



2017/0003(COD)

12.7.2017

AMENDMENTS

181 - 530

Draft opinion

Eva Maydell

(PE604.857v01-00)

Respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications)

Proposal for a regulation

(COM(2017)0010 – C8-0009/2017 – 2017/0003(COD))

Amendment 181
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down rules regarding the protection of fundamental rights and freedoms of natural *and legal* persons in the provision and use of electronic communications services, and in particular, the rights to respect for private life and communications and the protection of natural persons with regard to the processing of personal data.

Amendment

1. This Regulation lays down rules regarding the protection of fundamental rights and freedoms of natural persons in the provision and use of electronic communications services, and in particular, the rights to respect for private life and communications and the protection of natural persons with regard to the processing of personal data.

Or. en

Amendment 182
Anna Maria Corazza Bildt, Antonio López-Istúriz White, Eva Maydell

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down rules regarding the protection of fundamental rights and freedoms of natural *and legal* persons in the provision and use of electronic communications services, and in particular, the rights to respect for private life and communications and the protection of natural persons with regard to the processing of personal data.

Amendment

1. This Regulation lays down rules regarding the protection of fundamental rights and freedoms of natural persons in the provision and use of electronic communications services, and in particular, the rights to respect for private life and communications and the protection of natural persons with regard to the processing of personal data.

Or. en

Amendment 183
Inese Vaidere

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down rules regarding the protection of fundamental rights and freedoms of natural and legal persons in the provision and use of electronic communications services, and in particular, the rights to respect for private life and communications and the protection of natural persons with regard to the processing of personal data.

Amendment

1. This Regulation lays down rules regarding the protection of fundamental rights and freedoms of natural and legal persons in the provision and use of electronic communications services, and in particular, the rights to respect for ***natural persons*** private life and communications and the protection of natural persons with regard to the processing of personal data. ***Moreover, this Regulation provide for protection of the legitimate interests of subscribers who are legal persons, and in particular, the right to respect for legal persons communications.***

Or. en

Amendment 184
Eva Maydell, Antanas Guoga

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation ensures free movement of electronic communications data and electronic communications services within the Union, ***which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural and legal persons and the protection of natural persons with regard to the processing of personal data.***

Amendment

2. This Regulation ensures free movement of electronic communications data and electronic communications services within the Union.

Or. en

Amendment 185

Inese Vaidere

Proposal for a regulation

Article 1 – paragraph 2

Text proposed by the Commission

2. ***This Regulation ensures*** free movement of electronic communications data and electronic communications services within the Union, ***which*** shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural ***and*** legal persons and the protection of natural persons with regard to the processing of personal data.

Amendment

2. ***The*** free movement of electronic communications data and electronic communications services within the Union, shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural ***persons, respect for the communications of*** legal persons and the protection of natural persons with regard to the processing of personal data.

Or. en

Amendment 186

Daniel Dalton, Richard Sulík

Proposal for a regulation

Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation ensures free movement of electronic communications data and electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural ***and legal persons*** and the protection of natural persons with regard to the processing of personal data.

Amendment

2. This Regulation ensures, ***in accordance with Regulation (EU) No 2016/679,*** free movement of electronic communications data and electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural and the protection of natural persons with regard to the processing of personal data.

Or. en

Amendment 187

Sabine Verheyen

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

(2) This Regulation ensures free movement of electronic communications data and electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural **and legal** persons and the protection of natural persons with regard to the processing of personal data.

Amendment

(2) This Regulation ensures, **in accordance with Regulation (EU) No 2016/679**, free movement of electronic communications data and electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural persons and the protection of natural persons with regard to the processing of personal data.

Or. de

Justification

The deletion is necessary in order to synchronise this regulation with Regulation (EU) No 2016/679, which the legislative authority wishes to do. Regulation (EU) No 2016/679 applies only to ‘natural persons’, so the extension of the scope proposed here would turn this regulation into a lex specialis. Moreover, it has also not been clearly established who is to give consent on behalf of legal persons.

Amendment 188

Anna Maria Corazza Bildt, Antonio López-Istúriz White, Eva Maydell

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation ensures free movement of electronic communications data and electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural **and legal** persons and the protection of natural persons with regard to the processing of personal data.

Amendment

2. This Regulation ensures free movement of electronic communications data and electronic communications services within the Union, which shall be neither restricted nor prohibited for reasons related to the respect for the private life and communications of natural persons and the protection of natural persons with regard to the processing of personal data.

Amendment 189
Sabine Verheyen

Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission

Amendment

(3) The provisions of this Regulation particularise and complement Regulation (EU) 2016/679 by laying down specific rules for the purposes mentioned in paragraphs 1 and 2. **deleted**

Amendment 190
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. The provisions of this Regulation particularise and complement Regulation (EU) 2016/679 by laying down specific rules for the purposes mentioned in paragraphs 1 and 2. **deleted**

Amendment 191
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. The provisions of this Regulation

3. The provisions of this Regulation

particularise and complement Regulation (EU) 2016/679 by laying down specific rules for the purposes mentioned in paragraphs 1 and 2.

particularise and complement Regulation (EU) 2016/679, by laying down specific rules for the purposes mentioned in paragraphs 1 and 2. ***Except where otherwise provided in this Regulation, the provisions of Regulation (EU) 2016/679 shall apply when personal data is processed.***

Or. en

Justification

This amendment is intended to clarify the lex specialis relationship.

Amendment 192
Jan Philipp Albrecht

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to ***the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to the terminal equipment of end-users.***

Amendment

1. This Regulation applies to:

Or. en

Amendment 193
Sabine Verheyen

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

(1) This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic

Amendment

(1) This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic

communications services *and to information related to the terminal equipment of end-users.*

communications services.

Or. de

Amendment 194
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services *and to information related to the terminal equipment of end-users.*

Amendment

1. This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services.

Or. en

Amendment 195
Curzio Maltese

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to the terminal equipment of end-users.

Amendment

1. This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information *and processing capabilities* related to the terminal equipment of end-users.

Or. en

Amendment 196

Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation

Article 2 – paragraph 1

Text proposed by the Commission

1. This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to the terminal equipment of end-users.

Amendment

1. This Regulation applies to the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services and to information related to ***or processed by*** the terminal equipment of end-users.

Or. en

Amendment 197

Jan Philipp Albrecht

Proposal for a regulation

Article 2 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(a) the processing of electronic communications data carried out in connection with the provision and the use of electronic communications services, irrespective of whether a payment of the end-user is required;

Or. en

Justification

Moved here from Art. 3(1), as this is not about territorial scope.

Amendment 198

Jan Philipp Albrecht

Proposal for a regulation

Article 2 – paragraph 1 – point b (new)

Text proposed by the Commission

Amendment

(b) *the processing of information related to or processed by the terminal equipment of end-users;*

Or. en

**Amendment 199
Jan Philipp Albrecht**

**Proposal for a regulation
Article 2 – paragraph 1 – point c (new)**

Text proposed by the Commission

Amendment

(c) *the placing on the market of hardware and software permitting electronic communications by end-users, including the retrieval and presentation of information on the Internet;*

Or. en

**Amendment 200
Jan Philipp Albrecht**

**Proposal for a regulation
Article 2 – paragraph 1 – point d (new)**

Text proposed by the Commission

Amendment

(d) *the provision of publicly available directories of users of electronic communication;*

Or. en

**Amendment 201
Jan Philipp Albrecht**

Proposal for a regulation

Article 2 – paragraph 1 – point e (new)

Text proposed by the Commission

Amendment

(e) *the sending of direct marketing commercial electronic communications to end-users.*

Or. en

Amendment 202

Curzio Maltese

Proposal for a regulation

Article 2 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) *electronic communications services which are not publicly available;* ***deleted***

Or. en

Justification

Services not publicly available are excluded from the scope of telecommunications regulations for reasons specific to such regulations (for instance, it would be unjustified to impose access obligations on networks not publicly available). However, this distinction is irrelevant as regards the confidentiality of communications: all communications should be protected equally, irrespective of end-users' location. Therefore, electronic communications services which are not publicly available should remain within the scope of this regulation.

Otherwise, excluding them from this scope would allow companies to monitor how their employees are using their access to the network, which is unacceptable: companies only need to assess the work done by their employees, not to monitor each of their actions.

Amendment 203

Daniel Dalton, Richard Sulík

Proposal for a regulation

Article 2 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) *electronic communications services* **(c) *electronic communications services***

which are not publicly available;

which are *intended for closed groups or are* not publicly available *pursuant to Article 2 (2) (c) of Regulation (EU) No 2016/679*;

Or. en

Amendment 204
Sabine Verheyen

Proposal for a regulation
Article 2 – paragraph 2 – point c

Text proposed by the Commission

(c) electronic communications services which are not publicly available;

Amendment

(c) electronic communications services which are not publicly available *pursuant to Article 2(2)(c) of Regulation (EU) No 2016/679*;

Or. de

Amendment 205
Jan Philipp Albrecht

Proposal for a regulation
Article 2 – paragraph 3

Text proposed by the Commission

3. The processing of electronic communications data by the Union institutions, bodies, offices and agencies is governed by Regulation (EU) 00/0000 [new Regulation replacing Regulation 45/2001].

Amendment

3. The processing of electronic communications data by the Union institutions, bodies, offices and agencies *insofar as they are not publicly available and not originating or having as destination publicly available communications services*, is governed by Regulation (EU) 00/0000 [new Regulation replacing Regulation 45/2001].

Or. en

Amendment 206
Jan Philipp Albrecht

Proposal for a regulation
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Regulation applies to:

Amendment

1. This Regulation applies to *the activities referred to in Article 2 where the user or end-user is in the Union or where the communications services, hardware, software, directories, or direct marketing commercial electronic communications are provided from the territory of the Union.*

Or. en

Amendment 207
Jan Philipp Albrecht

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

- (a) *the provision of electronic communications services to end-users in the Union, irrespective of whether a payment of the end-user is required;*

deleted

Amendment

Or. en

Justification

Moved to Article 2

Amendment 208
Anna Maria Corazza Bildt

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) the **provision** of electronic **communications** services **to end-users** in the Union, irrespective of whether a payment of the **end-user** is required;

Amendment

(a) the **offering** of electronic **communication** services **consumers** in the Union, irrespective of whether a payment of the **consumer** is required;

Or. en

Amendment 209
Jan Philipp Albrecht

Proposal for a regulation
Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) *the use of such services;*

Amendment

deleted

Or. en

Amendment 210
Curzio Maltese

Proposal for a regulation
Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) the use of such services;

Amendment

(b) the use of such **electronic communications** services **by end-users located in the Union, irrespective of whether a payment of the end-user is required;**

Or. en

Amendment 211
Jan Philipp Albrecht

Proposal for a regulation
Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) *the protection of information related to the terminal equipment of end-users located in the Union.* *deleted*

Or. en

Justification

Moved to Article 2

Amendment 212

Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation

Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the protection of information related to the terminal equipment of end-users *located* in the Union.

(c) the protection of information related to *or processed by* the terminal equipment of end-users in the Union.

Or. en

Amendment 213

Curzio Maltese

Proposal for a regulation

Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the protection of information related to the terminal equipment of end-users located in the Union.

(c) the protection of information *and processing capabilities* related to the terminal equipment of end-users located in the Union.

Or. en

Justification

The scope defined by the European Commission is ambiguous: it is not perfectly clear whether services provided from outside the Union to end-users located in the Union fall within the scope of the Regulation. This precision is necessary in order for this Regulation to provide for the same territorial scope as the GDPR.

Amendment 214 **Sabine Verheyen**

Proposal for a regulation **Article 3 – paragraph 2**

Text proposed by the Commission

(2) Where the provider of an electronic communications service is not established in the Union ***it shall designate in writing a representative in the Union.***

Amendment

(2) Where the provider of an electronic communications service is not established in the Union, ***Article 27 of Regulation (EU) No 2016/679 shall apply.***

Or. de

Amendment 215 **Christel Schaldemose, Lucy Anderson, Marc Tarabella, Arndt Kohn, Josef Weidenholzer**

Proposal for a regulation **Article 3 – paragraph 2**

Text proposed by the Commission

2. Where the provider of an electronic communications service is not established in the Union it shall designate in writing a representative in the Union.

Amendment

2. Where the provider of an electronic communications service, ***provider of a publicly available directory, software provider enabling electronic communications or person sending direct marketing commercial communications or collecting (other) information related to or stored in the end-users terminal equipment*** is not established in the Union it shall designate in writing a representative in the Union.

