

DG C II B

recommendations for the users affected

taken to mean that they should be

EV/ek

personal data transmitted or processed in	communications networks in the internal	
of privacy protection and security of	connection with the use of electronic	
<b>requirements</b> to achieve an adequate level	data transmitted or processed in	
measures to establish a common set of	privacy protection and security of personal	
the means the adoption of implementing	the means to achieve an adequate level of	
Commission to adopt recommendations on-	Commission to adopt recommendations on	
(50) Provision should be made for <del>the</del> -	(50) Provision should be made for the	
who is not authorised to access it. (AM 25)		
render the data unintelligible to any person-		
technological protection measures should-		
concerned by the security breach. Such		
measures were applied to the data		
authorized to access the data and those		
unintelligible to any person who is not		
measures, <b>rendering the data</b>		
appropriate technological protection		
authority that it has implemented		
has demonstrated to the competent		
<b>however</b> not be required if the provider	who is not authorised to access it.	
to a subscriber <b>or individual</b> should	render the data unintelligible to any person	
<b>breach.</b> Notification of a security breach	technological protection measures should	
minimise the likely adverse effects of the	concerned by the security breach. Such	
individual concerned to prevent or	measures were applied to the data	
recommendations for the <b>subscriber or</b>	protection measures, and that those	
address the breach, as well as	implemented appropriate technological	
about measures taken by the provider to	competent authority that it has	
notification should include information	provider has demonstrated to the	
to take the necessary precautions. The	subscriber should not be required if the	
notified in such time as to enable them	Notification of a security breach to a	

ANNEX **EN** 

24 DG C II B

EV/ek

well as all other relevant stakeholders,		
European Data Protection Supervisor		
relevant European authorities and organisations, such as ENISA, the		
such measures, it should consult all		
empowered to adopt measures on the		
(??) The Commission should be		
breach. (AM 27)		
investigation of the circumstances of a		
could unnecessarily hamper the	the circumstances of a breach.	
authorities in cases where early disclosure	unnecessarily hamper the investigation of	
legitimate interests of law enforcement	cases where early disclosure could	
procedures should take into account the	interests of law enforcement authorities in	
of misuse. Moreover, such rules and	should take into account the legitimate	
likelihood of identity fraud or other forms	Moreover, such rules and procedures	
<b>measures</b> , effectively limiting the	identity fraud or other forms of misuse.	
with appropriate technical protection	effectively limiting the likelihood of	
protected <del>by encryption or other means-</del>	protected by encryption or other means	
whether or not the personal data had been	whether or not personal data had been	
circumstances of the breach, including	circumstances of the breach, including	
due consideration should be given to the	due consideration should be given to the	
the notification of <b>personal data</b> breaches,	the notification of personal data breaches,	
the format and procedures applicable to	the format and procedures applicable to	
(51) In setting detailed rules concerning	(51) In setting detailed rules concerning	
communications networks in the internal market. (AM 26)		
connection with the use of electronic	market.	

ANNEX **EN** 

25 DG C II B

EV/ek

	in order particularly to be informed of the best available technical and	
	economic methods for improving the implementation of Directive	
	2002/58/EC. Since those measures are of	
	general scope and are designed to	
	amend non-essential elements of	
	Directive 2002/58/EC by supplementing	
	it with new non-essential elements, they	
	must be adopted in accordance with the	
	regulatory procedure with scrutiny	
	provided for in Article 5a of Decision	
	1999/468/EC. (AM 28)	
(52) Software that surreptitiously	(52) Software that surreptitiously monitors	
monitors the actions of the user or subverts	actions of the user and/or subverts	
the operation of the user's terminal	operation of the user's terminal equipment	
equipment to the benefit of a third party	for the benefit of a third party ( <del>so-called</del>	
(so-called "spyware") poses a serious	"spyware") poses a serious threat to users'	
threat to the privacy of users. A high and	privacy, as can viruses. A high and equal	
equal level of protection of the private	level of protection of the private sphere of	
sphere of users needs to be ensured,	users needs to be ensured, regardless of	
regardless of whether unwanted spying	whether unwanted spy programmes <b>or</b>	
programmes are inadvertently downloaded	<pre>viruses_are inadvertently downloaded via</pre>	
via electronic communications networks or	electronic communications networks or are	
are delivered and installed hidden in	delivered and installed hidden in software	
software distributed on other external data	distributed on other external data storage	
storage media, such as CDs, CD-ROMs or	media, such as CDs, CD-ROMs or USB	
USB keys. Member States should	keys. Member States should inform end-	
encourage end-users to take the necessary	users about available precautions and	

ANNEX **EN** 

26 DG C II B

EV/ek

measures on tariff transparency,	Annexes to technical progress or changes	
be empowered <b>to adopt implementing</b>	should be empowered to adapt the	
(58) In particular, the Commission should	(58) In particular, the Commission	
such new legal basis. (AM 32)		
electronic communications, based on		
on privacy and data security in		
to the Council a new legislative proposal		
present to the European Parliament and		
when a new legal basis is available,		
(57a) The Commission should, if and		
Commission. (AM 31)	conferred on the Commission	
implementing powers conferred on the	exercise of implementing powers	
the procedures for the exercise of	laying down the procedures for the	
1999/468/EC of 28 June 1999 laying down	Decision 1999/468/EC of 28 June 1999	
accordance with Council Decision	adopted in accordance with Council	
and 2002/58/EC should be adopted in	(Universal Service Directive) should be	
implementation of Directives 2002/22/EC	implementation of Directive 2002/22/EC	
(57) The measures necessary for the	(57) The measures necessary for the	
(AM 30)		
SMS, MMS and similar applications.		
of electronic mail are also applicable to		
for direct marketing purposes by means		
privacy by unsolicited communications		
subscribers against the intrusion of their		
(??) Safeguards provided for		
ware. (AM 29)		
equipment against viruses and spy-	(	
steps to protect their terminal	against viruses and spyware.	
encourage them to take the necessary	steps to protect their terminal equipment	

ANNEX **EN** 

27 DG C II B

EV/ek

Hidwills, Meniner States are encouraged to	I a M-IIIanii B , ivieliidei olales die	
malting Mambau States are anaequated to	lar maling? Mambay States and	
Interinstitutional agreement on better law-	Interinstitutional Agreement on better	
(60) In accordance with point 34 of the	(60) In accordance with point 34 of the	
those measures. (AM 33)		
order to ensure the timely adoption of		
the Commission should act speedily in		
European Parliament, the Council and		
adoption of implementing measures, the		
exceptional situations, impede the timely		
normal time limits could, in certain		
procedure with scrutiny within the		
Given that the conduct of the regulatory		
Article 5a of Decision 1999/468/EC.		
procedure with scrutiny provided for in		
adopted in accordance with the regulatory		
non-essential elements, they must be		
<del>Directive</del> )by supplementing it with new		
2002/22/EC (Universal Service-		
non-essential elements of Directive		
general scope and are designed to amend		
<b>cooperation.</b> Since those measures are of		
requirements as well as cross-border		
concerning information and notification		
adopt implementing measures	Decision 1999/468/EC.	
demand. It should also be empowered to	with scrutiny provided for in Article 5a of	
to technical progress or changes in market	accordance with the regulatory procedure	
<b>well as amendments</b> to adapt the Annexes	essential elements, they must be adopted in	
of accessibility by disabled end-users, as	by supplementing it with new non-	
numbers and services, and improvement	2002/22/EC (Universal Service Directive)	
of "112" services, effective access to	amend non-essential elements of Directive	
requirements, effective implementation	are of general scope and are designed to	
minimum quality of service	in market demand Since those measures	

OJ C 321, 31.12.2003, p. 1.

ANNEX **EN** 

DS 177/09

28 DG C II B

EV/ek

pply les on land land land regency well as	3. Member States shall ensure that all reasonable requests for the provision of a publicly available requests for the provision of a publicly available requests for provision publicly available telephone service over the network connection referred to in paragraph 1 that allows for originating and receiving of national and international and international calls are met by at least one undertaking.  3. Member States shall ensure that all reasonable requests for provision publicly available telephone service over the network connection referred to in paragraph 1, that allows for allow originating and originating and calls are met by at least one undertaking. (AM 36)	Article 4 Provision of access at a fixed location and provision of telephone services	3. The provisions of this Directive Directive concerning end-users' rights shall apply without prejudice to Community rules on consumer protection, in particular Directives 93/13/EEC and 97/7/EC, and national rules in conformity with Community law.  3. The provisions of this Directive concerning end-users' rights without prejudice to Community r consumer protection, in particular Directives 93/13/EEC, and national rules in conformity with Community law.	Article 1 Subject-matter and scope	in the interests of the Community, their own tables illustrating, as far as possible, the correlation between Directives 2002/22/EC (Universal Service Directive) and 2002/58/EC (Directive on privacy and electronic communications) and the transposition measures, and to make them public,
	<ul> <li>3. Member States shall ensure that all reasonable requests for provision of a publicly available telephone service over the network connection referred to in paragraph 1, that allows for allowing originating and receiving of national and international calls are met by at least one undertaking. (AM 36)</li> <li>3. Member States shall ensure that all reasonable requests for the provision of a publicly available telephone service over the network connection referred to in paragraph 1 that allows for originating and receiving of national and international calls are met by at least one undertaking.</li> </ul>	<sup>e</sup> telephone services	3. The provisions of this Directive  concerning end-users' rights shall apply without prejudice to Community rules on consumer protection, in particular Directives 93/13/EEC, 97/7/EC and 2005/29/EC, and national rules in conformity with Community law. (AM 35)		mmun, as far en this sures,

ANNEX **EN** 

29 DG C II B

EV/ek

Arti	Article 6	
Public pay telephones	Public pay telephones and other telecommunication access points (AM 37)	Keep common position
Council had made no changes to this Article.	1. Member States shall ensure that national regulatory authorities can impose obligations on undertakings in order to ensure that public pay telephones or other telecommunication access points are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other telecommunications access points, accessibility of such telephones to disabled users and the quality of services. (AM 38)	Keep common position
Arti Measures for di	Article 7 Measures for disabled end-users	
1. Unless requirements have been specified under Chapter IV which achieve	1. Member States shall, unless requirements have been specified under	1. Unless requirements have been specified under Chapter IV which achieve the
the equivalent effect, Member States shall take specific measures to ensure access to,	Chapter IV which achieve the equivalent effect, take specific measures to ensure	equivalent effect, Member States shall take specific measures to ensure access to, and
and affordability of, the services identified in Article 4(3) and Article 5 for disabled	access to, and affordability of, the services identified in Articles 4(3) and 5 for	affordability of, the services identified in Article 4(3) and Article 5 for disabled
end-users which is comparable to that enjoyed by other end-users.	disabled end-users comparable equivalent to that enjoyed by other end-users.	end-users which is <del>comparable</del> equivalent to that enjoyed by other end-users.
Member States may oblige national	Member States may oblige national	Member States may oblige national
regulatory authorities to assess the general need and the specific requirements,	regulatory authorities to assess the general need and the specific requirements,	regulatory authorities to assess the general need and the specific requirements,
including the extent and concrete form of such specific measures for disabled end-	including the extent and concrete form of such specific measures for disabled end-	including the extent and concrete form of such specific measures for disabled end-
users.	users. (AM 39)	users.

