

Report: Malcolm Harbour (A6-0318/2008)**- Electronic communications networks and services, protection of privacy and consumer protection -**

on a 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

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Committee on the Internal Market and Consumer Protection

AMENDMENTS agreed between the EPP, PSE and ALDE Groups with respect to **Article 1** of the Commission proposal (Universal Service Directive). Amendments agreed between the ALDE, EPP and PSE Groups with respect to **Article 2** of the Commission proposal (Data Privacy Directive) are filed separately.

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AM 1	
	<p><i>Article 27a</i></p> <p><i>Harmonised numbers for harmonised services of social value, including the missing children hotline number</i></p> <p><i>1. Member States shall promote the specific numbers in the numbering range</i></p>

beginning with '116' identified by Commission Decision 2007/116/EC of 15 February 2007 on reserving the national numbering range beginning with '116' for harmonised numbers for harmonised services of social value.¹ They shall encourage the provision within their territory of the services for which such numbers are reserved.

2. Member States shall ensure that disabled end-users are able to access services provided under the '116' numbering range. In order to ensure that disabled end-users are able to access such services while travelling in other Member States, measures taken 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).

3. Member States shall ensure that citizens are adequately informed about the existence and use of services provided under the '116' numbering range, in particular through initiatives specifically targeting persons travelling between Member States.

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, ensure 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 [xxx], 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).

Replaces AM 94 of the Report. Linked to AM 2.

AM 2

Recital 21a

Pursuant to its Decision 2007/116/EC of 15 February 2007 on reserving the national numbering range beginning with '116' for harmonised numbers for harmonised services of social value,¹ the Commission has reserved numbers in the '116' numbering range for certain services of social value. The numbers identified in that Decision cannot be used for purposes other than those set out therein, but there is no obligation for Member States to ensure that services associated with the reserved numbers are actually provided. The appropriate provisions of Decision 2007/116/EC should be reflected in Directive 2002/22/EC in order to integrate them more firmly into the regulatory framework for electronic communications networks and services and to ensure accessibility by disabled end-users as well. 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 children is actually available in their territories under the number 116000.

OJL 49, 17.2.2007, p. 30.

New recital linked to AM 1.

AM 3

Recital 14b

Directive 2002/22/EC is without prejudice to reasonable and non-discriminatory network management by providers.

Replaces AM 13 of the Report

AM 4

Recital 14a

In the absence of relevant rules of Community law, content, applications and services are deemed lawful or harmful in accordance with national substantive and procedural law. It is a task for the relevant authorities of the Member States, not for providers of electronic communications networks or services, to decide, in accordance with due process, whether content, applications or services are lawful or harmful or not. Directive 2002/22/EC is without prejudice to Directive 2000/31/EC (Directive on electronic commerce), which inter alia contains a "mere conduit" rule for intermediary service providers. Directive 2002/22/EC does not require providers to monitor information transmitted over their networks or to take punitive action or legal prosecution against their customers due to such information, nor does it make providers liable for the information. Responsibility for any such punitive action or legal prosecution remains with the relevant law enforcement authorities.

New recital (does not replace AM 12 of the Report, which should be renumbered)

AM 5

Recital 12c

In order to address public interest issues with respect to the use of communications services, and to encourage protection of the rights and freedoms of others, the relevant national authorities should be able to produce and have disseminated, with the aid of providers, public interest information related to the use of communications services. This information

	<p><i>should include public interest warnings regarding copyright infringement, other unlawful uses and dissemination of harmful content, and advice and means of protection against risks to personal security, which may for example arise from disclosure of personal information in certain circumstances, privacy and personal data. The information could be coordinated by way of the cooperation procedure established in Article 33(2a) of Directive 2002/22/EC. Such public interest information should be updated whenever necessary and it should be presented in easily comprehensible printed and electronic formats, as determined by each Member State, and on national public authority websites. National regulatory authorities should be able to oblige providers to disseminate this standardised information to all their customers in a manner deemed appropriate by the national regulatory authorities. Significant additional costs incurred by service providers for dissemination of such information should be agreed between the providers and the relevant authorities and met by those authorities. The information should also be included in contracts.</i></p>
<p><u>Replaces</u> AM 9 of the Report</p>	

AM 6	
<p>Recital 25</p> <p><i>In order to overcome existing shortcomings in terms of consumer consultation and appropriately address the interests of citizens, Member States should put in place an appropriate consultation mechanism. Such a mechanism could take the form of a body which would, independently from the national regulatory authority as well as from service providers, carry out research on consumer-related issues, such as consumer behaviour and mechanisms for changing suppliers, and which would operate in a transparent manner and contribute to the existing mechanisms for stakeholders' consultation. Where there is a need to address the facilitation of the access to</i></p>	<p>Recital 25</p> <p><i>In order to overcome existing shortcomings in terms of consumer consultation and appropriately address the interests of citizens, Member States should put in place appropriate consultation mechanisms. Such mechanisms could take the form of a body which would, independently from the national regulatory authority as well as from service providers, carry out research on consumer-related issues, such as consumer behaviour and mechanisms for changing suppliers, and which would operate in a transparent manner and contribute to the existing mechanisms for stakeholders' consultation. Furthermore, a mechanism should be established for the purpose of</i></p>

<p><i>and use of electronic communications services and terminal equipment for disabled users, and without prejudice to Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity¹ and in particular the disability requirements pursuant to its Article 3(3)(f), the Commission should be able to adopt implementing measures.</i></p> <p><i>OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).</i></p>	<p><i>enabling appropriate cooperation on issues relating to the promotion of lawful content. Any cooperation procedures agreed pursuant to such a mechanism should however not allow for systematic surveillance of individual internet usage.</i> <i>Where there is a need to address the facilitation of the access to and use of electronic communications services and terminal equipment for disabled users, and without prejudice to Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity¹ and in particular the disability requirements pursuant to its Article 3(3)(f), the Commission should be able to adopt implementing measures.</i></p> <p><i>OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).</i></p>
<p><u>New amendment</u></p>	

AM 7	
<p>22(3)</p> <p>In order to prevent degradation of service and slowing of traffic over networks, <i>the Commission may, having consulted the Authority, adopt technical implementing measures concerning minimum quality of service requirements to be set by the national regulatory authority on undertakings providing public communications networks.</i></p> <p><i>These</i> 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). <i>On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article</i></p>	<p>22(3)</p> <p><i>A national regulatory authority may issue guidelines setting minimum quality of service requirements, and, if appropriate, take other measures,</i> in order to prevent degradation of service and slowing of traffic over networks, <i>and to ensure that the ability of users to access or distribute content or to run applications and services of their choice is not unreasonably restricted. Those guidelines or measures shall take due account of any standards issued under Article 17 of Directive 2002/21/EC (Framework Directive).</i></p> <p><i>The Commission may, having examined such guidelines or measures and consulted [xxx], adopt technical implementing measures in that</i></p>

37(3).	<i>regard if it considers that the guidelines or measures may create a barrier to the internal market. Those</i> 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).
<u>Replaces</u> AM 81 of the Report	