Or. en

Amendment 216
Jan Philipp Albrecht

Proposal for a regulation
Article 3 – paragraph 4

Text proposed by the Commission

4. The representative shall have the power to answer questions and provide information in addition to or instead of the provider it represents, in particular, to supervisory authorities, and end-users, on all issues related to ***processing electronic communications data*** for the purposes of ensuring compliance with this Regulation.

Amendment

4. The representative shall have the power to answer questions and provide information in addition to or instead of the provider it represents, in particular, to supervisory authorities, and end-users, on all issues related to ***the activities referred to in Article 2*** for the purposes of ensuring compliance with this Regulation.

Or. en

Amendment 217
Anna Maria Corazza Bildt

Proposal for a regulation
Article 3 – paragraph 4

Text proposed by the Commission

4. The representative shall have the power to answer questions and provide information in addition to or instead of the provider it represents, in particular, to supervisory authorities, and ***end-users***, on all issues related to processing electronic communications data for the purposes of ensuring compliance with this Regulation.

Amendment

4. The representative shall have the power to answer questions and provide information in addition to or instead of the provider it represents, in particular, to supervisory authorities, and ***consumers***, on all issues related to processing electronic communications data for the purposes of ensuring compliance with this Regulation.

Or. en

Amendment 218
Jan Philipp Albrecht

Proposal for a regulation

Article 3 – paragraph 5

Text proposed by the Commission

5. The designation of a representative pursuant to paragraph 2 shall be without prejudice to legal actions, which could be initiated against a natural or legal person who *processes electronic communications data in connection with the provision of electronic communications services* from outside *the Union to end-users in* the Union.

Amendment

5. The designation of a representative pursuant to paragraph 2 shall be without prejudice to legal actions, which could be initiated against a natural or legal person who *undertake the activities referred to in Article 2* from outside the Union.

Or. en

Amendment 219

Jan Philipp Albrecht

Proposal for a regulation

Article 4 – paragraph 1 – point b

Text proposed by the Commission

(b) the *definitions of ‘electronic communications network’, ‘electronic communications service’, ‘interpersonal communications service’, ‘number-based interpersonal communications service’, ‘number-independent interpersonal communications service’, ‘end-user’ and ‘call’ in points (1), (4), (5), (6), (7), (14) and (21) respectively* of Article 2 of [Directive establishing the European Electronic Communications Code];

Amendment

(b) the *definition of ‘call’ in point (21)* of Article 2 of [Directive establishing the European Electronic Communications Code];

Or. en

Amendment 220

Jan Philipp Albrecht

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purposes of point (b) of paragraph 1, the definition of 'interpersonal communications service' shall include services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.

deleted

Or. en

Amendment 221
Curzio Maltese

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purposes of point (b) of paragraph 1, *the definition of* 'interpersonal communications service' shall include services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.

2. For the purposes of point (b) of paragraph 1:

Or. en

Amendment 222
Curzio Maltese

Proposal for a regulation
Article 4 – paragraph 2 – point a (new)

Text proposed by the Commission

Amendment

(a) *the definition of 'electronic communications service' shall include services providing access to the internet and which are not publicly available;*

Amendment 223
Curzio Maltese

Proposal for a regulation
Article 4 – paragraph 2 – point b (new)

Text proposed by the Commission

Amendment

(b) the definition of 'interpersonal communications service' shall include services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.

Or. en

Justification

Services not publicly available are excluded from the scope of telecommunications regulations for reasons specific to such regulations (for instance, it would be unjustified to impose access obligations on networks not publicly available). However, this distinction is irrelevant as regards the confidentiality of communications: all communications should be protected equally, irrespective of end-users' location. Therefore, electronic communications services which are not publicly available should remain within the scope of this regulation.

Otherwise, excluding them from this scope would allow companies to monitor how their employees are using their access to the network, which is unacceptable: companies only need to assess the work done by their employees, not to monitor each of their actions.

Amendment 224
Jan Philipp Albrecht

Proposal for a regulation
Article 4 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) 'electronic communications content' means the content exchanged by means of electronic communications services, such as text, voice, videos, images, and sound;

(b) 'electronic communications content' means the content **transmitted, distributed or** exchanged by means of electronic communications services, such as text, voice, videos, images, and sound,

including electronic communications metadata of other electronic communications services or protocols that are transmitted by using the respective service;

Or. en

Amendment 225
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 4 – paragraph 3 – point b

Text proposed by the Commission

(b) ‘electronic communications content’ means the content ***exchanged*** by means of electronic communications services, such as text, voice, videos, images, and sound;

Amendment

(b) ‘electronic communications content’ means the content ***transmitted*** by means of ***publically available*** electronic communications services, such as text, voice, videos, images, and sound;

Or. en

Amendment 226
Anna Maria Corazza Bildt, Eva Maydell

Proposal for a regulation
Article 4 – paragraph 3 – point b

Text proposed by the Commission

(b) ‘electronic communications content’ means the content ***exchanged*** by means of electronic communications services, such as text, voice, videos, images, and sound;

Amendment

(b) ‘electronic communications content’ means the content ***transmitted*** by means of ***publicly available*** electronic communications services, such as text, voice, videos, images, and sound;

Or. en

Amendment 227
Jan Philipp Albrecht

Proposal for a regulation
Article 4 – paragraph 3 – point c

Text proposed by the Commission

(c) ‘electronic communications metadata’ means data processed *in an electronic communications network* for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the *device generated in* the context of providing electronic communications services, and the date, time, duration and the type of communication;

Amendment

(c) ‘electronic communications metadata’ means data processed for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, *electronic identifiers and other data broadcasted or emitted by the terminal equipment to identify users’ communication or to enable it to connect to an electronic communications service or to another terminal equipment*, data on the location of the *terminal equipment processed in* the context of providing electronic communications services, and the date, time, duration and the type of communication; *where metadata of other electronic communications services or protocols are transmitted, distributed or exchanged by using the respective service, they shall be considered electronic communications content for the respective service;*

Or. en

Amendment 228
Curzio Maltese

Proposal for a regulation
Article 4 – paragraph 3 – point c

Text proposed by the Commission

(c) ‘electronic communications metadata’ means data processed in an electronic communications *network* for the purposes of *transmitting, distributing or exchanging* electronic communications content; including data used to trace and

Amendment

(c) ‘electronic communications metadata’ means data processed, *generated or transmitted* in an electronic communications *service* for the purposes of *sending, transmitting or receiving* electronic communications

identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and the type of communication;

content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and the type of communication;

Or. en

Justification

As it stands, the definition of metadata is limited to the data processed on the network by telecommunications operators (acting on layer 3, “transmission”- See the OSI model https://en.wikipedia.org/wiki/OSI_model). As such, it excludes from the scope of this Regulation the metadata generated and used by interpersonal communications services (Over The Top services – OTT) on higher level (“application” and “content”).

Typically, the header of emails (“from:”, “to:”, “date:”) are not processed “on the network” but only on the “application” layer by OTT and, as such, are not covered by the current definition.

Amendment 229

Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation

Article 4 – paragraph 3 – point c

Text proposed by the Commission

(c) ‘electronic communications metadata’ means data processed ***in an electronic communications network*** for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and the type of communication;

Amendment

(c) ‘electronic communications metadata’ means ***all*** data processed for the purposes of transmitting, distributing or exchanging electronic communications content; including data used to trace and identify the source and destination of a communication, data on the location of the device generated in the context of providing electronic communications services, and the date, time, duration and the type of communication;

Or. en

Amendment 230

Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation

Article 4 – paragraph 3 – point e

Text proposed by the Commission

(e) ‘electronic *mail*’ means any electronic message containing information such as text, voice, video, sound or image sent over an electronic communications network which can be stored in the network or in related computing facilities, or in the terminal equipment of its recipient;

Amendment

(e) ‘electronic *message*’ means any electronic message containing information such as text, voice, video, sound or image sent over an electronic communications network which can be stored in the network or in related computing facilities, or in the terminal equipment of its recipient;

Or. en

Amendment 231

Pascal Arimont

Proposal for a regulation

Article 4 – paragraph 3 – point e

Text proposed by the Commission

(e) ‘electronic mail’ means any electronic message containing information such as text, voice, video, sound or image sent over an electronic communications network which can be stored in the network or in related computing facilities, or in the terminal equipment of its recipient;

Amendment

(Does not affect the English version.)

Or. de

Amendment 232

Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation

Article 4 – paragraph 3 – point f

Text proposed by the Commission

(f) 'direct marketing communications' means any form of advertising, whether written or oral, *sent* to one or more identified or identifiable *end-users* of electronic communications services, including the use of automated calling and communication systems with or without human interaction, *electronic mail*, SMS, etc.;

Amendment

(f) 'direct marketing communications' means any form of advertising, whether *in* written or oral *or video format, sent, served or presented* to one or more identified or identifiable *users* of electronic communications services, including the use of automated calling and communication systems with or without human interaction, *e-mail*, SMS, etc.;

Or. en

Amendment 233

Jan Philipp Albrecht

Proposal for a regulation

Article 4 – paragraph 3 – point f

Text proposed by the Commission

(f) 'direct marketing communications' means any form of advertising, whether written *or oral, sent* to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc.;

Amendment

(f) 'direct marketing communications' means any form of advertising, whether *in* written, *audio, video, oral or any other format, sent, broadcast, served or presented* to one or more identified or identifiable end-users of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc.;

Or. en

Amendment 234

Jan Philipp Albrecht

Proposal for a regulation

Article 4 – paragraph 3 – point h a (new)

Text proposed by the Commission

Amendment

(h a) 'electronic communications'

network' means a transmission system, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed;

Or. en

Amendment 235
Jan Philipp Albrecht

Proposal for a regulation
Article 4 – paragraph 3 – point h b (new)

Text proposed by the Commission

Amendment

(h b) 'electronic communications service' means a service provided via electronic communications networks, whether for remuneration or not, which encompasses one or more of the following: an 'internet access service' as defined in Article 2(2) or Regulation (EU) 2015/2120; an interpersonal communications service; a service consisting wholly or mainly in the conveyance of the signals, such as a transmission service used for the provision of a machine-to-machine service and for broadcasting, but excludes information conveyed as part of a broadcasting service to the public over an electronic communications network or service except to the extent that the information can be related to the

identifiable subscriber or user receiving the information; it includes services enabling interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service; it also includes services which are not publicly available, but provide access to a publicly available electronic communications network;

Or. en

Amendment 236
Jan Philipp Albrecht

Proposal for a regulation
Article 4 – paragraph 3 – point h c (new)

Text proposed by the Commission

Amendment

(h c) 'interpersonal communications service' means a service, whether provided for remuneration or not, that enables direct interpersonal and interactive exchange of information between a finite number of persons whereby the persons initiating or participating in the communication determine the recipient(s);

Or. en

Amendment 237
Jan Philipp Albrecht

Proposal for a regulation
Article 4 – paragraph 3 – point h d (new)

Text proposed by the Commission

Amendment

(h d) 'number-based interpersonal communications service' means an interpersonal communications service which connects to the public switched

telephone network, either by means of assigned numbering resources, i.e. number or numbers in national or international telephone numbering plans, or by enabling communication with a number or numbers in national or international telephone numbering plans;

Or. en

Amendment 238
Jan Philipp Albrecht

Proposal for a regulation
Article 4 – paragraph 3 – point h e (new)

Text proposed by the Commission

Amendment

(h e) 'number-independent interpersonal communications service' means an interpersonal communications service which does not connect with the public switched telephone network, either by means of assigned numbering resources, i.e. a number or numbers in national or international telephone numbering plans, or by enabling communication with a number or numbers in national or international telephone numbering plans;

Or. en

Amendment 239
Jan Philipp Albrecht

Proposal for a regulation
Article 4 – paragraph 3 – point h f (new)

Text proposed by the Commission

Amendment

(h f) 'end-user' means a legal entity or a natural person using or requesting a publicly available electronic

communications service;

Or. en

Amendment 240
Jan Philipp Albrecht

Proposal for a regulation
Article 4 – paragraph 3 – point h g (new)

Text proposed by the Commission

Amendment

(h g) 'user' means any natural person using a publicly available electronic communications service, for private or business purposes, without necessarily having subscribed to this service;

Or. en

Amendment 241
Jan Philipp Albrecht

Proposal for a regulation
Chapter 2 – title

Text proposed by the Commission

Amendment

PROTECTION OF ELECTRONIC
COMMUNICATIONS OF NATURAL
AND LEGAL PERSONS AND OF
INFORMATION **STORED IN THEIR**
TERMINAL EQUIPMENT

PROTECTION OF ELECTRONIC
COMMUNICATIONS OF NATURAL
AND LEGAL PERSONS AND OF
INFORMATION **PROCESSED BY AND**
RELATED TO THEIR TERMINAL
EQUIPMENT

Or. en

Amendment 242
Sabine Verheyen

Proposal for a regulation
Article 5 – title

Text proposed by the Commission

Amendment

Confidentiality of electronic
communications data

Confidentiality of electronic
communications content

Or. de

Amendment 243
Jan Philipp Albrecht

Proposal for a regulation
Article 5 – title

Text proposed by the Commission

Amendment

Confidentiality of electronic
communications *data*

Confidentiality of electronic
communications

Or. en

Amendment 244
Anna Maria Corazza Bildt

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

Amendment

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, *monitoring, scanning* or other kinds of interception, *surveillance or processing* of electronic communications data, by persons other than the *end-users*, shall be prohibited, except when permitted by *this* Regulation.