ANNEX **EN** 

30 DG C II B

EV/ek

	Contracts	Cont	
	Article 20	Artic	
Keep common position	2. Member States shall ensure that designated undertakings with obligations-under Articles 4, 5, 6, 7 and 9(2) offering telecommunication services as defined in Article 2 of Directive 2002/21/EC (Framework Directive) provide the specific facilities and services set out in Annex I, Part A of this Directive, in order that subscribers can monitor and control expenditure and avoid unwarranted disconnection of service. (AM 41)	Council did not change this Article.	
	Article 10 Control of expenditure	Artic Control of	
3. In taking the measures referred to above, Member States shall encourage compliance with the relevant standards or specifications published in accordance with Articles 17, 18 and 19 of Directive 2002/21/EC (Framework Directive).	3. In taking the measures referred to above, Member States shall encourage compliance with the relevant standards or specifications published in accordance with Articles 17, 18 and 19 of Directive 2002/21/EC (Framework Directive). (AM 40)		

ANNEX **EN** 

31 DG C II B

EV/ek

- information on the conditions regarding access to and/or use of services and applications, including information on any traffic management policies and on how these may impact on the delivery of the service.	- information on the provider's traffic-management policies any limitations imposed by the undertaking, in accordance with national law, on a subscriber's ability to access, use or distribute information or run	- information on the provider's traffic management policies,	
- where access to emergency services and caller location information is to be provided or any limitations under Article 26.	<ul> <li>whether or not access to emergency services and caller location information are being provided and/or any limitations for provision of emergency services under Article 26;</li> </ul>		
(b) the services provided, including in particular,	(b) the services provided, including in particular,	(b) the services provided, including in particular,	
(a) the identity and address of the supplier- undertaking	(a) the identity and address of the supplier undertaking; (AM 42)	(a) the identity and address of the supplier;	
such connection and/or services. The contract shall specify in a clear, comprehensive and easily accessible form at least:		such connection and/or services. The contract shall specify in a clear, comprehensive and easily accessible form at least:	
requesting, have a right to a contract with an undertaking or undertakings providing		requesting, have a right to a contract with an undertaking or undertakings providing	
electronic communications services, consumers, and other end-users so		electronic communications services, consumers, and other end-users so	
connection to a public communications network and/or publicly available		connection to a public communications network and/or publicly available	
1. Member States shall ensure that, when subscribing to services providing		1. Member States shall ensure that, when subscribing to services providing	

ANNEX **EN** 

32 DG C II B

EV/ek

	applications or services	New recital
	TI	Traffic management policies are the
- the minimum service quality levels		procedures put in place by the provider
offered, namely the time for the initial	(AM 43)	in order to measure and control traffic
connection and, where appropriate, other		on a network link so as to avoid filling
quality of service parameters, as defined		the link to capacity or overfilling the
by the national regulatory authorities,		link, which would result in network
		congestion and poor performance.
- the types of maintenance service offered		
and customer support services provided, as		These policies are deemed appropriate
well as the means of contacting these		and reasonable as long as it can be
services,		justified that they are not anti-
		competitive or do not give preferential
- any restrictions imposed by the provider		of the network operators or their
		commercial partners over the services
		and applications from other providers.
(e) the duration of the contract and the		(e) the duration of the contract and the
services and of the contract, including:		services and of the contract, including:
- conditions regarding minimum contract	- any conditions regarding minimum	- any minimum usage required to
duration related to promotions,	usage required to benefit from promotional terms contract duration	benefit from promotional terms,
- any charges related to portability of	related to promotions,	- any charges related to portability of
numbers and other identifiers,	(AM 44)	numbers and other identifiers,
- any charges due on termination of the		- any charges due on termination of the
contract, including cost recovery with		contract, including cost recovery with

ANNEX **EN** 

33 DG C II B

EV/ek

					_																							_	
oblige undertakings providing electronic communications networks and/or services	national regulatory authorities are able to	1. Member States shall ensure that	Transparency and pub	Artic	access to emergency services.	emergency services, and of any change to	contract of any limitation on access to	informed in advance of the conclusion of a	shall ensure that customers are clearly	of electronic communications services	location information is provided. Providers	access to emergency services and caller	are clearly informed as to whether or not	allow voice communication, subscribers	electronic communications services that	subscribers and undertakings providing	contracts are concluded between	2. Member States shall ensure that where							vulnerabilities.	or integrity incidents or threats and	by the undertaking in reaction to security	(h) the trme of action that might be talen	respect to terminal equipment;
undertakings providing <b>connection to a public</b> electronic communications		1. Member States shall ensure that <del>national</del>	Transparency and publication of information	Article 21													(AM 46)	Deleted	occur. (AM 45)	annly if security or integrity incidents	company training arrangements which	and vulnerabilities, as well as anv	security or integrity incidents or threats	communications services in reaction to	publicly available electronic	a public communications network and/or	by the undertaking providing connection to	(h) the time of action that might be talion	
undertakings providing connection to a public electronic communications	regulatory authorities are able to oblige	1. Member States shall ensure that national																EP AM acceptable (see 20.1.b 1 <sup>st</sup> indent).									reeb common bosinon	Von common position	respect to terminal equipment;

ANNEX **EN** 

34 DG C II B

EV/ek

2. National regulatory authorities shall encourage the provision of comparable information to enable end-users and consumers to make an independent evaluation of the cost of alternative usage patterns, for instance by means of interactive guides or similar techniques. Member States shall ensure that national regulatory authorities may make such guides or techniques available, in particular where they are not available, on the market free of charge or at a	to publish transparent, comparable, adequate and up-to-date information, as set out in Annex II, on applicable prices and tariffs and standard terms and conditions in respect of access to, and use of, services provided by them to end-users and consumers. National regulatory authorities may specify additional requirements regarding the form in which such information is published to ensure transparency, comparability, clarity and accessibility for the benefit of consumers.
2. National regulatory authorities shall encourage the provision of comparable information to enable end-users and consumers to make an independent evaluation of the cost of alternative usage patterns, for instance by means of interactive guides or similar techniques. Member States shall ensure that national regulatory authorities make such guides or techniques available in particular where themselves or through third party procurement, when they are not available	networks and/or electronic communications services publish transparent, comparable, adequate and up- to-date information as set out in Annex II- on applicable prices and tariffs, any charges due on termination of a contract and information on standard terms and conditions, in respect of access and use of their services provided to end- users and consumers in accordance with Annex II. Such information shall be published in a clear, comprehensive and easily accessible form. National regulatory authorities may specify additional requirements regarding the form in which such information is to be published to ensure transparency, comparability, clarity and accessibility for the benefit of consumers. (AM 47)
2. National regulatory authorities shall encourage the provision of comparable information to enable end-users and consumers to make an independent evaluation of the cost of alternative usage patterns, for instance by means of interactive guides or similar techniques. Member States shall ensure that national regulatory authorities make such guides or techniques available in particular where themselves or through third party procurement, where they are not	networks and/or electronic communications services publish transparent, comparable, adequate and upto-date information as set out in Annex II on applicable prices and tariffs, any charges due on termination of a contract and information on standard terms and conditions, in respect of access and use of their services provided to end-users and consumers in accordance with Annex II. Such information shall be published in a clear, comprehensive and easily accessible form. National regulatory authorities may specify additional requirements regarding the form in which such information is to be published toensure transparency, comparability, clarity and accessibility for the benefit of consumers.

ANNEX **EN** 

DS 177/09

35 DG C II B

EV/ek

	(c) inform subscribers of any change to the provider's traffic management policies any	(b) inform subscribers of any change to the provider's traffic management policies;	
	(b) regularly remind subscribers of any lack of reliable access to emergency services or caller location information in the service they have subscribed to;		
		(a) provide applicable tariff information to subscribers regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, national regulatory authorities may require such information to be provided immediately prior to connecting the call;	
3. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing connection to a public electronic communications network and/or electronic communications services to inter alia:	3. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing connection to a public electronic communications network and/or electronic communications services to inter alia:	3. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing electronic communications services to inter alia:	
available on the market free of charge or at a reasonable price. Third parties shall have a right to use free of charge the information published by undertakings providing electronic communications networks and/or services, for the purposes of selling or making available such interactive guides or similar techniques.	on the market free of charge or at a reasonable price. Third parties shall have a right to use free of charge the information published by undertakings providing electronic communications networks and/or services, for the purposes of selling or making available such interactive guides or similar techniques.	reasonable price. Third parties shall have a right to use, free of charge, the information published by undertakings providing electronic communications networks and/or services for the purposes of selling or making available such guides or techniques.	