Electronic communications data shall be confidential. Any interference with electronic communications data *during conveyance*, such as by *unauthorised* listening, tapping, storing, or other kinds of interception, *or surveillance* of electronic communications data, by persons other than the *sender or intended recipients*, shall be prohibited, except when permitted by *Union or national legislation. The processing of electronic communications data following conveyance to the intended recipients or their service provider shall be subject to Regulation (EU) 2016/679.*

Amendment 245
Andreas Schwab

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications data, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Amendment

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications data, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

The processing of electronic communications data after transmission to the intended recipient or to the provider shall be governed by Regulation (EU) No 2016/679.

Amendment 246
Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

Electronic communications **data** shall be confidential. Any interference with electronic communications **data**, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications **data**, by persons other than the **end-users**, shall be prohibited, except when permitted by this Regulation.

Amendment

Electronic communications shall be confidential. Any interference, with electronic communications **at rest or in transit**, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or **any** processing of electronic communications, by persons other than the **users**, shall be prohibited, except when permitted by this

Regulation.

Or. en

Amendment 247

Daniel Dalton, Richard Sulík

Proposal for a regulation

Article 5 – paragraph 1

Text proposed by the Commission

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, ***surveillance or processing of electronic communications data***, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Amendment

Electronic communications data shall be confidential. Any interference with electronic communications data ***during transmission***, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception ***or surveillance***, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Or. en

Amendment 248

Jan Philipp Albrecht

Proposal for a regulation

Article 5 – paragraph 1

Text proposed by the Commission

Electronic communications ***data*** shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, ***surveillance or processing*** of electronic communications data, by persons other than the ***end-users***, shall be prohibited, except when permitted by this Regulation.

Amendment

Electronic communications shall be confidential. Any ***processing of electronic communications data, including any*** interference with electronic communications data such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, ***surveillance*** of electronic communications data, by persons other than the ***users***, shall be prohibited, except when permitted by this Regulation. ***This includes electronic communications data that is stored after***

the transmission has been completed.

Or. en

Justification

This clarifies that all processing of communications data is covered by this Regulation, not only processing that can be interpreted as “interference”.

Amendment 249
Sabine Verheyen

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

Electronic communications data shall be confidential. Any interference with electronic communications data, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications **data**, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Amendment

Electronic communications data shall be confidential. Any interference with electronic communications data **during conveyance**, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or processing of electronic communications **content**, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Or. de

Amendment 250
Anna Maria Corazza Bildt

Proposal for a regulation
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The prohibition of interception is not intended to prohibit access to electronic communications data by an electronic communications service provider or electronic communications network operator for purposes of conveying communications or for legitimate

purposes related to the operation and protection of such services and networks consistent with obligations under Regulation (EU) 2016/679, Directive (EU) 2016/1148 and Regulation (EU) 2015/2120.

Or. en

Amendment 251
Jan Philipp Albrecht

Proposal for a regulation
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Confidentiality of electronic communications shall also apply to data related to or processed by terminal equipment and to machine-to-machine communication.

Or. en

Justification

Communications providers should also protect communications related to automated supply chains and any other M2M communication. This protects confidential business information.

Amendment 252

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Kerstin Westphal, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Confidentiality of electronic communications shall also include terminal equipment and machine-to-machine communications when related to a user.

Amendment 253

Anna Maria Corazza Bildt, Antonio López-Istúriz White

Proposal for a regulation

Article 6 – title

Text proposed by the Commission

Amendment

Permitted processing of electronic communications data

Lawful processing of electronic communications data

Amendment 254

Eva Maydell, Antonio López-Istúriz White, Pascal Arimont, Roberta Metsola

Proposal for a regulation

Article 6 – title

Text proposed by the Commission

Amendment

Permitted processing of electronic communications data

Lawful processing of electronic communications data

Amendment 255

Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation

Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Providers of electronic communications networks and services may process electronic communications data if:

1. Providers of **public** electronic communications networks and **publicly available electronic communications** services may process electronic communications data if:

Amendment 256
Jan Philipp Albrecht

Proposal for a regulation
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. Providers of electronic communications networks and services may process electronic communications data if:

Amendment

1. Providers of electronic communications networks and services may process electronic communications data **only** if:

Or. en

Amendment 257
Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. Providers of electronic communications networks and services may process electronic communications data if:

Amendment

1. Providers of electronic communications networks and services may process electronic communications data **only** if:

Or. en

Amendment 258
Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary to achieve the transmission of the communication, for the

Amendment

(a) it is necessary to achieve the transmission of the communication, for the

duration necessary for that purpose; or

duration necessary for that purpose; or *it is necessary for providing an electronic communications service requested by the consumer.*

Or. en

Amendment 259

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary to achieve the transmission of the communication, for the duration necessary for that purpose; or

Amendment

(a) it is *technically strictly* necessary to achieve the transmission of the communication, for the duration necessary for that purpose; or

Or. en

Amendment 260

Jan Philipp Albrecht

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary to achieve the transmission of the communication, for the duration necessary for that purpose; *or*

Amendment

(a) it is *technically strictly* necessary to achieve the transmission of the communication, for the duration necessary for that purpose;

Or. en

Amendment 261

Eva Maydell, Antonio López-Istúriz White, Pascal Arimont, Antanas Guoga

Proposal for a regulation

Article 6 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) the data is anonymous or made anonymous before any other processing; or

Or. en

Amendment 262

Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation

Article 6 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) the data is anonymous or made anonymous before any other processing; or

Or. en

Amendment 263

Jan Philipp Albrecht

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) it is necessary to maintain or restore the *security of* electronic communications networks *and* services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

(b) it is *technically strictly* necessary to maintain or restore the *availability, integrity and confidentiality of the respective* electronic communications networks *or* services, or *to* detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose; *or*

Or. en

Amendment 264

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) it is necessary to maintain or restore the security of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Amendment

(b) it is ***technically strictly*** necessary to maintain or restore the ***availability, integrity, confidentiality and*** security of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Or. en

Amendment 265

Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) it is necessary to maintain or restore the security of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, ***for the duration necessary for that purpose.***

Amendment

(b) it is necessary to maintain or restore the security of electronic communications networks and services ***and users of these networks and services,*** or detect technical faults and/or errors in the transmission of electronic communications, ***or to stop fraudulent or abusive use of the service;***

Or. en

Amendment 266

Sabine Verheyen

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) it is necessary to maintain or restore the security of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Amendment

(b) it is necessary to maintain or restore the security **or availability** of electronic communications networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Or. de

Amendment 267

Jan Philipp Albrecht

Proposal for a regulation

Article 6 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) the user concerned has given his or her consent to the processing of his or her electronic communications data, provided that it is technically strictly necessary for the provision of a service explicitly requested by a user for his or her purely individual usage, solely for the provision of the explicitly requested service and only for the duration necessary for that purpose and without the consent of all users, only where such processing produces effects solely in relation to the user who requested the service and does not adversely affect the fundamental rights of other users.

Or. en

Amendment 268

Curzio Maltese

Proposal for a regulation

Article 6 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) if all end-users concerned have given their consent to the processing of their electronic communications data for one or more specified purposes, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.

Or. en

Amendment 269

Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation

Article 6 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) it is necessary for the purpose of the legitimate interests of the provider except where such interests are overridden by the interests or fundamental rights and freedoms of the consumers concerned;

Or. en

Amendment 270

Jan Philipp Albrecht

Proposal for a regulation

Article 6 – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Before processing electronic communications data, the provider shall carry out a data protection impact assessment pursuant to Article 35 of Regulation (EU) 2016/679, and if

necessary a prior consultation with the supervisory authority pursuant to Article 36 of Regulation (EU) 2016/679.

Or. en

Justification

This is to protect the confidentiality of communications data, because it is so sensitive.

Amendment 271

Eva Maydell, Antonio López-Istúriz White, Pascal Arimont, Antanas Guoga, Anna Maria Corazza Bildt

Proposal for a regulation

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Electronic communications data that is generated in the context of an electronic communications service designed particularly for children or directly targeted at children shall not be used for profiling or behaviourally targeted advertising purposes.

Or. en

Amendment 272

Sabine Verheyen

Proposal for a regulation

Article 6 – paragraph 2

Text proposed by the Commission

Amendment

(2) Providers of electronic communications services may process electronic communications metadata if:

deleted

(a) it is necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or

Regulation (EU) 2015/2120²⁸ for the duration necessary for that purpose;

(b) it is necessary for billing, calculating interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or

(c) the end-user concerned has given his or her consent to the processing of his or her communications metadata for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could not be fulfilled by processing information that is made anonymous.

²⁸ *Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1).*

Or. de

Amendment 273

Kaja Kallas, Dita Charanzová

Proposal for a regulation

Article 6 – paragraph 2 – introductory part

Text proposed by the Commission

2. Providers of electronic communications services may process electronic communications metadata if:

Amendment

2. Providers of electronic communications *networks and* services may process electronic communications metadata if:

Amendment 274
Jan Philipp Albrecht

Proposal for a regulation
Article 6 – paragraph 2 – introductory part

Text proposed by the Commission

2. Providers of electronic communications services may process electronic communications metadata if:

Amendment

2. Providers of electronic communications services may process electronic communications metadata **only** if:

Amendment 275
Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation
Article 6 – paragraph 2 – point a

Text proposed by the Commission

(a) *it is necessary to meet mandatory* quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120²⁸ for the duration necessary for that purpose; or

Amendment

(a) *for quality of service purposes, including network management and* quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120 for the duration necessary for that purpose; or

²⁸ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the

Union (OJ L 310, 26.11.2015, p. 1–18).

Or. en

Amendment 276

Jan Philipp Albrecht

Proposal for a regulation

Article 6 – paragraph 2 – point a

Text proposed by the Commission

(a) it is necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120²⁸ for the duration necessary for that purpose; or

²⁸ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1–18).

Amendment

(a) it is ***technically strictly*** necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120²⁸ for the duration necessary for that purpose; or

²⁸ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1–18).

Or. en

Amendment 277

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 6 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) it is necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120²⁸ for the duration necessary for that purpose; or

²⁸ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1–18).

(a) it is **strictly** necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/2120²⁸ for the duration **technically** necessary for that purpose; or

²⁸ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1–18).

Or. en

Amendment 278

Curzio Maltese

Proposal for a regulation

Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b) it is necessary for billing, calculating interconnection payments, **detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services**; or

Amendment

(b) it is necessary for billing **or** calculating interconnection payments; or

Or. en

Amendment 279

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b) it is necessary for billing, calculating interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or

Amendment

(b) it is **strictly** necessary for billing, calculating interconnection payments, detecting or stopping fraudulent **use**, or abusive use of, or subscription to, electronic communications services; or

Or. en

Amendment 280

Jan Philipp Albrecht

Proposal for a regulation

Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b) it is necessary for billing, calculating interconnection payments, detecting or stopping fraudulent, **or abusive** use of, or subscription to, electronic communications services; or

Amendment

(b) it is **strictly** necessary for billing, calculating interconnection payments, detecting or stopping fraudulent use of, or subscription to, electronic communications services; or

Or. en

Amendment 281

Daniel Dalton, Richard Sulík

Proposal for a regulation

Article 6 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(b a) processing is allowed pursuant to Articles 6(1) of Regulation (EU) 2016/679.

Or. en

Amendment 282
Curzio Maltese

Proposal for a regulation
Article 6 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) the end-user concerned has given his or her consent to the processing of his or her communications metadata for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could not be fulfilled by processing information that is made anonymous.

deleted

Or. en

Amendment 283

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation
Article 6 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) the end-user concerned has given his or her consent to the processing of his or her communications metadata for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could not be fulfilled by processing information that is made anonymous.

(c) after receiving all relevant information about the intended processing in clear and easily understandable language, provided separately from the terms and conditions of the provider, the user or users concerned have given their specific consent to the processing of their communications metadata for one or more specified purposes, including for the provision of specific services to such users, provided that the purpose or purposes concerned could not be fulfilled without the processing of such metadata. If the processing is likely to result in a high risk to the rights and freedoms of natural persons, Articles 35 and 36 of Regulation

Amendment 284
Jan Philipp Albrecht

Proposal for a regulation
Article 6 – paragraph 2 – point c

Text proposed by the Commission

(c) the *end-user* concerned *has* given *his or her* consent to the processing of *his or her* communications *metadata* for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could not be fulfilled by processing *information* that is made anonymous.

Amendment

(c) the *user or users* concerned *have* given *their specific* consent to the processing of *their communications metadata by the respective electronic communications service* for one or more specified purposes, including for the provision of specific services to such end-users, provided that the purpose or purposes concerned could not be fulfilled by processing *data* that is made anonymous, *and the consent has not been a condition to access or use a service.*

Amendment 285
Curzio Maltese

Proposal for a regulation
Article 6 – paragraph 2 – point c a (new)

Text proposed by the Commission

(c a) it is necessary for detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services and the recipient has given his or her consent to such processing.

Amendment

Amendment 286
Sabine Verheyen

Proposal for a regulation
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Article 6 of Regulation (EU) No 2016/679 shall apply.

Or. de

Amendment 287
Curzio Maltese

Proposal for a regulation
Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. Providers of the electronic communications services may process electronic communications content only:

deleted

(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user or end-users concerned have given their consent to the processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

(b) if all end-users concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.

Amendment 288

Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation

Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

3. Providers of the electronic communications services may process electronic communications content **only**:

Amendment

3. Providers of the electronic communications services may process electronic communications content ***in accordance with Article 6 of Regulation (EU) 2016/679 and to the extent the processing of all end-users electronic communications content for one or more specified purposes cannot be fulfilled by processing information that is made anonymous***

Or. en

Amendment 289

Jan Philipp Albrecht

Proposal for a regulation

Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

3. Providers of ***the*** electronic communications services may process electronic communications content only:

Amendment

3. Providers of electronic communications services may process electronic communications content only ***if***:

Or. en

Amendment 290

Curzio Maltese

Proposal for a regulation

Article 6 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user or end-users concerned have given their consent to the processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

deleted

Or. en

Amendment 291

Anna Maria Corazza Bildt, Antonio López-Istúriz White

Proposal for a regulation

Article 6 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user or end-users concerned have given their consent to the processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

deleted

Or. en

Amendment 292

Jan Philipp Albrecht

Proposal for a regulation

Article 6 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) for the sole purpose of the provision of a specific service to an end-

(a) the user concerned has given his or her consent to the processing of his or

user, if the end-user or end-users concerned have given their consent to the processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

her electronic communications content for the sole purpose of the provision of a specific service explicitly requested by the end-user, for the duration necessary for that purpose, provided that the provision of that specific service cannot be fulfilled without the processing of such content by the provider, and the consent has not been a condition to access or use a service; or

Or. en

Amendment 293

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 6 – paragraph 3 – point a

Text proposed by the Commission

(a) for the sole purpose of the provision of a specific service *to an end-user*, if the *end-user or end-users* concerned have given their consent to the processing of *his or her* electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

Amendment

(a) for the sole purpose of the provision of a specific service *requested by the user*, if the *users* concerned have given their *specific* consent to the processing of *their* electronic communications content and the provision of that *specific* service cannot be fulfilled without the processing of such content; or

Or. en

Amendment 294

Andreas Schwab

Proposal for a regulation

Article 6 – paragraph 3 – point a

Text proposed by the Commission

(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user *or end-users concerned have given their* consent to the

Amendment

(a) for the sole purpose of the provision of a specific service to an end-user, if the end-user *has given his or her* consent to the processing of his or her

processing of his or her electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

electronic communications content and the provision of that service cannot be fulfilled without the processing of such content; or

Or. de

Amendment 295

Kaja Kallas, Dita Charanzová

Proposal for a regulation

Article 6 – paragraph 3 – point a a (new)

Text proposed by the Commission

Amendment

(a a) for the sole purpose of the provision of a specific service explicitly requested by an end-user in the course of a purely personal or household activity, if the end-user concerned has consented to the processing of his or her electronic communications content and that service cannot be provided without the processing of such content; or

Or. en

Amendment 296

Curzio Maltese

Proposal for a regulation

Article 6 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) if all end-users concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply

deleted

to the consultation of the supervisory authority.

Or. en

Justification

Where based on consent, processing electronic communications data should only be authorised with the consent of all end-users concerned by the communication, and no distinction should be made between processing content and metadata.

Furthermore, service providers detecting and stopping spams shall only be able to do so with the consent of end-users, who should be free to use anti-spam solutions provided by third-parties.

Amendment 297

Anna Maria Corazza Bildt, Antonio López-Istúriz White

Proposal for a regulation

Article 6 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) if all end-users concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority. **deleted**

Or. en

Amendment 298

Andreas Schwab

Proposal for a regulation

Article 6 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) *if all end-users concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.*

(b) *if the end-user has consented to the processing of his or her electronic communications content in accordance with Regulation (EU) 2016/679.*

Or. de

Amendment 299

Daniel Dalton, Richard Sulík

Proposal for a regulation

Article 6 – paragraph 3 – point b

Text proposed by the Commission

(b) *if all end-users concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.*

Amendment

(b) *if the service provider's end-user has consented to the processing of their electronic communications content pursuant to Regulation (EU) 2016/679.*

Or. en

Amendment 300

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 6 – paragraph 3 – point b

Text proposed by the Commission

(b) if all **end-users** concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.

Amendment

(b) if all **users** concerned have given their **explicit** consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.

Or. en

Amendment 301

Jan Philipp Albrecht

Proposal for a regulation

Article 6 – paragraph 3 – point b

Text proposed by the Commission

(b) **if all end-users** concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.

Amendment

(b) **all users** concerned have given their consent to the processing of their electronic communications content for one or more specified purposes that cannot be fulfilled by processing information that is made anonymous, and the provider has consulted the supervisory authority. Points (2) and (3) of Article 36 of Regulation (EU) 2016/679 shall apply to the consultation of the supervisory authority.

Or. en

Amendment 302

Christel Schaldemose, Lucy Anderson, Kerstin Westphal, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. *Neither providers of electronic communications services, nor any other party, shall further process electronic communications data collected on the basis of this Regulation.*

Or. en

Amendment 303

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 6 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. *Communications data generated in the provision of an electronic communications service specifically intended for children's use or targeted at them shall not be processed for any profiling, marketing or advertising purposes.*

Or. en

Amendment 304

Jan Philipp Albrecht

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. Without prejudice to *point (b)* of Article 6(1) and points (a) and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content *or make that data anonymous* after receipt of electronic communication content by the

1. Without prejudice to *points (b) and (c)* of Article 6(1) and points (a) and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content after receipt of electronic communication content by the intended recipient or

intended recipient or recipients. Such data may be recorded or stored by the end-users or by a **third party** entrusted by **them** to record, store or otherwise process such data, in accordance with Regulation (EU) 2016/679.

recipients. Such data may be recorded or stored by the end-users or by a **party, which could be the provider of the electronic communication service, specifically** entrusted by **the end-user** to record, store or otherwise process such data. **The end-user may further process the content** in accordance with Regulation (EU) 2016/679, **if applicable**.

Or. en

Amendment 305 **Curzio Maltese**

Proposal for a regulation **Article 7 – paragraph 1**

Text proposed by the Commission

1. Without prejudice to point (b) of Article 6(1) **and points (a) and (b) of Article 6(3)**, the provider of the electronic communications service shall erase electronic communications content **or make that data anonymous** after receipt of electronic communication content by the intended recipient or recipients. Such data may be recorded or stored by the end-users or by a third party entrusted by them to record, store or otherwise process such data, in accordance with Regulation (EU) 2016/679.

Amendment

1. Without prejudice to point (b) of Article 6(1) the provider of the electronic communications service shall erase electronic communications content after receipt of electronic communication content by the intended recipient or recipients. Such data may be recorded or stored by the end-users or by a third party entrusted by them to record, store or otherwise process such data, in accordance with Regulation (EU) 2016/679.

Or. en

Amendment 306 **Kaja Kallas, Dita Charanzová**

Proposal for a regulation **Article 7 – paragraph 1**

Text proposed by the Commission

Amendment

1. Without prejudice to point (b) of Article 6(1) and points (a) and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content or make that data anonymous after receipt of electronic communication content by the intended recipient or recipients. Such data may be recorded or stored by the end-users or by a third party entrusted by them to record, store or otherwise process such data, in accordance with Regulation (EU) 2016/679.

1. Without prejudice to point (b) of Article 6(1) and points (a), **(aa)** and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content or make that data anonymous after receipt of electronic communication content by the intended recipient or recipients. Such data may be recorded or stored by the end-users or by a third party entrusted by them to record, store or otherwise process such data, in accordance with Regulation (EU) 2016/679.

Or. en

Amendment 307
Sabine Verheyen

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

(2) Without prejudice to point (b) of Article 6(1) **and points (a) and (c) of Article 6(2)**, the provider of the electronic communications service shall erase electronic communications metadata or make that data anonymous when it is no longer needed for the purpose of the transmission of a communication.

Amendment

(2) Without prejudice to point (b) of Article 6(1), the provider of the electronic communications service shall erase electronic communications metadata or make that data anonymous when it is no longer needed for the purpose of the transmission of a communication.

Or. de

Amendment 308
Jan Philipp Albrecht

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. Without prejudice to point (b) of

Amendment

2. Without prejudice to point (b) **and**

Article 6(1) and **points (a)** and (c) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata or make that data anonymous when it is no longer needed for the purpose of the transmission of a communication.

(c) of Article 6(1) and **point** and (c) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata or make that data anonymous when it is no longer needed for the purpose of the transmission of a communication.

Or. en

Justification

Quality of Service requirements can only specifically be met while the communication takes place. For more abstract and long-term QoS measurement, anonymised data is good enough.

Amendment 309
Curzio Maltese

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. Without prejudice to point (b) of Article 6(1) and points (a) and (c) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata **or make that data anonymous** when it is no longer needed for the purpose of the transmission of a communication.

Amendment

2. Without prejudice to point (b) of Article 6(1) and points (a) and (c) of Article 6(2), the provider of the electronic communications service shall erase electronic communications metadata when it is no longer needed for the purpose of the transmission of a communication.

Or. en

Justification

Communication data are highly structured data that cannot be fully anonymised. Therefore, only the end-users should decide whether to be subject to such processing.

Furthermore, freedom of expression requires that individuals should be free not to express their opinion and to choose how and where to express it. Using their communications for other purposes than the one they choose is against such freedom and should be strictly forbidden.

Amendment 310

Sabine Verheyen

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

Amendment

(3) *Where the processing of electronic communications metadata takes place for the purpose of billing in accordance with point (b) of Article 6(2), the relevant metadata may be kept until the end of the period during which a bill may lawfully be challenged or a payment may be pursued in accordance with national law.*

deleted

Or. de

Amendment 311
Jan Philipp Albrecht

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the processing of electronic communications metadata takes place for the purpose of billing in accordance with point (b) of Article 6(2), ***the relevant metadata*** may be kept until the end of the period during which a bill may lawfully be challenged or a payment may be pursued in accordance with national law.

3. Where the processing of electronic communications metadata takes place for the purpose of billing in accordance with point (b) of Article 6(2), ***only the metadata that is strictly necessary for this purpose*** may be kept until the end of the period during which a bill may lawfully be challenged or a payment may be pursued in accordance with national law.