ANNEX **EN** 

36 DG C II B

EV/ek

	limitations imposed by the undertaking, in accordance with national law, on a subscriber's ability to access, use or distribute information or run applications or services,	
(c) inform subscribers of their right to determine whether or not to include their personal data in a directory, and of the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC (Directive on privacy and electronic communications); and	(AM 49)	
(d) regularly inform disabled subscribers of details of products and services designed for them.  If deemed appropriate, national regulatory authorities may promote self- or co-regulatory measures prior to imposing any obligation.		
4. Member States may require that undertakings referred to in paragraph 3 distribute public interest information free of charge to existing and new subscribers, where appropriate. In such a case, that information shall be provided by the relevant public authorities in a standardised format and shall, inter alia, cover the following topics:  (a) the most common uses of electronic	4. Member States may require that undertakings referred to in paragraph 3 distribute public interest information free of charge to existing and new subscribers, where appropriate. In such a case, that information shall be provided by the relevant public authorities in a standardised format and shall, inter alia, cover the following topics:  (a) the most common uses of electronic	Keep common position

ANNEX **EN** 

37 DG C II B

EV/ek

communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related rights, and their legal consequences; and (b) the means of protection against risks to personal security, privacy and personal data when using electronic communications services.	communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related rights, and their legal consequences; and (b) the means of protection against risks to personal security, privacy and personal data when using electronic communications services.  Significant additional costs incurred by an undertaking in complying with these obligations shall be reimbursed by the relevant public authorities. (AM 50)	
Artic Ouglity c	Article 22 Quality of service	
1. Member States shall ensure that national regulatory authorities are, after taking	1. Member States shall ensure that national regulatory authorities are, after taking	1. Member States shall ensure that national regulatory authorities are, after taking
account of the views of interested parties, able to require undertakings that provide	account of the views of interested parties, able to require undertakings that provide	account of the views of interested parties, able to require undertakings that provide
publicly available electronic communications networks and/or services	publicly available electronic communications networks and/or services	publicly available electronic communications networks and/or services
to publish comparable, adequate and up- to-date information for end-users on the	to publish comparable, adequate and up- to-date information for end-users on the	to publish comparable, adequate and up-to- date information for end-users on the
quality of their services and measures taken to ensure comparable access for	quality of their services and measures taken to ensure <del>comparable</del> <b>equivalent</b>	quality of their services and measures taken to ensure <del>comparable</del> <b>equivalent</b>
disabled end-users. That information shall,	access for disabled end-users. That	access for disabled end-users. That
regulatory authority in advance of its	to the national regulatory authority in	to the national regulatory authority in

ANNEX **EN** 

38 DG C II B

EV/ek

	3. In o service of traf shall e author of serv or und comm	publication 2. National specify, int parameters form and m published, i certification ensure that comprehen user-friendl appropriate and measur Annex III r
	3. In order to prevent the degradation of service and the hindering or slowing down of traffic over networks, Member States shall ensure that national regulatory authorities are able to set minimum quality of service requirements on an undertaking or undertakings providing public communications networks.	publication.  2. National regulatory authorities may specify, inter alia, the quality of service parameters to be measured and the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users have access to comprehensive, comparable, reliable and user-friendly information. Where appropriate, the parameters, definitions and measurement methods set out in Annex III may be used.
The Commission may, having examined such requirements and consulted the Body of European Regulators in Telecom (BERT), adopt technical implementing measures in that regard if it considers that the requirements may create a barrier to the internal market. Those measures designed to amend non-	3. In order to prevent the degradation of service and the hindering or slowing down of traffic over networks, Member States shall ensure that national regulatory authorities are able to set minimum quality of service requirements on an undertaking or undertakings providing public communications networks.	advance of its publication. (AM 51)  2. National regulatory authorities may specify, inter alia, the quality of service parameters to be measured and the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information. Where appropriate, the parameters, definitions and measurement methods set out in Annex III may be used. (AM 52)
The Commission may, having examined such requirements and consulted the GERT adopt technical implementing measures in that regard if it considers that the requirements may create a barrier to the internal market. Those measures designed to amend non-essential elements of this Directive by	3. In order to prevent the degradation of service and the hindering or slowing down of traffic over networks, Member States shall ensure that national regulatory authorities are able to set minimum quality of service requirements on an undertaking or undertakings providing public communications networks.	2. National regulatory authorities may specify, inter alia, the quality of service parameters to be measured and the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information. Where appropriate, the parameters, definitions and measurement methods set out in Annex III may be used

ANNEX **EN** 

39 DG C II B

EV/ek

	supplementing it shall be adopted in	accordance with the regulatory
	accordance with the regulatory procedure with scrutiny referred to in Article 37(2). (AM 53)	procedure with scrutiny referred to in Article 37(2).
Article 23a Ensuring comparable access and choice for disabled end-users	Article 23a Ensuring <del>comparable</del> equivalent access and choice for disabled end-users	Article 23a Ensuring <del>comparable</del> equivalent access and choice for disabled end-users
1. Member States shall enable relevant national authorities to specify, where	1. Member States shall enable relevant national authorities to specify, where	1. Member States shall enable relevant national authorities to specify, where
appropriate, requirements to be met by undertakings providing publicly available electronic communication services to ensure that disabled end-users:	appropriate, requirements to be met by undertakings providing publicly available electronic communication services to ensure that disabled end-users:	appropriate, requirements to be met by undertakings providing publicly available electronic communication services to ensure that disabled end-users:
(a) have access to electronic communications services comparable to that enjoyed by the majority of end-users; and	(a) <b>can</b> have access to electronic communications services <del>comparable</del> <b>equivalent</b> to that enjoyed by the majority of end-users; and	(a) can have access to electronic communications services comparable-equivalent to that enjoyed by the majority of end-users; and
(b) benefit from the choice of undertakings and services available to the majority of end-users.	(b) benefit from the choice of undertakings and services available to the majority of end-users.  (AM 54)	(b) benefit from the choice of undertakings and services available to the majority of end-users.
Artic	Article 25	
Telephone directory enquiry services	Telephone directory enquiry services (AM 55)	
1. Member States shall ensure that subscribers to publicly available telephone corridor have the right to have an entry in	1. Member States shall ensure that all endusers of electronic communications	Keep common position.
Services have the right to have an entry in	networks and subscribers to publicity	

ANNEX **EN** 

40 DG C II B

EV/ek

4. Member States shall not maintain any regulatory restrictions which prevent end-users in one Member State from accessing directly the directory enquiry service in another Member State by voice call or SMS, and shall take measures to	3. Member States shall ensure that all endusers provided with a publicly available telephone service can access directory enquiry services. National regulatory authorities shall be able to impose obligations and conditions on undertakings that control access of end-users for the provision of directory enquiry services in accordance with the provisions of Article 5 of Directive 2002/19/EC (Access Directive). Such obligations and conditions shall be objective, proportionate, non-discriminatory and transparent.	the publicly available directory referred to in Article 5(1)(a) and to have their information made available to providers of directory enquiry services and/or directories in accordance with paragraph 2 of this Article.
4. Member States shall not maintain any regulatory restrictions which prevent end-users in one Member State from accessing directly the directory enquiry service in another Member State by voice call or SMS, and shall take measures to	3. Member States shall ensure that all endusers of an electronic communications provided with a publicly available telephone service can access directory enquiry services and that operators controlling access to such services provide it on terms which are fair, costoriented. National regulatory authorities shall be able to impose obligations and conditions on undertakings that control access of end-users for the provision of directory enquiry services in accordance with the provisions of Article 5 of Directive 2002/19/EC (Access Directive). Such obligations and conditions shall be objective, proportionate, nondiscriminatory and transparent. (AM 57)	available telephone services have the right to have an entry in the publicly available directory referred to in Article 5(1)(a) and to have their information made available to providers of directory enquiry services and directories in accordance with the provisions of paragraph 2 of this Article.
Keep common position.	Keep common position.	