Or. en

Amendment 312
Anna Maria Corazza Bildt

Proposal for a regulation
Article 8 – title

Text proposed by the Commission

Amendment

Protection of **information** stored in and related to end-users' terminal equipment

Protection of **personal data** stored in and related to end-users' terminal equipment

Or. en

Amendment 313
Jan Philipp Albrecht

Proposal for a regulation
Article 8 – title

Text proposed by the Commission

Amendment

Protection of information stored in **and related to** end-users' terminal equipment

Protection of information stored in, **related to and processed by** end-users' terminal equipment

Or. en

Amendment 314
Anna Maria Corazza Bildt, Antonio López-Istúriz White

Proposal for a regulation
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. ***The use of processing and storage capabilities of terminal equipment and the collection of information from end-users' terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, except on the following grounds:***

1. ***Without prejudice to paragraph 2 of this Article, the storage or collection of personal data from consumers' terminal equipment, other than by the consumer concerned shall be prohibited, except on the following grounds:***

Or. en

Amendment 315
Jan Philipp Albrecht

Proposal for a regulation
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. The use of processing and storage capabilities of terminal equipment and the **collection** of information from **end-users'** terminal equipment, including about its software and hardware, other than by the **end-user** concerned shall be prohibited, except on the following grounds:

Amendment

1. The use of **input, output,** processing and storage capabilities of terminal equipment and the **processing** of information from **users'** terminal equipment, **or making information available through the terminal equipment,** including **information** about **and processed by** its software and hardware, other than by the **user** concerned shall be prohibited, except on the following grounds:

Or. en

Justification

Terminal equipment nowadays has multiple input and output channels, such as microphones, cameras, Bluetooth sensors etc. This clarification also prevents online services from listening etc. in the user's physical environment without him or her being aware and having consented.

Amendment 316

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. The use of processing and storage capabilities of terminal equipment and the **collection** of information from **end-users'** terminal equipment, including about its software and hardware, other than by the **end-user** concerned shall be prohibited, except on the following grounds:

Amendment

1. The use of processing and storage capabilities of terminal equipment and the **processing** of information from **users'** terminal equipment, **or making information available through the terminal equipment,** including **information** about **or generated by** its software and hardware, other than by the **user** concerned shall be prohibited, except on the following grounds:

Or. en

Amendment 317
Jan Philipp Albrecht

Proposal for a regulation
Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications **network**; or

Amendment

(a) it is **strictly technically** necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications **service**; or

Or. en

Amendment 318
Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation
Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) it is necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications network; or

Amendment

(a) it is **strictly technically** necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications network; or

Or. en

Amendment 319
Anna Maria Corazza Bildt, Antonio López-Istúriz White

Proposal for a regulation
Article 8 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) it is necessary for quality of service purposes, including network management

and to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code] or Regulation (EU) 2015/212011 for the duration necessary for that purpose; or

Or. en

Amendment 320

Anna Maria Corazza Bildt, Antonio López-Istúriz White

Proposal for a regulation

Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) the *end-user* has given his or her consent; or

Amendment

(b) the *use of their terminal equipment for one or more specific purposes is in accordance with Article 6 of Regulation (EU) 2016/679*; or

Or. en

Amendment 321

Jan Philipp Albrecht

Proposal for a regulation

Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) the *end-user* has given his or her consent; or

Amendment

(b) the *user* has given his or her consent *for a specific purpose, and the consent has not been a condition to access or use a service, for the duration necessary for that purpose*; or

Or. en

Amendment 322

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

**Proposal for a regulation
Article 8 – paragraph 1 – point b**

Text proposed by the Commission

(b) the *end-user* has given his or her consent; or

Amendment

(b) the *user* has given his or her consent ***and such consent is not imposed as a pre-condition for accessing or using a service***; or

Or. en

**Amendment 323
Eva Maydell, Antonio López-Istúriz White, Antanas Guoga**

**Proposal for a regulation
Article 8 – paragraph 1 – point b a (new)**

Text proposed by the Commission

Amendment

(b a) the information is or is rendered pseudonymous or anonymous; or

Or. en

**Amendment 324
Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White**

**Proposal for a regulation
Article 8 – paragraph 1 – point c**

Text proposed by the Commission

Amendment

(c) it is necessary for providing ***an information society*** service requested by the end-user; or

(c) it is necessary for providing ***a*** service requested by the end-user; or

Or. en

Amendment 325
Jan Philipp Albrecht

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the *end-user*; or

Amendment

(c) it is ***strictly technically*** necessary for providing an information society service ***specifically*** requested by the *user*, ***for the duration necessary for that provision of the service, provided that the provision of that specific service cannot be fulfilled without the processing of such content by the provider***; or

Or. en

Amendment 326
Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the *end-user*; or

Amendment

(c) it is ***strictly technically*** necessary for providing an information society service requested by the *user*; or

Or. en

Amendment 327
Sabine Verheyen

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by

Amendment

(c) it is necessary for providing an information society service requested by the end-user, ***particularly in order to***

the end-user; or

preserve the integrity or security of the information society service or access to it, to improve what is offered or for measures to protect against unauthorised use of the service in accordance with the terms and conditions of use relating to the provision of services to the end-user; or

Or. de

Amendment 328
Andreas Schwab

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(c) it is necessary for providing an information society service requested by the end-user, *including strictly and effectively anonymised or pseudonymised data as the basis for intelligent recommendations, provided that they are intended for internal use only and are not passed on to third parties; or*

Or. de

Amendment 329
Anna Maria Corazza Bildt, Antonio López-Istúriz White

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(c) it is necessary for providing an information society service requested by the end-user *which shall include inter alia maintaining, operating and managing the integrity, access or security of the information society service, enhancing user experience or measures for*

preventing unauthorized access to or use of the information society service according to the terms of use for making available the service to the end-user; or

Or. en

Amendment 330

Morten Løkkegaard, Gérard Deprez, Jean-Marie Cavada, Dita Charanzová, Pavel Telička

Proposal for a regulation

Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(c) it is necessary for providing an information society service requested by the end-user *especially in order to secure the integrity, security and access of the information society service, to enhance user experience or for measures to protect against unauthorised use or access to the information society services in agreement with the terms of use for making available the service to the end-user; or*

Or. en

Amendment 331

Daniel Dalton, Richard Sulík

Proposal for a regulation

Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(c) it is necessary for providing an information society service requested by the end-user; *particularly to preserve or restore the security of electronic communication services, or to detect technical faults for the duration necessary for that purpose; or*

Amendment 332
Maria Grapini

Proposal for a regulation
Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) it is necessary for providing an information society service requested by the end-user; or

Amendment

(c) it is necessary for providing an information society service requested by the end-user ***that must include the maintenance, operation, integrated management, accessing and security of the information society service and measures to improve the user experience or prevent unauthorised accessing or use of the information society service, in accordance with the conditions for making it available to the user;*** or

Or. ro

Amendment 333
Sabine Verheyen

Proposal for a regulation
Article 8 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) ***it occurs for purposes of the settlement of payments under contracts concerning the sale of products or services, provided that the contract pertaining thereto has been concluded on-line; or***

Or. de

Amendment 334
Jan Philipp Albrecht

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) *if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.* **deleted**

Or. en

Justification

Audience measuring should be based on consent and therefore is covered by (b). This is also the approach in the existing e-Privacy Directive and would therefore maintain the level of protection. Point (c) continues to allow for function cookies, whereas tracking cookies should remain under opt-in.

Amendment 335
Kaja Kallas

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) *if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.*

(d) it is necessary *in order to obtain information about the technical quality or effectiveness of an information society service that has been delivered, and has no or little impact on the privacy of the end-user concerned.*

Or. en

Amendment 336
Sabine Verheyen

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) if it is necessary *for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.*

(d) if it is necessary *in order to measure the reach of an information society service desired by the end-user, including measurement of indicators for the use of information society services in order to calculate a payment due.*

Or. de

Amendment 337

Maria Grapini

Proposal for a regulation

Article 8 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) if it is necessary for *web* audience measuring, *provided that such measurement is carried out by the provider of the information society service requested by the end-user.*

(d) if it is necessary for *information society service* audience measuring *requested by the end-user for purposes including the calculation of royalties for the management of collective rights or of other remuneration or payments systems.*

Or. ro

Amendment 338

Morten Løkkegaard, Jean-Marie Cavada, Gérard Deprez, Pavel Telička

Proposal for a regulation

Article 8 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) if it is necessary for *web* audience measuring, *provided that such measurement is carried out by the provider of the information society service requested by the end-user.*

(d) if it is necessary for audience measuring, *including measurement with the purposes of determining collective rights, remuneration or other payment systems or*

Or. en

Justification

Securing the possibility for the providers of the information society service to maintain management of collective rights.

Amendment 339

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the *information society service requested by the end-user*.

Amendment

(d) if it is ***technically*** necessary for web audience measuring ***of the information society service requested by the user***, provided that such measurement is carried out by the provider, ***or on behalf of the provider, or by an independent web analytics agency acting in the public interest or for scientific purpose; and further provided that no personal data is made accessible to any other party and that such web audience measurement does not adversely affect the fundamental rights of the user;***

Or. en

Amendment 340

Daniel Dalton, Richard Sulík

Proposal for a regulation

Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for ***web*** audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Amendment

(d) if it is necessary for audience measuring, provided that such measurement is carried out by, ***or on behalf of***, the provider of the information society service requested by the end-user, ***including measurement of indicators for the use of information society services in***

order to calculate a payment due.

Or. en

Amendment 341
Andreas Schwab

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Amendment

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user ***or is carried out on his or her behalf in accordance with the provisions of the General Data Protection Regulation on processing on behalf of a third party (Article 28 et seq.)***.

Or. de

Amendment 342
Curzio Maltese

Proposal for a regulation
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Amendment

(d) if it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user ***and rely only on information which cannot be associated with an identified or identifiable natural person***.

Or. en

Amendment 343

Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation

Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) *if* it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Amendment

(d) it is necessary for web audience measuring, provided that such measurement is carried out by the provider of the information society service requested by the end-user *or another party acting on their behalf*

Or. en

Amendment 344

Lara Comi

Proposal for a regulation

Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) if it is necessary for web *audience measuring*, provided that such measurement is carried out by the provider of the information society service requested by the end-user.

Amendment

(d) if it is necessary for web *analytics*, provided that such measurement is carried out by the provider of the information society service requested by the end-user, *or by its partners*.

Or. en

Amendment 345

Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation

Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) a clear and prominent notice is displayed to the public informing of, at least, the modalities of the collection, its purpose, the person responsible for it and

the other information required under Article 13 of Regulation 2016/679/EU where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimize the collection. The collection of such information shall be conditional on the application of appropriate technical and organization measures to ensure that the collection and processing of information is limited to what is necessary in relation to the purposes of processing and to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation 2016/679/EU, have been applied, which may inter alia include pseudonymisation of the information collected as set out in Art. 4 (5) of Regulation (EU) 2016/679

Or. en

Amendment 346
Jan Philipp Albrecht

Proposal for a regulation
Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) it is strictly technically necessary for a security update, provided that:

(i) such updates are discreetly packaged and do not in any way change the functionality of the hardware or software or the privacy settings chosen by the user;

(ii) the user is informed in advance each time such an update is being installed;

and

(iii) the user has the possibility to postpone or turn off the automatic installation of such updates;

Or. en

Amendment 347

Eva Maydell, Antonio López-Istúriz White, Antanas Guoga, Roberta Metsola

Proposal for a regulation

Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) it is necessary to protect privacy, security or safety of the end-user, or to protect confidentiality, integrity, availability, authenticity of the terminal equipment; or

Or. en

Amendment 348

Daniel Dalton, Richard Sulík

Proposal for a regulation

Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) it occurs for the purpose of recording, for the undertaking as a whole, anonymous indicators concerning the use of information society services; or

Or. en

Amendment 349

Sabine Verheyen

Proposal for a regulation

Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) it occurs for the purpose of recording, for the undertaking as a whole, anonymous indicators concerning the use

of information society services; or

Or. de

Amendment 350

Maria Grapini

Proposal for a regulation

Article 8 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) if the conditions set out in paragraph 2(a) and paragraph 3 are met.

Or. ro

Amendment 351

Jan Philipp Albrecht

Proposal for a regulation

Article 8 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(d b) in the context of employment relationships, it is strictly technically necessary for the execution of an employee's task, where:

(i) the employer provides and/or is the end-user of the terminal equipment;

(ii) the employee is the user of the terminal equipment;

(iii) it is not further used for monitoring the employee.

Or. en

Amendment 352

Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation
Article 8 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(d b) it is necessary to maintain or restore the security of electronic communications networks and services and their users, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose; or

Or. en

Amendment 353
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 8 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(d b) in order to mark terminal equipment for advertising purposes, on condition that the person responsible has clearly informed the end-user of this at the beginning of the data processing and has provided an opportunity for objection that is easy to exercise.

Or. en

Amendment 354
Eva Maydell, Antanas Guoga

Proposal for a regulation
Article 8 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(d b) it is necessary to measure the effectiveness, reach and quality of an information society service delivered to the end-user or about terminal equipment

functionality, and it has no or little impact on the privacy of the end-user concerned.