ANNEX **EN** 

41 DG C II B

EV/ek

Article 28. (AM 58)  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall en or end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  4. Member States shall ensure that access for disabled end-users have access to emergency services is comparable equivalent to that enjoyed by other enducess. The measures taken to ensure that disabled end-users are able to access emergency services whilst while travelling in other Member States shall be-based to the greatest extent possible on include ensuring compliance with relevant European standards or specifications published in accordance with the provisions of Article 17 of Directive) and they shall not prevent Member States from	objectives set out in this Article.	adopting additional requirements in order-	objectives set out in this Article.	
Article 26  less and the single European emergency call number  aure that	requirements in order to pursue the	they shall not prevent Member States from-	requirements in order to pursue the	
Article 28  Article 28  (ces and the single European emergency call number  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that nelectronic cess to o a number or national and/or international calls through to-a number or numbers in a national and/or international telephone numbering plan provide reliable access to emergency services. (AM 59)  sure that access for disabled end-users have access to hat enjoyed by taken to ensure able to access travelling in be based to the ith the  regreatest extent possible on include ensuring compliance with relevant  European standards or specifications published in accordance with the provisions of Article 17 of Directive	Member States from adopting additional	2002/21/EC (Framework Directive) and	Member States from adopting additional	
Article 28. (AM 58)  European emergency call number  anational regulatory authorities, emergency services and providers, shall end-users and providers, shall end-users in a national calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  are that access emergency services is comparable access to emergency services is comparable users. The measures taken to ensure that travelling in be based to the in other Member States shall be based to the greatest extent possible on include ensuring compliance with relevant  Europeam standards or specifications published in accordance with the	Directive), and they shall not prevent	provisions of Article 17 of Directive	Directive), and they shall not prevent	
Article 28. (AM 58)  Inational regulatory authorities,  comparation with an electronic  communications services and providers, shall  anational and/or international calls  through to-a number or numbers in a national or international telephone  numbering plan provide reliable access to emergency services. (AM 59)  A. Member States shall ensure that access to emergency services is comparable—  able to access to disabled end-users are able to access to energency services whilst while travelling in other Member States shall be-based to the gireatest extent possible on include ensuring compliance with relevant  Europeam standards or specifications	Directive 2002/21/EC (Framework	published in accordance with the	Directive 2002/21/EC (Framework	
Article 28: (AM 58)  Inational aregulatory authorities, emergency services and providers, shall end-users and providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  aure that access for disabled end-users shall ensure that access to emergency services is comparable-taken to ensure able to access to emergency services whilst while travelling in other Member States shall be-based to the greatest extent possible on include ensuring compliance with relevant	provisions of Article 17 of	European standards or specifications	provisions of Article 17 of	
Article 28. (AM 58)  In ational regulatory authorities,  communications services and providers, shall  communications services for originating andional calls  through to-a number or numbers in a national calls  through to-a number or numbers in a national relephone  numbering plan provide reliable access to emergency services. (AM 59)  A. Member States shall ensure that access to emergency services is comparable—  equivalent to that enjoyed by other endusers. The measures taken to ensure that disabled end-users are able to access emergency services whilst while travelling in other Member States shall be based to the emergency services whilst while travelling in other Member States shall be based to the emergency services whilst while travelling in other Member States shall be based to the emergency services whilst while travelling in other Member States shall be based to the emergency services while travelling in other Member States shall be based to the emergency services while travelling in other Member States shall be based to the emergency services with an electronic communications service for originating end-travelling the same providers and	published in accordance with the	ensuring compliance with relevant	published in accordance with the	
Article 28. (AM 58)  Article 28. (AM 59)  Anumber or anumber or numbers in a national telephone numbers provide reliable access to emergency services. (AM 59)  A. Member States shall ensure that access to emergency services is comparable equivalent to that enjoyed by other endusable to access disabled end-users are able to access emergency services while travelling in other Member States shall be based to	European standards or specifications	the greatest extent possible on include	European standards or specifications	
ensure such access in accordance with Article 28. (AM 58)  ticle 26  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  4. Member States shall ensure that access to emergency services is comparable equivalent to that enjoyed by other endusers. The measures taken to ensure that disabled end-users are able to access emergency services whilst while travelling	based to the greatest extent possible on	in other Member States shall <del>be based to-</del>	greatest extent possible on	
ensure such access in accordance with Article 26  lice European emergency call number  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  4. Member States shall ensure that access for disabled end-users have access to emergency services is comparable equivalent to that enjoyed by other end- users. The measures taken to ensure that disabled end-users are able to access	travelling in other Member States shall be	emergency services whilst while travelling	other Member States shall be based to the	
ensure such access in accordance with Article 26  fle European emergency call number  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  4. Member States shall ensure that access for disabled end-users have access to emergency services is comparable equivalent to that enjoyed by other end- users. The measures taken to ensure that	able to access emergency services whilst	disabled end-users are able to access	emergency services whilst travelling in	
ensure such access in accordance with Article 28. (AM 58)  ticle 26  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  4. Member States shall ensure that access for disabled end-users have access to emergency services is comparable equivalent to that enjoyed by other end-	taken to ensure that disabled end-users are	users. <b>The</b> measures taken to ensure that	that disabled end-users are able to access	
ensure such access in accordance with Article 28. (AM 58)  ticle 26  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  4. Member States shall ensure that access for disabled end-users have access to emergency services is comparable	enjoyed by other end-users. Measures	<b>equivalent</b> to that enjoyed by other end-	other end-users. Measures taken to ensure	
ensure such access in accordance with Article 28. (AM 58)  rticle 26  gle European emergency call number  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  4. Member States shall ensure that access for disabled end-users have access to	services is <del>comparable</del> <b>equivalent</b> to that	emergency services is comparable	services is comparable to that enjoyed by	
ensure such access in accordance with Article 26  Article 26  2. Member States, in cooperation with an national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)  ass 4. Member States shall ensure that access-	for disabled end-users to emergency	for disabled end-users have access to	for disabled end-users to emergency	
ensure such access in accordance with Article 28  Article 26  Single European emergency call number  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to emergency services. (AM 59)	4. Member States shall ensure that access	4. Member States shall ensure that access-	4. Member States shall ensure that access	
ensure such access in accordance with Article 28  Article 26  Article 26  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone numbering plan provide reliable access to		emergency services. (AM 59)		
ensure such access in accordance with Article 28  Article 26  Single European emergency call number  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a national or international telephone		numbering plan provide <b>reliable</b> access to		
ensure such access in accordance with Article 28. (AM 58)  Article 26  Single European emergency call number  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to-a number or numbers in a		national <b>or international</b> telephone		
ensure such access in accordance with Article 28 Article 28 Article 26  Single European emergency call number  2. Member States, in cooperation with national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls		uirougii to-a mumbel of mumbels in a		
ensure such access in accordance with  Article 28. (AM 58)  Article 26  Article 2 22. (AM 58)  Article 26  2. Member States, in cooperation with an national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls		through to a number or numbers in a	CHARLE A DEL L'ACCO.	
ensure such access in accordance with  Article 28. (AM 58)  Article 26  Article 26  Z. Member States, in cooperation with an national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic communications service for originating		national and/or international calls	emergency services.	
ensure such access in accordance with  Article 28. (AM 58)  Article 26  Article 26  Article 26  2. Member States, in cooperation with an national regulatory authorities, emergency services and providers, shall ensure that undertakings providing end-users with an electronic		communications service for originating	numbering plan provide access to	
ensure such access in accordance with  Article 28. (AM 58)  Article 26  Article 26  Article 26  2. Member States, in cooperation with an national regulatory authorities, emergency services and providers, shall ensure that undertakings providing		end-users with an electronic	numbers in a national telephone	
ensure such access in accordance with Article 28. (AM 58)  Article 26  Article 26  European emergency call number 2. Member States, in cooperation with an national regulatory authorities, emergency services and providers, shall		ensure that undertakings providing	originating national calls to a number or	
Article 28. (AM 58)  Article 28. (AM 58)  Article 26  Single European emergency call number  2. Member States, in cooperation with national regulatory authorities,		emergency services and providers, shall	electronic communications service for	
Article 28. (AM 58)  Article 28. (am 58)  Article 26  Single European emergency call number  2. Member States, in cooperation with		national regulatory authorities,	undertakings providing end-users with an	
Article single 1	Keep common position.	2. Member States, in cooperation with	2. Member States shall ensure that	
Article		e European emergency call number	Emergency services and the single	
		cle 26	Arti	
		Article 28. (AM 58)	Article 28.	
		ensure such access in accordance with	ensure such access in accordance with	

ANNEX **EN** 

42 DG C II B

EV/ek

Article 27		5. Member States shall ensure that, to the extent technically feasible, undertakings concerned make caller location information available free of charge to the authority handling emergency calls as soon as the call reaches that authority. This applies to all calls to the single European emergency call number "112".  Member States may extend this obligation to cover calls to national emergency numbers. Where undertakings referred to in paragraph 2 wish to claim that providing caller location information is not technically feasible, they shall bear the burden of proving this.	
le 27	7a. In order to ensure the effective implementation of "112" services in the Member States, the Commission, having consulted BERT, may adopt technical implementing measures.  Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). (AM 62)	Article: (AM 60)  5. Member States shall ensure that, to the extent technically feasible, undertakings concerned make caller location information available free of charge to the authority handling emergency calls as soon as the call reaches that authority. This applies to all calls to the single European emergency call number "112".  Member States may extend this obligation to cover calls to national emergency numbers. Where undertakings referred to in paragraph 2 wish to claim that providing caller location information is not technically feasible, they shall bear the burden of proving this to the competent national authority. (AM 61)	to pursue the objectives set out in this-
	7a. In order to ensure the effective implementation of "112" services in the Member States, the Commission, having consulted the GERT, may adopt technical implementing measures.  Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2).	5. Member States shall ensure that, to the extent technically feasible, undertakings concerned make caller location information available free of charge to the authority handling emergency calls as soon as the call reaches that authority. This applies to all calls to the single European emergency call number "112".  Member States may extend this obligation to cover calls to national emergency numbers. Where undertakings referred to in paragraph 2 wish to claim that providing caller location information is not technically feasible, they shall bear the burden of proving this to the competent national authority.	

ANNEX **EN** 

43 DG C II B

EV/ek

ANNEX **EN** 

44 DG C II B

EV/ek

	accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework Directive).  4. Member States shall, in addition to measures of general applicability to all numbers in the "116" numbering range taken pursuant to paragraphs 1, 2, and 3, facilitate citizens' access to a service operating a hotline to report cases of missing children. The hotline shall be available on the number 116000.
5. 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.  Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). (AM 65 - part III)	shall include ensuring compliance with relevant standards or specifications published in accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework Directive). (AM 65 -part I)  4. Member States shall, in addition to measures of general applicability to all numbers in the "116" numbering range taken pursuant to paragraphs 1, 2, and 3, facilitate ensure citizens' access to a service operating a hotline to report cases of missing children. The hotline shall be available on the number 116000. (AM 65 -part II)
implementation of the '116' numbering range in the Member States, including access for disabled end-users when travelling in other Member States, the Commission, having consulted the GERT, may adopt technical implementing measures.  Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with scrutiny referred to in Article 37(2).	4. Member States shall, in addition to measures of general applicability to all numbers in the "116" numbering range taken pursuant to paragraphs 1, 2, and 3, facilitate ensure citizens' access to a service operating a hotline to report cases of missing children. The hotline shall be available on the number 116000.

ANNEX **EN** 

45 DG C II B

EV/ek

		(b) access all numbers provided in the Community, including those in the national numbering plans of Member States, those from the ETNS and Universal International Freephone Numbers (UIFN).	(a) access and use services using non-geographic numbers within the Community; and	1. Member States shall ensure that, where technically and economically feasible, and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, relevant national authorities take all necessary steps to ensure that end-users are able to:	Access to nun
2. In order to ensure that end users have effective access to numbers and services	(c) access and use services through text telephones, video telephones and products which help to enable elderly people or people with disabilities to communicate, at least as regards emergency calls. (AM 66)	(b) access all numbers provided in the Community, regardless of the technology and devices used by the operator, including those in the national numbering plans of Member States, those from the ETNS and Universal International Freephone Numbers (UIFN); and	(a) access and use services using non-geographic numbers within the Community; and	1. Member States shall ensure that, where technically and economically feasible, and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, relevant national authorities take all necessary steps to ensure that end-users are able to:	Access to numbers and services
Keep common position		(b) access all numbers provided in the Community, <b>regardless of the technology and devices used by the operator.</b> including those in the national numbering plans of Member States, those from the ETNS and Universal International Freephone Numbers (UIFN).	(a) access and use services using non-geographic numbers within the Community; and	1. Member States shall ensure that, where technically and economically feasible, and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, relevant national authorities take all necessary steps to ensure that end-users are able to:	

ANNEX **EN** 

46 DG C II B

EV/ek

2. A Member State may decide to waive			
economic viability and all or part of the additional facilities listed in Annex I.  Part A.			
	an undertakings providing access to public communications networks and/or publicly available telephone services. (AM 68)	available telephone services.	
	disconnection as a general requirement on	undertakings providing access to public	
regulatory authorities are able to require all	set out in points (a) and (e) of Part A of in	set out in points (a) and (e) of Part A of	
1. Without prejudice to Article 10(2).  Member States shall ensure that national	3. Without prejudice to Article 10(2), Member States may impose the obligations	3. Without prejudice to Article 10(2), Member States may impose the obligations	
	Article 29 Provision of additional facilities	Arti Provision of add	
	technological developments. (AM 67)		
	to take account of market and		
	Any such technical implementing measure may be periodically reviewed		
	accordance with the regulatory procedure with scrutiny referred to in Article 37(2).		
	adopt technical implementing measures. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in		

ANNEX **EN** 

47 DG C II B

EV/ek

Article 30  Facilitating change of provider Inorities shall an operators and of to the ability is cost-tharges to reneted, and that direct charges to subscribers, if any, do not act as a disincentive for subscribers against charging them to change service provider. (AM 69)  1 their subsequent out within the any case, the al transfer of the more day.  1 a rew undertaking shall have the number to a new undertaking shall have the necessary bscribers are protected throughout the switching process  1 competent national authorities may easures ensuring that subscribers are protected throughout the switching process  2 National regulatory authorities shall ensure that pricing between operators and converted shall converted to the provision of number portability is cost-oriented, and that direct charges to subscribers against charging them to charge service provider. (AM 69)  2 National regulatory authorities shall ensure that pricing between operators and or service providers related to the provision of number portability is cost-oriented, and that direct charges to subscribers against charging them to charge service providers, if any, do not act as a disincentive for subscribers against charging them to charge service providers negulatory authorities shall ensure that pricing between operators and or service providers and direct charges to subscribers, if any, do not act as a disincentive for subscribers against charging them to charge service providers negulatory authorities shall be provision of number portability is cost-oriented, and that direct charges to subscribers against charging them to charges to subscribers against charging them to charge service providers negulatory authorities shall be provision of number portability is cost-oriented, and that direct charges to subscribers against their subsequent activation shall be carried out within the shortest possible time. In any case, the shortest possible time. In any case, the shortest possible time taken for the technical transfer of the subscribers against c	provisions on contracts and technical feasibility, including where necessary measures ensuring that subscribers are protected throughout the switching process.	4. Porting of numbers and their subsequent activation shall be carried out within the shortest possible time. In any case, the time taken for the technical transfer of the number shall not exceed one day.  Competent national authorities may establish the global process of porting of numbers, taking into account national	2. National regulatory authorities shall ensure that pricing between operators and/ or service providers related to the provision of number portability is cost-oriented, and that direct charges to subscribers, if any, do not act as a disincentive for subscribers against changing service provider.		
	are	activation shall be exe shortest possible delay time taken for the tech subscribers wishing t a new undertaking shall not exceed activa working day from the	nall ors and/ ost-	Article 30 Facilitating change of provider	
	S	<u>•</u>	shall tors and/ cost-		veiws of interested parties sufficient access to these 1 <b>Delete para 3.</b>

ANNEX **EN** 

48 DG C II B

EV/ek

Keep common position	Article 32 a  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		
5. Member States shall ensure that contracts concluded between users and undertakings providing electronic communications services do not mandate an initial commitment period that exceeds 24 months. They shall also ensure that undertakings offer users the possibility to subscribe to a contract with a maximum duration of 12 months for all types of service and terminal equipment.	5. Member States shall ensure that contracts concluded between users and undertakings providing electronic communications services do not mandate an initial commitment period that exceeds 24 months. They shall also ensure that undertakings offer users the possibility to subscribe to a contract with a maximum duration of 12 months for all types of service and terminal	5. Member States shall ensure that contracts concluded between users and undertakings providing electronic communications services do not mandate an initial commitment period that exceeds 24 months.	
undertakings, including an obligation to compensate subscribers in case of delay in porting or abuse of porting by them or on their behalf.	and not switched against their will.  National regulatory authorities shall be able to impose appropriate sanctions on undertakings, including an obligation to compensate subscribers in case of delay in porting or abuse of porting by them or on their behalf. (AM 70)		

ANNEX **EN** 

49 DG C II B

EV/ek

	Article 33 Consultation with interested parties	
4. Without prejudice to the application of Directive 1999/5/EC and in particular of disability requirements pursuant to its Article 3(3)(f), and in order to improve accessibility to electronic communications services and equipment by disabled end-users, the Commission may take the appropriate technical implementing measures, following a public consultation and after having consulted BERT. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with scrutiny referred to in Article 37(2). (AM 73)	e 33 nterested parties	hindering the development of the information society, in compliance with Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce)*, and shall not conflict with the fundamental rights of citizens, including the right to privacy and the right to due process. (AM 72)
Keep common position		

ANNEX **EN** 

50 DG C II B

EV/ek

	Member States shall ensure that the bodies in charge of dealing with such disputes, which can be single points of contact, provide relevant information for statistical purposes to the		
	deprive the consumer of the legal protection afforded by the national law. Member States may extend these obligations to cover disputes involving other end-users.		
	of reimbursement and/or compensation.  Such procedures shall enable disputes to be settled impartially and shall not	compensation. Member States may extend these obligations to cover disputes involving other end-users.	
	disputes to be settled fairly and promptly and may, where warranted, adopt a system	enable disputes to be settled tairly and promptly and may, where warranted, adopt a system of reimbursement and/or	
	supply of those networks and/or services.  Member States shall adopt measures to	and/or services. Member States shall adopt measures to ensure that such procedures	
	arising under this Directive and relating to the contractual conditions and/or performance of contracts concerning the	and relating to the contractual conditions and/or performance of contracts concerning the supply of those networks	
	undertakings providing electronic communications networks and/or services	electronic communications networks and/or services arising under this Directive	
	and inexpensive out-of-court procedures are available for dealing with unresolved disputes between consumers and	out-of-court procedures are available for dealing with unresolved disputes between	
Keep common position	1. Member States shall ensure that transparent, <b>non-discriminatory</b> , simple	1. Member States shall ensure that transparent, simple and inexpensive	
	Article 34 Out-of-court dispute resolution	Artic Out-of-court di	

ANNEX **EN** 

51 DG C II B

EV/ek

Member States are to ensure that national regulatory authorities, subject to the requirements of relevant legislation on the protection of personal data and privacy, may lay down the basic level of itemised bills which are to be provided by designated undertakings (as established in Article 8) to consumers free of charge in Article 8	(a) Itemised billing (a) Ite	ANNEX I  DESCRIPTION OF FACILITIES AND SERVICES  REFERRED TO IN ARTICLE 10 (CONTROL OF EXPENDITURE),  ARTICLE 29 (ADDITIONAL FACILITIES) AND ARTICLE 30 (FACILITATING CHANGE OF PROVIDER)  Part A  Facilities and services referred to in Article 10	Annexes I, II, III and VI shall be replaced by the text appearing in Annexes I and II by the text to this Directive;  and VI to	procedur	With spe of audiov communications of audiov communications of audiov communications of the contragation of	Commiss
Member States are to ensure that national regulatory authorities, subject to the requirements of relevant legislation on the protection of personal data and privacy, may lay down the basic level of itemised bills which are to be provided by designated undertakings (as established in Article 8) to consumers end-users free of	Itemised billing	) SERVICES OF EXPENDITURE), (CILITATING CHANGE OF P	Annexes I, II, III and VI shall be replaced by the text appearing in Annexes I and, II and VI to this Directive; (AM 75)	procedures. (AM 74)	With specific regard to the interaction of audiovisual and electronic communications, Member States shall encourage reliable out-of-court	Commission and the authorities.
Member States are to ensure that national regulatory authorities, subject to the requirements of relevant legislation on the protection of personal data and privacy, may lay down the basic level of itemised bills which are to be provided by designated undertakings (as established in Article 8) to subscribers free of charge in	(a) Itemised billing	ROVIDER)	Keep common position			

ANNEX **EN** 

52 DG C II B

EV/ek

(b) Selective barring for outgoing calls or premium SMS or MMS, or other kinds of similar applications free of charge, where technically feasible i.e. the facility whereby the subscriber can, on request to the adesignated undertaking that provides telephone services, bar outgoing calls or premium SMS or MMS or other kind of similar applications of defined types or to defined types of numbers free of charge.  Keep common position.
---

ANNEX **EN** 

EV/ek

	Part B Facilities referred to			period of limited service prior to complete disconnection, during which only calls that do not incur a charge to the subscriber (e.g. "112" calls) are permitted.
(c) Services in the event of theft Member States shall ensure that a	Part B Facilities referred to in Article 29	(g) Best advice Member States shall ensure that national regulatory authorities require all undertakings providing electronic communication services to recommend their best available tariff package to consumers once a year on the basis of the consumer's consumption pattern for the previous year. (AM 102)	(f) Cost control Member States shall ensure that national regulatory authorities require all undertakings providing electronic communication services to offer means for subscribers to control the costs of telecommunication services, including free of charge alerts to consumers in case of abnormal consumption patterns. (AM 101)	subscriber. Member States may allow a period of limited service prior to complete disconnection, during which only <del>calls</del> that do not incur a charge to the subscriber (e.g. "112" calls) are permitted. Access to emergency services through "112" may be blocked in case of repeated misuse by the user. (AM 100)
Keep common position		Keep common position	(f) Cost control i.e. the facility whereby undertakings offer other means, if so determined as appropriate by national regulatory authorities, to control the costs of relevant electronic communication services, including free of charge alerts to consumers in case of abnormal and excessive consumption patterns.	

ANNEX **EN** 

54 DG C II B

EV/ek

1. This Directive provides for the harmonisation of the national provisions	Arti Scope e	ePRIVACY		
1. This Directive provides for the harmonisation of the national provisions of	Article 1 Scope and aim	ePRIVACY DIRECTIVE	Any traffic monitoring data that this software may collect is for the use of the subscriber only. (AM 104)	freephone number common to all mobile telephony service providers is set up for reporting the theft of a terminal and immediately suspending the services associated with the subscription. It must also be possible for disabled users to access this service.  Users must be regularly informed of the existence of this number, which must be easy to remember. (AM 103)  (d) Protection software  Member States shall ensure that national regulatory authorities are able to require operators to make available free of charge to their subscribers reliable, easy-to-use and freely and fully configurable protection and/or filtering software to prevent access by children or vulnerable persons to content unsuitable to them.
1. This Directive provides for the harmonisation of the national provisions of harmonisation of the national provisions of				Keep common position