Or. en

Amendment 355
Sabine Verheyen

Proposal for a regulation
Article 8 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) in order to mark terminal equipment for advertising purposes, on condition that the person responsible has clearly informed the end-user of this at the beginning of the data processing and has provided an opportunity for objection that is easy to exercise.

Or. de

Amendment 356
Anna Maria Corazza Bildt, Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation
Article 8 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(d c) it is necessary for the purpose of the legitimate interests of the provider of the terminal equipment and its operating software, an electronic communications service or an information society service, except where such interests are overridden by the interests or fundamental rights and freedoms of the end-user.

Or. en

Amendment 357
Daniel Dalton

Proposal for a regulation
Article 8 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(d c) it is necessary to protect against unauthorised use of a service; or

Or. en

Amendment 358
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 8 – paragraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(d d) it is necessary to meet mandatory quality of service requirements pursuant to [Directive establishing the European Electronic Communications Code].

Or. en

Amendment 359
Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. No user shall be denied access to any information society service or functionality, regardless of whether this service is remunerated or not, on grounds that he or she has not given his or her consent under Article 8(1)(b) to the processing of personal information and/or the use of storage capabilities of his or

her terminal equipment that is not necessary for the provision of that service or functionality.

Or. en

Amendment 360
Jan Philipp Albrecht

Proposal for a regulation
Article 8 – paragraph 2

Text proposed by the Commission

Amendment

2. *The collection of information emitted by terminal equipment to enable it to connect to another device and, or to network equipment shall be prohibited, except if:*

deleted

(a) it is done exclusively in order to, for the time necessary for, and for the purpose of establishing a connection; or

(b) a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, have been applied.

Or. en

Justification

Since we suggest to include these data emissions in the definition of “metadata” in Article 4, paragraph 2 can be deleted, as it is covered by Article 6(2).

Amendment 361

Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

The *collection* of information emitted by terminal equipment to enable it to connect to another device and, or to network equipment shall be prohibited, except if:

Amendment

The *processing* of information emitted by terminal equipment to enable it to connect to another device and, or to network equipment shall be prohibited, except if:

Or. en

Amendment 362

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) it is done exclusively in order to, for the time necessary for, and for the purpose of establishing a connection; or

Amendment

(a) it is done exclusively in order to, for the time necessary for, and for the *sole* purpose of establishing a connection *requested by the user*; or

Or. en

Amendment 363

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) *the user has been informed and has given consent; or*

Or. en

Amendment 364

Kaja Kallas

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) *the end-user has given his or her consent;*

Or. en

Amendment 365

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(a b) *the data are anonymised and the risks are adequately mitigated; or*

Or. en

Amendment 366

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1 – point a c (new)

Text proposed by the Commission

Amendment

(a c) it is necessary for the purpose carrying out statistical counting for reasons of public interest of public utility and this purpose cannot not be fulfilled by processing information that is made anonymous.

Or. en

Amendment 367

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

deleted

Or. en

Amendment 368

Kaja Kallas

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of

(b) it is strictly necessary for the purpose of statistical counting, is limited in time and space to the extent strictly necessary for this purpose and the data is made anonymous or erased as soon as it

Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.

is no longer needed for this purpose.

Or. en

Amendment 369
Curzio Maltese

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) ***a clear and prominent notice is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the end-user of the terminal equipment can take to stop or minimise the collection.***

(b) ***the end-user has given his or her consent and no information emitted by his or her terminal equipment was used to request this consent;***

Or. en

Amendment 370
Anna Maria Corazza Bildt, Antonio López-Istúriz White, Eva Maydell

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) ***a clear and prominent notice*** is displayed informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure

(b) clear and prominent ***information*** is displayed ***or available taking account of the normal means a consumer interacts with such a terminal equipment,*** informing of, at least, the modalities of the collection, its purpose, the person responsible for it and the other information

the *end-user* of the terminal equipment can take to stop or minimise the collection.

required under Article 13 of Regulation (EU) 2016/679 where personal data are collected, as well as any measure the *consumer* of the terminal equipment can take to stop or minimise the collection. *The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, has been applied.*

Or. en

Amendment 371

Kaja Kallas, Dita Charanzová

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, have been applied.

deleted

Or. en

Amendment 372

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The collection of such information shall be conditional on the application of

deleted

appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, have been applied.

Or. en

Amendment 373
Sabine Verheyen

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, have been applied.

Amendment

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ***limit the collection and processing of information to the purposes required therefor and*** ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, have been applied, ***for example by means of pseudonymisation of information collected pursuant to Article 4(5) of Regulation (EU) No 2016/679.***

Or. de

Amendment 374
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article

Amendment

The collection of such information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article

32 of Regulation (EU) 2016/679, have been applied.

32 of Regulation (EU) 2016/679, have been applied, *for example by means of pseudonymisation of information collected pursuant to Article 4 (5) of Regulation (EU) No 2016/679.*

Or. en

Amendment 375

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. For the purposes of point (c) of the previous paragraph, the following safeguards shall be implemented to mitigate risks:

(a) Tracking shall be limited to pseudonymous data

(b) Tracking shall be limited in space and time to the strict minimum necessary to fulfil the established purpose

(c) The data collected shall be deleted or anonymised immediately after the established purpose is fulfilled

(d) Users shall have the possibility to easily opt-out

(e) The processing information shall be conditional on the application of appropriate technical and organisational measures to ensure a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679, have been applied.

Or. en

Amendment 376

**Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn,
Josef Weidenholzer**

**Proposal for a regulation
Article 8 – paragraph 2 b (new)**

Text proposed by the Commission

Amendment

2 b. A data protection impact assessment and a consultation of the supervisory authority should always take place prior to the processing of communications data under points (b) and (c) of paragraph 2. Articles 35 and 36 of Regulation (EU) 2016/679 shall apply with regard to the impact assessment and the consultation to the supervisory authority.

Or. en

**Amendment 377
Jan Philipp Albrecht**

**Proposal for a regulation
Article 8 – paragraph 3**

Text proposed by the Commission

Amendment

3. The information to be provided pursuant to point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the collection in an easily visible, intelligible and clearly legible manner. **deleted**

Or. en

Justification

*No matter if paragraph 2 stays in or not, the standardised icons are already provided for in the GDPR Article 12 (7) and (8). We should avoid confusion about the general applicability of the GDPR except where ePrivacy has its justified *lex specialis* provisions.*

Amendment 378
Kaja Kallas, Dita Charanzová

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. *The information to be provided pursuant to point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the collection in an easily visible, intelligible and clearly legible manner.* **deleted**

Or. en

Amendment 379
Curzio Maltese

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. *The information to be provided pursuant to point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the collection in an easily visible, intelligible and clearly legible manner.* **deleted**

Or. en

Amendment 380
Curzio Maltese

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 determining the information to be presented by the standardized icon and the procedures for providing standardized icons. *deleted*

Or. en

Justification

Being able to precisely locate individuals is one of the highest form of surveillance. It shall never occur without end-users' consent. Furthermore, service providers should not even be allowed to use information emitted by terminal equipment in order to directly send on their device the consent request, otherwise they would be able to harass end-users for their consent and prevent them from providing freely given consent.

Providers engaged in such practices should display prominent notices located on the edge of the area of coverage informing end-users that they may contact them, or download a specific application on their terminal equipment, in order to be properly informed about the intended processing and to provide their consent.

Amendment 381
Kaja Kallas, Dita Charanzová

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 determining the information to be presented by the standardized icon and the procedures for providing standardized icons. *deleted*

Or. en

Amendment 382
Jan Philipp Albrecht

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 27 determining the information to be presented by the standardized icon and the procedures for providing standardized icons.

deleted

Or. en

Justification

*No matter if paragraph 2 stays in or not, the standardised icons are already provided for in the GDPR Article 12 (7) and (8). We should avoid confusion about the general applicability of the GDPR except where ePrivacy has its justified *lex specialis* provisions.*

Amendment 383

Eva Maydell, Anna Maria Corazza Bildt

Proposal for a regulation

Article 8 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. Terminal equipment that is intended particularly for children's use shall implement specific measures to prevent access to the equipment's storage and processing capabilities for the purpose of profiling of its users or tracking their behaviour with commercial intent.

Or. en

Amendment 384

Inese Vaidere

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. The definition of and conditions for

1. The definition of and conditions for

consent provided for under Articles 4(11) and 7 of Regulation (EU) 2016/679/EU shall apply.

consent provided for under Articles 4(11) and 7 of Regulation (EU) 2016/679/EU shall apply *to natural and legal persons* .
Where processing is based on consent of legal person, the processing shall be lawful only if and to the extent that consent is given or authorised by the holder of right to represent legal person. The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of right to represent legal person, taking into consideration available technology.

Or. en

Amendment 385

Morten Løkkegaard, Gérard Deprez, Jean-Marie Cavada, Pavel Telička

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

1. The definition of and conditions for consent provided for under Articles 4(11) and 7 of Regulation (EU) 2016/679/EU shall apply.

Amendment

1. The definition of and conditions for consent provided for under Articles 4(11) and **Article 7 (1), (2), and (3)** of Regulation (EU) 2016/679/EU shall apply.

Or. en

Justification

Legal basis for opt-in by the end-user based on informed browsing

Amendment 386

Daniel Dalton, Richard Sulík

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

1. The definition of and conditions for consent provided for under Articles 4(11)

Amendment

1. The definition of and conditions for consent provided for under Articles 4(11)

and 7 of Regulation (EU) 2016/679/EU shall apply.

and 7 **(1), (2), and (3)** of Regulation (EU) 2016/679/EU shall apply.

Or. en

Amendment 387
Maria Grapini

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. The definition of and conditions for consent provided for under Articles 4(11) and 7 of Regulation (EU) 2016/679/EU shall apply.

Amendment

1. The definition of and conditions for consent provided for under Articles 4(11) and 7**(1), (2) and (3)** of Regulation (EU) 2016/679 shall apply.

Or. ro

Amendment 388
Sabine Verheyen

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

(1) The definition of and conditions for consent provided for under Articles 4(11) and 7 of Regulation (EU) 2016/679/**EU** shall apply.

Amendment

(1) The definition of and conditions for consent provided for under Articles 4(11) and 7**(1), (2) and (3)** of Regulation (EU) 2016/679 shall apply.

Or. de

Amendment 389
Sabine Verheyen

Proposal for a regulation
Article 9 – paragraph 2

Text proposed by the Commission

Amendment

(2) Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet. *deleted*

Or. de

**Amendment 390
Daniel Dalton**

**Proposal for a regulation
Article 9 – paragraph 2**

Text proposed by the Commission

Amendment

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet. *deleted*

Or. en

**Amendment 391
Curzio Maltese**

**Proposal for a regulation
Article 9 – paragraph 2**

Text proposed by the Commission

Amendment

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to *deleted*

the internet.

Or. en

Amendment 392

Curzio Maltese

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

2. ***Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet.***

Amendment

2. ***Access to a service shall not be denied to an end-user for the sole reason that he or she has refused to give his or her consent to processing which are not strictly necessary for the provision of this service.***

Or. en

Amendment 393

Morten Løkkegaard, Gérard Deprez, Jean-Marie Cavada, Pavel Telička

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

2. ***Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical **settings of a** software application enabling access to the internet.***

Amendment

2. ***Where technically possible and feasible for the purposes of point (b) of Article 8(1) consent may be expressed by using the appropriate technical **setting of** software application enabling access to the internet **or by the continued use of the information society service after having been provided with accessible and comprehensive information about this action of the end-user.*****

Or. en

Justification

The user's continued use of the services provided to them, based on accessible information, should be regarded as consent.

Amendment 394

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

2. Without prejudice to paragraph 1, where technically possible ***and feasible***, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling ***access to the internet***.

Amendment

2. Without prejudice to paragraph 1, where technically possible, for the purposes of point (b) of Article 8(1) ***and point (b) of Article 8(2)***, consent may be expressed by using the appropriate technical settings of a software application ***or a device*** enabling ***electronic communications***. ***The choices made by users should be binding on and enforceable against any third parties. If users are required to give consent that contradicts the settings of their software, such consent shall always have to be given explicitly.***

Or. en

Amendment 395

Jan Philipp Albrecht

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical ***settings of a software application enabling access to the***

Amendment

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical ***specifications for electronic communications services or***

internet.

information society services which allow for specific consent for specific purposes. When such technical specifications are used by the user's terminal equipment or the software running on it, they shall be binding on, and enforceable against, any other party.

Or. en

Amendment 396

Kaja Kallas, Dita Charanzová

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet.

Amendment

2. Without prejudice to paragraph 1, where technically possible and feasible, for the purposes of point (b) of Article 8(1), **and point (aa) of Article 8(2)** consent may be expressed by using the appropriate technical settings of a software application enabling access to the internet.

Or. en

Amendment 397

Sabine Verheyen

Proposal for a regulation

Article 9 – paragraph 3

Text proposed by the Commission

(3) End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this

Amendment

deleted

possibility at periodic intervals of 6 months, as long as the processing continues.

Or. de

Amendment 398

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 9 – paragraph 3

Text proposed by the Commission

3. *End-users* who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) *and points (a) and (b) of Article 6(3)* shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Amendment

3. *Users* who have consented to the processing of electronic communications data as set out in point (c) of Article 6(1), *point (c) of Article 6(2), point (a) of Article 6(3), point (b) of Article 8(1) and point (b) of Article 8(2)* shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Or. en

Amendment 399

Jan Philipp Albrecht

Proposal for a regulation

Article 9 – paragraph 3

Text proposed by the Commission

3. *End-users* who have *consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3)* shall be given the possibility to withdraw their consent at any time as set

Amendment

3. *Users* who have *given their consent pursuant to Article 6 or Article 8* shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at

forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

periodic intervals of 6 months, as long as the processing continues.

Or. en

Amendment 400

Curzio Maltese

Proposal for a regulation

Article 9 – paragraph 3

Text proposed by the Commission

3. End-users who have consented to the processing of electronic communications data as set out in **point (c) of Article 6(2) and points (a) and (b) of Article 6(3)** shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Amendment

3. End-users who have consented to the processing of electronic communications data as set out in **Article 6** shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.

Or. en

Justification

Expressing consent through technical settings of a software application enabling access to the internet is equivalent to give it through automated means. It implies to give it before being provided with complete information about the intended processing and thus before knowing for which purposes data may be collected and processed, for how long, by whom, whether they can be disclosed to third parties, transferred outside the Union, etc. In such circumstances, end-users can never give informed and valid consent, as defined in article 4(11) of the GDPR. Thus, end-users are not be able to express their consent through automated means and this Regulation should not provide accept it.

Furthermore, this article should clearly specify what a freely given consent means.

Amendment 401

Kaja Kallas, Morten Løkkegaard, Dita Charanzová

Proposal for a regulation

Article 9 – paragraph 3

Text proposed by the Commission

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a) and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 **and be reminded of this possibility at periodic intervals of 6 months, as long as the processing continues.**

Amendment

3. End-users who have consented to the processing of electronic communications data as set out in point (c) of Article 6(2) and points (a), **(aa)** and (b) of Article 6(3) shall be given the possibility to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679. **It shall be as easy to withdraw as to give consent.**

Or. en

Amendment 402

Jan Philipp Albrecht

Proposal for a regulation

Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. A user shall not be denied access to any electronic communications service, information society service or functionality of a terminal equipment, regardless of whether this is remunerated or not, on the mere grounds that he or she has not given his or her consent to:

(a) the processing of electronic communications data, metadata or content pursuant to Article 6; or

(b) the use of input, output, processing and storage capabilities of terminal equipment and the processing of information from the users' terminal equipment, or making information available through the terminal equipment,

including information about and processed by its software and hardware, pursuant to Article 8(1); or

(c) the processing of information emitted by terminal equipment pursuant to Article 8(2);

that is technically not necessary for the provision of that service or functionality.

Or. en

Amendment 403

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Kerstin Westphal, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Users shall not be denied access to an information society service or functionality, irrespective of whether the service is provided for remuneration or not, on grounds that they have not given their consent under point (c) of Article 6(1), point (c) of Article 6(2), point (a) of Article 6(3), point (b) of Article 8(1) or point (b) of Article 8(2) to the processing of information or the use of the processing or storage capabilities of their terminal equipment that is not necessary for the provision of that service or functionality. In particular, processing of data for the purposes of providing behaviourally targeted advertising shall not be considered as necessary for the performance of a service.

Or. en

Amendment 404

Inese Vaidere

Proposal for a regulation
Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. *The consent should be given separately from consent related to any other terms and conditions of an agreement and separately for each type of data processing.*

Or. en

Amendment 405
Maria Grapini

Proposal for a regulation
Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Information and options for privacy settings to be provided

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later

than 25 August 2018.

Or. ro

Amendment 406
Sabine Verheyen

Proposal for a regulation
Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Information and options for privacy settings to be provided

(1) Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

(2) Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

(3) In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.

Or. de

Amendment 407
Morten Løkkegaard, Gérard Deprez, Pavel Telička

Proposal for a regulation
Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Information and options for privacy settings to be provided

- 1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.***
- 2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.***
- 3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.***

Or. en

Justification

Creates an extra layer of gatekeeping and undermines the GDPR. Creates barriers for business models.

Amendment 408

Daniel Dalton

Proposal for a regulation

Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Information and options for privacy settings to be provided

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.

Or. en

Amendment 409
Anna Maria Corazza Bildt

Proposal for a regulation
Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Information and options for privacy settings to be provided

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.

Or. en

Amendment 410

Christel Schaldemose, Lucy Anderson, Olga Sehnalová, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 10 – title

Text proposed by the Commission

Amendment

Information and options for privacy settings to be provided

Privacy by default

Or. en

Amendment 411

Pascal Arimont

Proposal for a regulation

Article 10 – title

Text proposed by the Commission

Amendment

Information and options for privacy settings to be provided

Privacy-friendly standard settings for software

Or. de

Amendment 412

PE607.920v02-00

110/172

AM\1130878EN.docx

Jan Philipp Albrecht

**Proposal for a regulation
Article 10 – title**

Text proposed by the Commission

Information and options for privacy settings to be provided

Amendment

Privacy settings *and signals* to be provided

Or. en

**Amendment 413
Jan Philipp Albrecht**

**Proposal for a regulation
Article 10 – paragraph 1**

Text proposed by the Commission

1. Software placed on the market *permitting* electronic communications, *including the retrieval and presentation* of information *on the internet*, shall *offer the option* to prevent *third* parties from *storing information on the* terminal equipment of *an end-user or processing* information *already stored on that* equipment.

Amendment

1. **Hardware and** software placed on the market *that enable access to and use of* electronic communications *services or access to and use* of information *society services* shall *be able* to prevent *other* parties from *the use of input, output, processing and storage capabilities of* terminal equipment *and the processing of information from users' terminal equipment, or making* information *available through the terminal* equipment, *including information about and processed by its software and hardware*.

Or. en

**Amendment 414
Christel Schaldemose, Lucy Anderson, Olga Sehnalová, Liisa Jaakonsaari, Kerstin Westphal, Marc Tarabella, Arndt Kohn, Josef Weidenholzer**

**Proposal for a regulation
Article 10 – paragraph 1**

Text proposed by the Commission

Amendment

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall ***offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.***

1. ***The default settings of hardware and*** software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall ***be configured to provide the highest level of privacy protection and protect users' against unauthorised interferences. In particular, default settings shall prevent the tracking of users' online behaviour by other parties. For this purpose, privacy settings shall include a signal which is sent to other parties to inform them about the users' settings. Such settings shall be binding on and enforceable against any other party.***

Or. en

Amendment 415

Pascal Arimont

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

(1) Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall ***offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.***

Amendment

(1) Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall ***have been preset for privacy, for first-time use by the end-user, and shall afford maximum privacy protection.***

Or. de

Amendment 416

Kaja Kallas, Dita Charanzová

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent *third* parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

Amendment

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment ***that is not necessary for the provision of the specific service requested by the end-user. It shall also offer the option to an end-user to choose the extent and types of information the end-user consents to being processed, on the basis of the purpose of the cookie and of the extent to which the information collected is shared with third parties. It shall, in addition, offer the option to opt out from cross-device tracking.***

Or. en

Amendment 417
Richard Sulík

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

Amendment

1. Software placed on the market permitting electronic ***interpersonal*** communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

Or. en

Amendment 418
Curzio Maltese

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

Amendment

1. Software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall offer ***and set by default*** the option to prevent third parties from storing information on the terminal equipment of an end-user or processing information already stored on that equipment.

Or. en

Amendment 419
Jan Philipp Albrecht

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. *Upon installation, the* software shall ***inform the end-user*** about the privacy settings options ***and, to continue with the installation, require the end-user to consent to a setting.***

Amendment

2. ***By default, such hardware or software shall have activated privacy settings that prevent other parties from exercising the activities referred to in paragraph 1. If the hardware or software allows for deviating settings, the user shall be informed*** about the privacy settings options ***during first use or installation and shall be offered the possibility to change or confirm them.***

Or. en

Amendment 420
Christel Schaldemose, Lucy Anderson, Olga Sehnalová, Liisa Jaakonsaari, Kerstin Westphal, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, ***the software*** shall ***inform the end-user*** about the privacy settings options ***and, to continue with the installation, require the end-user to consent to a setting.***

Amendment

2. Upon installation, ***first use or whenever any significant modifications are introduced, the user shall be informed*** about the ***default*** privacy settings ***and other available*** options, ***if any.*** ***Information shall be presented in an easily visible and intelligible manner. It shall not incentivise users to select lower privacy settings and shall include relevant information about the risks associated with each setting. Settings must be easily accessible and modifiable at any time during the use of the device or software.***

Or. en

Amendment 421
Kaja Kallas, Dita Charanzová

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. ***Upon installation,*** the software shall inform the end-user about the privacy settings options ***and, to continue with the installation, require the end-user to consent to a setting.***

Amendment

2. The software shall inform the end-user about the privacy settings options ***upon installation and after any update to the software that affects the storing of information on the terminal equipment of the end-user or the processing of information already stored on that equipment.***

Or. en

Amendment 422
Pascal Arimont

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

(2) *Upon installation*, the software shall *inform* the end-user *about the privacy* settings options *and, to continue with the installation*, require the end-user to consent to a setting.

Amendment

(2) The software *may provide* the end-user *with various* settings options *to reduce privacy. It shall identify attendant risks, however, and* require the end-user to consent to a setting.

Or. de

Amendment 423
Andreas Schwab

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

(2) Upon installation, the software shall inform the end-user about the privacy settings options *and, to continue with the installation, require the end-user to consent to a setting*.

Amendment

(2) Upon installation, the software shall inform the end-user about the privacy settings options. *It shall ensure that any end-user consent takes precedence over privacy settings selected at installation*.

Or. de

Amendment 424
Richard Sulík

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, the software shall inform the end-user about the privacy settings options *and, to continue with the installation, require the end-user to consent to a setting*.

Amendment

2. Upon installation, the software shall inform the end-user about the privacy settings options. *After installation and insofar the privacy settings prevent storing and reading of information on the terminal equipment, the software shall ensure that an information society service requested by the end-user may prompt that*

end-user for his or her expression of consent in the sense of Art. 8(1) point (b) and that a consent given in this context by an end user is accordingly applied by the software, e. g., via offering an interface or plugin. Such software shall ensure that a consent given by an end user under Article 8 (1) point (b) prevails over the privacy settings chosen at the installation of the software.

Or. en

Amendment 425
Eva Maydell, Antanas Guoga

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting.

Amendment

2. Upon installation, the software shall inform the end-user about the privacy settings options and, to continue with the installation, require the end-user to consent to a setting, *except when the software already has built-in solution that prevents third parties from storing information on the terminal equipment.*

Or. en

Amendment 426
Jan Philipp Albrecht

Proposal for a regulation
Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. For the purposes of:
(a) giving consent pursuant to Article 9(2) of this Regulation, and

(b) objecting to the processing of personal data pursuant to Article 21(5) of Regulation (EU) 2017/679,

the settings shall lead to a signal based on technical specifications which is sent to the other parties to inform them about the user's intentions with regard to consent or objection. This signal shall be legally valid and be binding on, and enforceable against, any other party.

The European Data Protection Board shall issue guidelines to determine which technical specifications and signalling methods fulfil the conditions for consent and objection pursuant to points (a) and (b).

Or. en

Amendment 427

Christel Schaldemose, Lucy Anderson, Olga Sehnalová, Liisa Jaakonsaari, Kerstin Westphal, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Hardware and software which enables electronic communications and is specifically intended for children's use or targeted at children shall not allow tracking of its user's behaviour and activities for profiling, marketing or advertising purposes.