ANNEX **EN** 

55 DG C II B

EV/ek

	society service in the Community. (AIVI		
		communications service in the Community	
	provision of a publicly available electronic	provision of a publicly available electronic	
	otherwise processed in connection with the	otherwise processed in connection with the	
	personal data transmitted, stored or	personal data transmitted, stored or	
	unauthorised disclosure of, or access to,	unauthorised disclosure of, or access to,	
	unlawful destruction, loss, alteration,	unlawful destruction, loss, alteration,	
	of security leading to the accidental or	of security leading to the accidental or	
Keep common position	(h) "personal data breach" means a breach	(h) "personal data breach" means a breach	
	Definitions	Defin	
	Article 2	Arti	
who are legal persons.	who are legal persons. (AM 77)		
the legitimate interests of subscribers	of the legitimate interests of subscribers		
Moreover, they provide for protection of	Moreover, they provide for protection		
purposes mentioned in paragraph 1.	purposes mentioned in paragraph 1.		
free movement of such data for the	free movement of such data for the		
processing of personal data and on the	processing of personal data and on the		
individuals with regard to the	individuals with regard to the		
95/46/EC on the protection of	95/46/EC on the protection of		
particularise and complement Directive	particularise and complement Directive		
2. The provisions of this Directive	2. The provisions of this Directive		
and services in the Community.	and services in the Community. (AM 76)		
of electronic communication equipment	of electronic communication equipment	services in the Community.	
ensure the free movement of such data and	ensure the free movement of such data and	electronic communication equipment and	
electronic communication sector and to	electronic communication sector and to	free movement of such data and of	
processing of personal data in the	processing of personal data in the	communication sector and to ensure the	
<b>confidentiality</b> , with respect to the	<b>confidentiality</b> , with respect to the	personal data in the electronic	
particular the right to privacy <b>and</b>	particular the right to privacy <b>and</b>	privacy, with respect to the processing of	
fundamental rights and freedoms, and in	fundamental rights and freedoms, and in	freedoms, and in particular the right to	
equivalent level of protection of	equivalent level of protection of	protection of fundamental rights and	
the Member States required to ensure an	the Member States required to ensure an	required to ensure an equivalent level of	

ANNEX **EN** 

56 DG C II B

EV/ek

	The Counc	
10 o o o o o o o o o o o o o o o o o o o	Articl Security of p il had not modified this	7
1a. Without prejudice to the provisions of Directive 95/46/EC, these measures shall at least: - ensure that personal data can be accessed only by authorised personnel for legally authorised purposes; - protect personal data stored or transmitted against accidental, or unlawful destruction, accidental loss or alteration, or unauthorised or unlawful storage, processing, access or disclosure; and; - implement a security policy with respect to the processing of personal data;	le 4  1. The provider of a publicly available electronic communications service or of an information society service must take appropriate technical and organisational measures to safeguard security of its services, if necessary in conjunction with the provider of the public communications network with respect to network security. Having regard to the state of the art and the cost of their implementation, these measures shall ensure a level of security appropriate to the risk presented. (AM 79)	78)
1a. Without prejudice to the provisions of Directive 95/46/EC, these measures shall at least: - ensure that personal data can be accessed only by authorised personnel for legally authorised purposes; - protect personal data stored or transmitted against accidental, or unlawful destruction, accidental loss or alteration, or unauthorised or unlawful storage, processing, access or disclosure; and; - implement a security policy with respect to the processing of personal data;	Keep common position	

ANNEX **EN** 

57 DG C II B

EV/ek

breach without undue delay.		delay. delay. competent national authority and the	the subscriber of the breach without undue   <del>communications services</del> shall notify <del>the</del>	notify the competent national authority and   of publicly available electronic	electronic communications services shall <b>personal data and</b> privacy, the provider	the provider of publicly available affect a subscriber's or individual's	a serious risk for the subscriber's privacy, a serious risk for the is likely to adversely			paragraph 4:	national authority in accordance with	with paragraph 4. the relevant rules set by the competent	competent national authority in accordance   subscriber concerned, taking into account	account the relevant rules set by the the competent national authority <del>and</del>	and subscriber concerned, taking into <b>delay</b> , notify the personal data breach to	breach to the competent national authority   <del>whether it is necessary to, without undue</del>	necessary to notify the personal data evaluate its seriousness and consider-	its seriousness and consider whether it is the scope of the personal data breach,	scope of the personal data breach, evaluate society services concerned shall assess-	communications services shall assess the communications services or information	provider of publicly available electronic provider of publicly available electronic	3. In the case of a personal data breach, the 3. In the case of a personal data breach, the	these measures should achieve. (AM 80)	concerning the level of security which	recommendations about best practices	information society services and to issue	electronic communication services and	providers of publicly available	be able to audit the measures taken by	
_			_	<b>ተ</b>												hout undue							H					ole		
technological protection measures shall	concerned by the security breach. Such	measures were applied to the data	<u>protection measures, and those</u>	implemented appropriate technological	competent authority that it has	demonstrated to the satisfaction of the	be required if the provider has	a subscriber or user concerned shall not	Notification of a personal data breach to		the breach without undue delay.	<b><u>notify the</u></b> subscriber <u><b>or user</b></u> concerned <u><b>of</b></u>	and privacy, the provider shall also	to adversely affect a subscriber's data	When the personal data breach is likely		authority.	data breach to the competent national	without undue delay, notify the personal	communications services <b>concerned</b> shall,	provider of publicly available electronic	3. In the case of a personal data breach, the		these measures should achieve	concerning the level of security which	recommendations about best practices	communication services and to issue	providers of publicly available electronic	be able to audit the measures taken by	0

EV/ek

competent national authority shall, in shall recommend measures to mitigate the least describe the nature of the personal provider to address, the personal data and the measures proposed or taken by the addition, describe the consequences of data breach. The notification to the possible negative effects of the personal more information can be obtained, and data breach and the contact points where The notification to the subscriber shall at contact points where more information can breach. (AM 81) describe the consequences of and the breach. The notification to the competent adverse effects of the personal data be obtained, and it shall recommend nature of the personal data breach and the individual shall at least describe the national authority, having considered the subscriber or individual of the provider to address the personal data measures proposed or taken by the national authority shall, in addition, measures to mitigate <del>the</del> possible <del>negative</del>-The notification to the subscriber **or** may require it to do so. the likely adverse effects of the breach, personal data breach, the competent If the provider has not already notified where more information can be obtained, the possible negative effects of the person who is not authorized to access as the provider of publicly available including identity fraud. Therefore, as soon substantial economic loss and social harm, or user may, if not addressed in an A breach resulting in the loss comprising the measures proposed or taken by the the competent national authority shall, in becomes aware that such breach has electronic communications service adequate and timelu manner, result in personal data of an individual subscriber Modified recital 29: provider to address, the personal data addition, describe the consequences of, and personal data breach. The notification to and shall recommend measures to mitigate personal data breach and the contact points shall at least describe the nature of the <u>the data.</u> render the data unintelligible to any The notification to the subscriber or user

ANNEX **EN** 

DG CIIB

EV/ek

DS 177/09

	data breaches by providers of a publicity available electronic communications service of nersonal data breaches is	to such notification and the manner in which the notification is to be made.	
	in which when notification of personal	service is necessary, the format applicable	
	guidelines and, where necessary, issue instructions concerning the circumstances	breaches by providers of a publicly available electronic communications	
	able to set detailed rules may adopt	in which notification of personal data	
	that the competent national authorities is-	instructions concerning the circumstances	
	paragraph 4, Member States shall ensure	detailed rules and, where necessary, issue	
	implementing measures adopted under	competent national authority is able to set	
Keep common position	4. Subject to any technical	4. Member States shall ensure that the	
affected.			
well as recommendations for the users			
by the provider to address the breach, as			
include information about measures taken			
Community. The notification should			
communications services in the			
with the provision of publicly available			
or damage of reputation) in connection			
physical harm, significant humiliation			
's privacy (e.g. identify theft or fraud,			
a serious risk to the subscriber's or user			
users's data and privacy where it entails			
adversly affecting the subscriber's or			
A breach should be considered as			
be able to take the necessary precautions.			
should be notified without delay in order to			
<b>be adversely effected</b> by such <b>breaches</b> ,			
subscribers or users whose privacy could			
the competent national authority. The			
occurred it should <b>notify the breach to</b>			

ANNEX **EN** 

60 DG C II B

EV/ek

ppicame hanner in hade shall also ve n ph and in the  tain ng all nt hereto . These erence to abscribers ell as to ities, thereof. to the m	hecessary required, the format appirtable to of such notification and the manner in which the notification is to be made notification procedures. They shall also monitor whether providers have complied with their notification obligations under this paragraph and impose appropriate sanctions in the event of a failure to do so.  Providers shall keep and maintain comprehensive records detailing all personal data breaches, relevant technical information related thereto and any remedial action taken. These records shall also contain a reference to all notifications issued to the subscribers or individuals concerned, as well as to the competent national authorities, including the date and content thereof. The records shall be provided to the competent national authority on	
5. In order to ensure consistency in	5. In order to ensure consistency in	5. In order to ensure consistency in
referred to implementation of the measures	implementation of the measures referred to	implementation of the measures referred to
	in paragraphs 1 to 4, 2, 3 and 3a, the	in paragraphs 1 to 4 the Commission may,
	Commission may shall, following	following consultation with the European
	consultation with the European Network	Network and Information Security Agency
y (ENISA), and Information Security Agency	and Information Security Agency (ENISA),	(ENISA), the Article 29 Working Party
	the Article 29 Working Party and the	and the European Data Protection
visor, and the European Data Protection	European Data Protection Supervisor,	Supervisor, adopt recommendations

ANNEX **EN** 

61 DG C II B

EV/ek

3. M stori infor equi allor user com with			conc form info refer
3. Member States shall ensure that the storing of information, or access to information already stored, in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned is provided with clear and comprehensive information, in accordance with Directive 95/46/EC, inter alia about	Article 5  Confidentiality of the communications		concerning, inter alia, the circumstances, format and procedures applicable to the information and notification requirements referred to in this Article.
3. Member States shall ensure that the storing of information, or <b>gaining</b> access to information already stored in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned <b>has given his/her prior consent, which may be given by way of using the appropriate</b>	le 5 he communications	Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14a(2). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 14a (3). (AM 83)	adopt recommendations technical implementing measures concerning, inter alia, the circumstances, format and procedures applicable to information and notification requirements referred to in this Article. The Commission shall involve all relevant stakeholders in order particularly to be informed of the best available technical and economic methods for the implementation of this Article.
Keep common position		Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14a(2). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 14a (3).	implementing measures concerning. inter alia, the circumstances, format and procedures applicable to information and notification requirements referred to in this Article. The Commission shall involve all relevant stakeholders in order particularly to be informed of the best available technical and economic methods for the implementation of this Article.

EV/ek

LIMITE

DS 177/09

ANNEX **EN** 

62 DG C II B

application, after havi provided with clear and information in accordar Directive 95/46/EC, into purposes of the process: the right to refuse such data controller. This shatechnical storage or acc purpose of carrying out a communication society service information society service 6  ffic data  1. Traffic data relating to users processed and stored a publicly available electrommunications service erased or made anonym longer needed for the put transmission of a communication prejudice 15(1). (AM 85-Article 15(1). (AM 85-	2a. Traffic data may be processed by the	2a. Without prejudice to compliance	See Council para 7.	
application, after having been isprovided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communication service explicitly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communication service shall must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication Thisshall be without prejudice to paragraphs 2, 2a, 3 and 5 and 7 of this Article and Article 15(1). (AM 85 – part 1)				
application, after having been is- provided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communications network, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data 1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communication service shall must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication This- shall be without prejudice to paragraphs 2, 2a, 3 and 5 and 7 of this Article and		Article 15(1). (AM 85 – part I)		
application, after having been is- provided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communication society service explicitly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communication service shall must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication This- shall be without prejudice to paragraphs 2,	$\neq$ of this Article and Article 15(1).	$2a$ , 3 and 5 and $\overline{7}$ of this Article and	this Article and Article 15(1).	
application, after having been is- provided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communication society service explicitly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data 1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communication service shall must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication This	prejudice to paragraphs 2, <b>2a</b> , 3 <b>and</b> 5 <del>and</del>	shall be without prejudice to paragraphs 2,	prejudice to paragraphs 2, 3, 5 and 7 of	
application, after having been is- provided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communication society service explicitly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data 1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communications service shall must be erased or made anonymous when it is no longer needed for the purpose of the	of a communication <del>This shall be</del> without	transmission of a communication <del>This</del>	of a communication. This shall be without	
application, after having been is- provided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communication sertwork, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data 1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communications service shall must be erased or made anonymous when it is no	needed for the purpose of the transmission	longer needed for the purpose of the	needed for the purpose of the transmission	
application, after having been is- provided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communication servork, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data 1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communications service shall must be	made anonymous when it is no longer	erased or made anonymous when it is no	made anonymous when it is no longer	
application, after having been isprovided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communication sertwork, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic	communications service shall be erased or	communications service <del>shall</del> <b>must</b> be	communications service shall be erased or	
application, after having been is- provided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communication setwork, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data 1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or	publicly available electronic	publicly available electronic	publicly available electronic	
application, after having been isprovided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communications network, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data relating to subscribers and users processed and stored by the provider	of a public communications network or	of a public communications network or	of a public communications network or	
application, after having been isprovided with clear and comprehensive information in accordance with Directive 95/46/EC, inter alia about the purposes of the processing and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communications network, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user. (AM 84)  1. Traffic data relating to subscribers and	users processed and stored by the provider	users processed and stored by the provider	users processed and stored by the provider	
ffic	1. Traffic data relating to subscribers and	1. Traffic data relating to subscribers and	1. Traffic data relating to subscribers and	
rticl		ic data	Traff	
		icle 6	Arti	
·•		84)		
·•		requested by the subscriber or user. (AM		
· · · · · · · · · · · · · · · · · · ·		information society service explicitly		
		irecessary in oraci to provide an		
		necessary in order to provide an		
		communications network, or as strictly		
		a communication over an electronic	requested by the subscriber or user.	
		purpose of carrying out the transmission of	information society service explicitly	
. ,		technical storage or access for the sole	necessary in order to provide an	
• •		<del>data controller</del> . This shall not prevent any	communications network, or as strictly	
.,		the right to refuse such processing by the	communication over an electronic	
		purposes of the processing <del>and is offered</del>	facilitating the transmission of a	
		Directive 95/46/EC, inter alia about the	the sole purpose of carrying out or	
		information in accordance with	prevent any technical storage or access for	
application, after havi		provided with clear and comprehensive	by the data controller. This shall not	
		application, after having been is-	offered the right to refuse such processing	
the purposes of the processing, and is <b>settings of a browser or another</b>		settings of a browser or another	the purposes of the processing, and is	

ANNEX **EN** 

63 DG C II B

EV/ek

	communications service may process the data referred to in paragraph 1 to the		
	provider of a publicly available electronic		
	communications services or for the	paragraph.	
	3. For the purpose of marketing electronic	The Council did not modify this	
	85 – part II)		
	purposes of such security activity. (AM		
	which is strictly necessary for the		
	processing shall be restricted to that		
	freedoms of the data subject. Such		
	those of the fundamental rights and		
	where such interest is overridden by		
	communication equipment, except		
	or related terminal and electronic		
	network, an information society service		
and freedoms of the data subject.	public electronic communications		
the interests of the fundamental rights	electronic communication service, a		
where such interests are overridden by	Information Security Agency*, of a public		
communication equipment, except	establishing the European Network and		
<u>related terminal and electronic</u>	and of the Council of 10 March 2004		
communication service or network, or	No 460/2004 of the European Parliament		
Agency, of a public electronic	defined by Article 4(c) of Regulation (EC)		
<b>Network and Information Security</b>	network and information security, as		
March 2004 establishing the European	extent strictly necessary to ensure the		
Parliament and of the Council of 10	implementing technical measures to the		
(EC) 460/2004 of the European	controller for the purpose of		
defined by Article 4(c) of Regulation	the legitimate interest of the data		
network and information security, as	<b>Directive,</b> traffic data may be processed in		
time strictly necessary to ensure the	Directive 95/46/EC and Article 5 of this		
data controller to the extent and for the	with provisions other than Article 7 of		

ANNEX **EN** 

64 DG C II B

EV/ek

The Council did not modify this paragraph.	The Council did not modify this paragraph.	The Council did not modify this paragraph.	
6. Paragraphs 1, 2, <b>2a</b> , 3 and 5 shall apply without prejudice to the possibility for	5. Processing of traffic data, in accordance with paragraphs 1, 2, 2a, 3 and 4, must be restricted to persons acting under the authority of providers of the public communications networks and publicly available electronic communications services handling billing or traffic management, customer enquiries, fraud detection, other network and information secuirty, marketing electronic communications services or providing a value added service, and must be restricted to what is necessary for the purposes of such activities. (AM 85 - part III)	4. The service provider must inform the subscriber or user of the types of traffic data which are processed and of the duration of such processing for the purposes mentioned in paragraph 2 and 2a and, prior to obtaining consent, for the purposes mentioned in paragraph 3.	extent and for the duration necessary for such services or marketing, if the subscriber or user to whom the data relate has given his or her prior consent. Users or subscribers shall be given the possibility to withdraw their consent for the processing of traffic data at any time.
6. Paragraphs 1, 2, <b>2a</b> , 3 and 5 shall apply without prejudice to the possibility for	Keep common position		

ANNEX **EN** 

65 DG C II B

EV/ek

New recital:  "Safeguards provided for subscribers against instrusion of their privacy by unsolicited commnications for direct			
of subscribers or users who have given their prior consent.	of subscribers or users who have given their prior consent. (AM 86)	users who have given their prior consent.	
and multimedia messaging services (MMS)) for the purposes of direct marketing may be allowed only in respect	and multimedia messaging services— (MMS)) for the purposes of direct marketing may be allowed only in respect	messaging services (IMMS)) for the purposes of direct marketing may be allowed only in respect of subscribers or	
(including short message services (SMS)	(including short message services (SMS)	message services (SMS) and multimedia	
facsimile machines (fax) or electronic mail	facsimile machines (fax) or electronic mail	(fax) or electronic mail (including short	
intervention (automatic calling machines),	intervention (automatic calling machines),	calling machines), facsimile machines	
communication systems without human	communication systems without human	without human intervention (automatic	
	Unsolicited communications	Unsolicited c	
	Article 13	Arti	
Information Security Agency.		Information Security Agency.	
establishing the European Network and		establishing the European Network and	
and of the Council of 10 March 2004		and of the Council of 10 March 2004	
No 460/2004 of the European Parliament		No 460/2004 of the European Parliament	
Article 4(c) of Regulation (EC)		Article 4(c) of Regulation (EC)	
and information security, as defined by		and information security, as defined by	
extent strictly necessary to ensure network		extent strictly necessary to ensure network	
7. Traffic data may be processed to the		7. Traffic data may be processed to the	
disputes.	disputes. (AM 85 – part IV)		
legislation with a view to settling disputes,	legislation with a view to settling disputes,		
data in conformity with applicable	data in conformity with applicable		
competent bodies to be informed of traffic	competent bodies to be informed of traffic		

ANNEX **EN** 

66 DG C II B

EV/ek

2000/31/EC, shall be prohibited.	2000/31/EC, shall be prohibited. (AM 88)		
encouraging recipients to visit websites	encouraging recipients to visit websites	prohibited.	
such communications cease, <u>or</u>	such communications cease, <b>or</b>	such communications cease, shall be	
which the recipient may send a request that	which the recipient may send a request that	which the recipient may send a request that	
2000/31/EC, or without a valid address to	2000/31/EC, or without a valid address to	2000/31/EC, or without a valid address to	
contravention of Article 6 of Directive	contravention of Article 6 of Directive	contravention of Article 6 of Directive	
communication is made, or in	communication is made, or in	communication is made, or in	
identity of the sender on whose behalf the	identity of the sender on whose behalf the	identity of the sender on whose behalf the	
marketing disguising or concealing the	marketing disguising or concealing the	marketing disguising or concealing the	
electronic mail for purposes of direct	electronic mail for purposes of direct	electronic mail for the purposes of direct	
4. In any event, the practice of sending	4. In any event, the practice of sending	4. In any event, the practice of sending	
	87)		
	of charge for the subscriber or user. (AM	of charge for the subscriber or user.	
	into account that both options must be free	into account that both options must be free	
	determined by national legislation, taking	determined by national legislation, taking	
	choice between these options to be	choice between these options to be	
	wish to receive these communications, the	wish to receive these communications, the	
	respect of subscribers or users who do not	respect of subscribers or users who do not	
	subscribers or users concerned or in	subscribers or users concerned or in	
	allowed either without the consent of the	allowed either without the consent of the	
	referred to in paragraphs 1 and 2, are not	referred to in paragraphs 1 and 2, are not	
	marketing, in cases other than those	marketing, in cases other than those	
	communications for the purposes of direct	communications for the purposes of direct	
	measures to ensure that unsolicited	measures to ensure that unsolicited	
	3. Member States shall take appropriate	3. Member States shall take appropriate	
applications."			
SMS, MMS and other kinds of similar			
electronic mail are also applicable to			

2. Where reference is made to this	2. Where reference is made to this		
(Framework Directive).	(Framework Directive).		
by Article 22 of Directive 2002/21/EC	by Article 22 of Directive 2002/21/EC		
1. The Commission shall be assisted by	1. The Commission shall be assisted by		
	Committee		
	Article 14a	The Counicl deleted this Article.	
	this Article. (AM 89)		
	national provisions adopted pursuant to		
	negligence contribute to infringements of		
provisions adopted pursuant to this Article.	communications services which by their	this Article.	
contribute to infringements of national	applicable to providers of electronic	national provisions adopted pursuant to	
services which by their negligence	also lay down specific rules on penalties	negligence contribute to infringements of	
to providers of electronic communications	<b>before the courts</b> . Member States may	communications services which by their	
down specific rules on penalties applicable	legal action against such infringements	applicable to providers of electronic	
infringements. Member States may also lay	bring legal proceedings in respect of take	lay down specific rules on penalties	
take legal action against such	or the interests of its customers, may	infringements. Member States may also	
may bring legal proceedings in respect of	protecting its legitimate business interests	proceedings in respect of such	
protecting its legitimate business interests,	communications service provider	business interests, may bring legal	
communications service provider	infringements, including an electronic	service provider protecting its legitimate	
infringements, including an electronic	in the cessation or prohibition of such-	including an electronic communications	
cessation or prohibition of such	and therefore having a legitimate interest	prohibition of such infringements,	
therefore having a legitimate interest in the	adopted pursuant to this Article Directive	legitimate interest in the cessation or	
adopted pursuant to this Article and	infringements of national provisions	this Article and therefore having a	
infringements of national provisions	a legitimate interest in combating	of national provisions adopted pursuant to	
legal person adversely affected by	legal person <del>adversely affected by <b>having</b></del>	person adversely affected by infringements	
States shall ensure that any individual or	States shall ensure that any individual or	States shall ensure that any natural or legal	
inter alia under Article 15 a(2), Member	inter alia under Article 15 a(2), Member	inter alia, under Article 15a(2), Member	
remedy for which provision may be made,	remedy for which provision may be made,	remedy for which provision may be made,	
6. Without prejudice to any administrative	6. Without prejudice to any administrative	6. Without prejudice to any administrative	

68 DG C II B

ANNEX **EN** 

DS 177/09

EV/ek

adopted pursuant to this Directive and shall	adopted pursuant to this Directive and	necessary to ensure that they are	
infringements of the national provisions	infringements of the national provisions	this Directive and shall take all measures	
where appropriate, applicable to	where appropriate, applicable to	the national provisions adopted pursuant to	
on penalties, including penal sanctions	on penalties, including penal sanctions	on penalties applicable to infringements of	
1. Member States shall lay down the rules	1. Member States shall lay down the rules	1. Member States shall lay down the rules	
	Implementation and enforcement	Implementation	
	Article 15a	Artic	
	with. (AM 91)		
	national law have not been complied		
	deems that the relevant provisions of		
	authorities of those cases in which it		
	notify the appropriate judicial		
	protection authority concerned shall		
	each request; the independent data		
	and the legal procedure followed for		
	including the legal justification given		
	data received pursuant to paragraph 1,		
	requests for access to users' personal		
	authorities, without undue delay, of all		
	notify the independent data protection		
	of information society services shall		
	communications services and providers		
Keep common position	1b. Providers of publicly available		
	Articie 13 Application of certain provisions of Directive 95/46/EC	Application of certain prov	
provisions of Arucie 8 mereot.	provisions of Article 8 mereof. (AM 90)	A	
shall apply, having regard to the	shall apply, having regard to the		
and Article 7 of Decision 1999/468/EC	and Article 7 of Decision 1999/468/EC		
paragraph, Article 5 a(1), (2), (4) and (6)	paragraph, Article 5 a(1), (2), (4) and (6)		
3. Where reference is made to this	3. Where reference is made to this		
Article 8 thereof.	Article 8 thereof.		
apply, having regard to the provision of	apply, having regard to the provision of		
Article 7 of Decision 1999/468/EC shall	Article 7 of Decision 1999/468/EC shall		
paragraph, Article 5 a(1) to (4) and	paragraph, Article 5 a(1) to (4) and		

ANNEX **EN** 

69 DG C II B

EV/ek

	national laws adopted pursuant to this	national laws adopted pursuant to this	
	cooperation in the enforcement of the	cooperation in the enforcement of the	
Keep common position.	4. In order to ensure effective cross-border	4. In order to ensure effective cross-border	
pursuant to this Directive	pursuant to this Directive. (AM 94)	1	
and enforce national provisions adopted	and enforce national provisions adopted	adopted pursuant to this Directive.	
information they might need to monitor	information they might need to monitor	to monitor and enforce national provisions	
<b>possibility</b> to obtain any relevant	<b>possibility</b> to obtain any relevant	any relevant information they might need	
and resources, including the <del>power-</del>	and resources, including the <del>power-</del>	resources, including the power to obtain	
have all <del>necessary</del> investigative powers	have all <del>necessary</del> investigative powers	necessary investigative powers and	
and, where relevant, other national bodies	and, where relevant, other national bodies	relevant, other national bodies have all	
<del>competent</del> national <b>regulatory</b> authorities	competent national regulatory authorities	competent national authority and, where	
3. Member States shall ensure that the	3. Member States shall ensure that the	3. Member States shall ensure that the	
	(AM 93)		
infringements referred to in paragraph 1.	infringements referred to in paragraph 1.		
power to order the cessation of the	power to order the cessation of the		
relevant, other national bodies have the	relevant, other national bodies have the	infringements referred to in paragraph 1.	
competent national authority and, where	competent national authority and, where	power to order the cessation of the	
Member States shall ensure that the	Member States shall ensure that the	relevant, other national bodies have the	
remedy which might be available,	remedy which might be available,	competent national authority and, where	
2. Without prejudice to any judicial	2. Without prejudice to any judicial	2. Member States shall ensure that the	
	them. (AM 92)		
any subsequent amendment affecting them.	any subsequent amendment affecting		
by †, and shall notify it without delay of	by +, and shall notify it without delay of	subsequent amendment affecting them.	
notify those provisions to the Commission	notify those provisions to the Commission	shall notify it without delay of any	
been rectified. The Member States shall	been rectified. The Member States shall	provisions to the Commission by +, and	
even where the breach has subsequently	even where the breach has subsequently	The Member States shall notify those	
applied to cover the period of any breach,	applied to cover the period of any breach,	breach has subsequently been rectified.	
proportionate and dissuasive and may be	proportionate and dissuasive and may be	period of any breach, even where the	
provided for must be effective,	provided for must be effective,	dissuasive and may be applied to cover the	
they are implemented. The penalties	that they are implemented. The penalties	must be effective, proportionate and	
take all measures necessary to ensure that	shall take all measures necessary to ensure	implemented. The penalties provided for	

ANNEX **EN** 

DS 177/09

70 DG C II B

EV/ek

The date referred to in Article 4(1). The date referred to in Article 4(1). The date referred to in Article 4(1).

Directive and to create harmonised	Directive and to create harmonised	
conditions for the provision of services involving cross-border data flows, the Commission may adopt recommendations, following consultation with ENISA, the Article 29 Working Party and the relevant regulatory authorities.	conditions for the provision of services involving cross-border data flows, the Commission may adopt recommendations-technical implementation measures, following consultation with ENISA, the Article 29 Working Party and the relevant regulatory authorities.	
	Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14a(2). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 14 a(3). (AM 95)	
The Council had no such Article.		
	Not later than three years after <time act="" amending="" for="" implementation="" limit="" of="" the="">, the Commission shall submit to the European Parliament and the Council, having consulted the Working Party on the Protection of Personal Data instituted by Article 29 of Directive 95/46/EC and the European Data Protection Supervisor, a report on the application of Directive 2002/58/EC and its impact on economic operators and consumers, in particular as regards the provisions on unsolicited</time>	By [two years from the date of entry into_force of this Directive], the Commission_shall submit to the European Parliament and the Council, having consulted the Article 29 Working Party and the European Data Protection Supervisor, 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, breach notifications and the use of personal data by public or private third parties for purposes not covered by this Directive, taking into

ANNEX **EN** 

71 DG C II B

EV/ek

DS 177/09	
72	
	notifications, taking into account the international environment. For this purpose, the Commission may request information from the Member States, which shall be supplied without undue delay. Where appropriate, the Commission shall submit proposals to amend this Directive, taking account of the results of that report, any changes in the sector, and any other proposal it may deem necessary in order to improve the effectiveness of this Directive.  No later than †, the Commission shall, following consultation of the European Data Protection Supervisor, the Article 29 Working Party and other stakeholders, including industry representatives, submit to the European Parliament, the Council and the European Economic and Social Committee a report, based on an indepth study, with recommendations on standard uses of IP addresses and the application of the ePrivacy and Data Protection Directives as regards the collection and further processing of IP addresses. (AM 96)
EV/ek	account the international environment.  For this purpose, the Commission may request information from the Member States, which shall be supplied without undue delay. Where appropriate, the Commission shall submit proposals to amend this Directive, taking account of the results of that report, any changes in the sector, the Treaty of Lisbon amending the Treaty of Lisbon amending the Treaty of Lisbon amending the Treaty establishing the European Community, in particular the new competences in matters of data protection as laid down in Article 16, and any other proposal it may deem necessary in order to improve the effectiveness of this Directive.  No later than two years from the date of entry into force of Directive 2008//EC lamending Directive 2002/22/EC on universal service and users' rights relating to electronic communications sector and data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on consumer protection cooperation!, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report, based on an indepth study, with recommendations on standard uses of IP addresses and the

	States shall determine how such reference is to be made. (AM 97)		
	occasion of their official publication. The methods of making such reference shall be hid down by the Member States. Member	publication. The methods of making such reference shall be laid down by the Member States.	
	measures <b>provisions</b> , they shall contain a reference to this Directive or be accompanied by such a reference on the	measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official	
	When Member States adopt those	When Member States adopt those	
	They shall apply those provisions from $[\ldots]$ .	They shall apply those measures from*	
	province and this practice.		
	correlation table between those		
	Parliament and the Commission the text of those measures provisions and a	the text of those measures.	
	forthwith communicate to <b>the European</b>	forthwith communicate to the Commission	
	administrative provisions necessary to	administrative provisions necessary to	
	1. Member States shall adopt and publish by $[]$ the laws, regulations and	1. Member States shall adopt and publish by* the laws, regulations and	
	Transposition	Transp	
	Article 4	Arti	
representatives.			
stakeholders to include industry			
the Article 20 Working Party, and other			
collection and further processing.			
Protection Directives as regards their			
application of the ePrivacy and Data			

\* • :

73 DG C II B

E**N** 

DS 177/09

EV/ek