Or. en

Amendment 428

Eva Maydell, Antanas Guoga

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

Amendment

3. *In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 and 2 shall be complied with at the time of the first update of the software, but no later than 25 August 2018.*

deleted

Or. en

Amendment 429
Pascal Arimont

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

Amendment

(3) In the case of software which has already been installed on 25 May 2018, the requirements under *paragraphs 1 and 2* shall *be* complied with *at the time of the first update of the software, but no later than 25 August 2018.*

(3) In the case of software which has already been installed on 25 May 2018, the requirements under *paragraph 1* shall *have been* complied with.

Or. de

Amendment 430
Jan Philipp Albrecht

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

Amendment

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1 *and 2* shall be complied with at the time of the first update of the software, but no later than 25 August 2018.

3. In the case of software which has already been installed on 25 May 2018, the requirements under paragraphs 1, *2 and 2a* shall be complied with at the time of the first update of the software, but no later than 25 August 2018.

Or. en

Amendment 431
Sabine Verheyen

Proposal for a regulation
Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10a

Article 25 of Regulation (EU) No 2016/679 shall apply.

Or. de

Amendment 432
Daniel Dalton

Proposal for a regulation
Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10 a

Article 25 of Regulation (EU) No 2016/679 shall apply.

Or. en

Amendment 433
Jan Philipp Albrecht

Proposal for a regulation
Article 11

Text proposed by the Commission

Amendment

Article 11

deleted

Restrictions

1. Union or Member State law may

restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard one or more of the general public interests referred to in Article 23(1)(a) to (e) of Regulation (EU) 2016/679 or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.

2. Providers of electronic communications services shall establish internal procedures for responding to requests for access to end-users' electronic communications data based on a legislative measure adopted pursuant to paragraph 1. They shall provide the competent supervisory authority, on demand, with information about those procedures, the number of requests received, the legal justification invoked and their response.

Or. en

Justification

Deletion to be seen in context of proposed new article 11a for Restrictions of user rights, and new 11b for restrictions of confidentiality, included end-users (legal persons), which added prohibition of legislating for back-doors.

Amendment 434
Curzio Maltese

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights

Amendment

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights

provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard *one or more of the general public interests* referred to in Article 23(1)(a) to (e) of Regulation (EU) 2016/679 *or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests*.

provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard *the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security, as* referred to in Article 23(1)(d) of Regulation (EU) 2016/679. *For this purpose, Union or Member State law may not impose on electronic communications service providers an obligation to retain electronic communications data related to all of their end-users but may only allow courts to order such providers to retain electronic communications metadata relating to specifically identified end-users for a duration that cannot exceed two months.*

Or. en

Amendment 435

Kaja Kallas, Morten Løkkegaard, Dita Charanzová

Proposal for a regulation

Article 11 – paragraph 1

Text proposed by the Commission

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard *one or more of the general public interests referred to in Article 23(1)(a) to (e) of Regulation (EU) 2016/679 or a monitoring, inspection or*

Amendment

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard *national security (i.e. State security), defence, public security, and the prevention, investigation, detection and prosecution of criminal offences.*

regulatory function connected to the exercise of official authority for such interests.

Or. en

Amendment 436

Eva Maydell, Antonio López-Istúriz White, Antanas Guoga, Roberta Metsola

Proposal for a regulation

Article 11 – paragraph 1

Text proposed by the Commission

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard *one or more of the general public interests referred to in Article 23(1)(a) to (e) of Regulation (EU) 2016/679 or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.*

Amendment

1. Union or Member State law may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 5 to 8 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard *national security (i.e. state security), defence, public security, and the prevention, investigation, detection and prosecution of criminal offences..*

Or. en

Amendment 437

Anna Maria Corazza Bildt

Proposal for a regulation

Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Without prejudice to paragraph 1, there shall be enshrined in Union law a right to encryption to protect communications data. Member States law

may not require the removal or corruption of technical protection measures, such as end-to-end encryption, which make electronic communications data unintelligible to parties other than the end-users; nor should it otherwise determine the nature of such measures, where these are applied directly by the provider of the electronic communications network, service or terminal equipment.

Or. en

Amendment 438
Curzio Maltese

Proposal for a regulation
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Electronic communications data may only be accessed by public authorities for safeguarding the prevention, investigation, detection or prosecution of serious crime and with the prior authorisation of a court.

Or. en

Justification

Electronic communications service providers are already authorised by this Regulation to store a huge amount of data for security or billing purposes. Thus, Member States hardly ever need to order providers to retain data: they are already stored by the vast majority of providers. However, since some very specific kinds of data may not be actively stored by some provider in very specific circumstances, courts should still be able to request them to do so for a proportionate duration.

Furthermore, access by the public authorities to data retained by providers should be limited to the most important purposes and by the prior authorisation of a court.

Amendment 439
Kaja Kallas, Morten Løkkegaard

Proposal for a regulation
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Member States shall not impose any obligation on undertakings that would result in the weakening of the security and encryption of their networks and services.

Or. en

Amendment 440
Jan Philipp Albrecht

Proposal for a regulation
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11 a

Restrictions on the rights of the user or end-user

1. Union or Member State law to which the provider is subject may restrict by way of a legislative measure the scope of the obligations and principles relating to processing of electronic communications data provided for in Articles 6, 7 and 8 of this Regulation in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22 of Regulation (EU) 2016/679, when such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard one or more of the following general public interests:

- (a) national security;***
- (b) defence;***
- (c) the prevention, investigation, detection***

or prosecution of serious criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

2. In particular, any legislative measure referred to in paragraph 1 shall contain specific provisions at least, where relevant, pursuant to Article 23(2) of Regulation (EU) 2016/679.

Or. en

Amendment 441
Jan Philipp Albrecht

Proposal for a regulation
Article 11 b (new)

Text proposed by the Commission

Amendment

Article 11 b

Restrictions on the confidentiality of communications

1. Union or Member State law to which the provider is subject may restrict by way of a legislative measure the scope of the rights provided for in Article 5 where such a restriction respects the essence of the fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard one or more of the following general public interests:

(a) national security;

(b) defence;

(c) the prevention, investigation, detection or prosecution of serious criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

2. In particular, any legislative measure

referred to in paragraph 1 shall contain specific provisions at least, where relevant, pursuant to Article 23(2) of Regulation (EU) 2016/679.

3. No legislative measure referred to in paragraph 1 may allow for the weakening of the integrity and confidentiality of electronic communications by mandating a manufacturer of hardware or software, including terminal equipment or software providing for the use of electronic communications, or a provider of electronic communications services, to create and build in backdoors that weaken the cryptographic methods used or the security and integrity of the terminal equipment.

Or. en

Amendment 442

Anna Maria Corazza Bildt

Proposal for a regulation

Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where presentation of the calling and connected line identification is offered in accordance with Article [107] of the [Directive establishing the European Electronic Communication Code], the providers of publicly available number-based interpersonal communications services shall provide the following:

Amendment

1. Where presentation of the calling and connected line identification is offered in accordance with Article [107] of the [Directive establishing the European Electronic Communication Code], the providers of publicly available number-based interpersonal communications services shall provide the following, *subject to technical feasibility and economic viability*:

Or. en

Amendment 443

Jan Philipp Albrecht

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

1. Regardless of whether the calling end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of **an end-user** for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.

Amendment

1. Regardless of whether the calling **user or** end-user has prevented the presentation of the calling line identification, where a call is made to emergency services, providers of publicly available number-based interpersonal communications services shall override the elimination of the presentation of the calling line identification and the denial or absence of consent of **a user** for the processing of metadata, on a per-line basis for organisations dealing with emergency communications, including public safety answering points, for the purpose of responding to such communications.

Or. en

Amendment 444
Jan Philipp Albrecht

Proposal for a regulation
Article 13 – paragraph 2

Text proposed by the Commission

2. **Member States** shall **establish more specific provisions** with regard to the establishment of procedures and the circumstances where providers of publicly available number-based interpersonal communication services shall override the elimination of the presentation of the calling line identification on a temporary basis, where end-users request the tracing of malicious or nuisance calls.

Amendment

2. **The Commission** shall **be empowered to adopt implementing measures in accordance with Article 26(1)**) with regard to the establishment of procedures and the circumstances where providers of publicly available number-based interpersonal communication services shall override the elimination of the presentation of the calling line identification on a temporary basis, where **users or** end-users request the tracing of malicious or nuisance calls.

Or. en

Amendment 445
Jan Philipp Albrecht

Proposal for a regulation
Article 14 – paragraph 1 – point a

Text proposed by the Commission

(a) to block incoming calls from specific numbers or from anonymous sources;

Amendment

(a) to block incoming calls from specific numbers, ***or numbers having a specific code or prefix identifying the fact that the call is a marketing call referred to in Article 16(3)(b)***, or from anonymous sources;

Or. en

Amendment 446
Daniel Dalton

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

1. The providers of ***publicly available directories*** shall ***obtain the consent*** of end-users who are natural persons to include their personal data in ***the directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons*** the means to verify, correct and delete such data.

Amendment

1. The providers of ***electronic information, communication and telecommunication services*** shall ***collect the data*** of end-users who are natural persons ***in order*** to include their personal data in ***publicly accessible directories. Upon the request of an end-user who is natural person the directory providers shall provide the end-user with transparent information about the data being included in the directory and*** the means to verify, correct, ***update, supplement*** and delete such data.

Or. en

Amendment 447

Morten Løkkegaard, Gérard Deprez, Jean-Marie Cavada, Fredrick Federley, Pavel Telička

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

1. The **providers of publicly available directories** shall **obtain the consent of** end-users who are natural persons to **include** their personal data in the directory and, consequently, shall **obtain consent from** these end-users **for** inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Amendment

1. The **operators of electronic communication** shall **provide the option to** end-users who are natural persons to **object to** their personal data **being included** in the directory and, consequently, shall **provide to** these end-users **the option to object to** the inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Or. en

Justification

The publicly available directories are now based on a functional opt-out system. This proposal would create a opt-in system, where the providers are forced to gain consent from all end-users, creating an unnecessary burden for the providers. Securing the end-user's right to object should be sufficient.

Amendment 448
Sabine Verheyen

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

(1) The providers of **publicly available directories** shall **obtain the consent** of end-users who are natural persons to include their personal data **in the directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the**

Amendment

(1) The providers of **electronic information, communications and telecommunications services** shall **collect the data** of end-users who are natural persons **in order** to include their personal data in **publicly accessible directories**. **They shall give end-users that are natural persons the right to object to data related**

purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

to them being included in directories. Providers shall give end-users who are natural persons the means to verify, correct, *update, supplement* and delete such data.

Or. de

Amendment 449
Anna Maria Corazza Bildt

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

1. *The* providers of *publicly available directories* shall obtain the consent of end-users who are natural persons to include their personal data in *the* directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Amendment

1. Providers of *number-based interpersonal communication services and electronic communication providers* shall obtain the consent of end-users who are natural persons to include their personal data in *a* directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory. *Directory* providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Or. en

Amendment 450
Jan Philipp Albrecht

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

1. The providers of publicly available directories shall obtain the consent of end-

Amendment

1. The providers of publicly available directories *or the electronic*

users who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are *relevant* for the purpose of *the directory as determined by the provider* of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

communication service providers shall obtain the consent of end-users who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these end-users for inclusion of data per category of personal data, to the extent that such data are *necessary* for the purpose of the directory. Providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Or. en

Amendment 451
Sabine Verheyen

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

(2) The providers of a publicly available directory shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory and *obtain end-users' consent before enabling such search functions related to their own data.*

Amendment

(2) The providers of a publicly available directory shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory, *which they shall do there. The providers of electronic information, communications and telecommunications services shall inform end-users when new search functions are made available.*

Or. de

Amendment 452
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

2. The providers of a publicly

Amendment

2. The providers of a publicly

available directory shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory **and obtain end-users' consent before enabling such search functions related to their own data.**

available directory shall inform end-users who are natural persons **and acting out of their business capacity** whose personal data are in the directory of the available search functions of the directory. **Providers of number-based interpersonal communications services and electronic communications service providers shall inform end-users when new search functions are made available.**

Or. en

Amendment 453

Morten Løkkegaard, Gérard Deprez, Jean-Marie Cavada, Fredrick Federley, Pavel Telička

Proposal for a regulation Article 15 – paragraph 2

Text proposed by the Commission

2. The providers of a publicly available directory shall **inform** end-users who are natural persons whose personal data are in the directory of the available search functions of the directory and **obtain** end-users' **consent before enabling** such search functions related to their own data.

Amendment

2. The providers of a publicly available directory shall **provide accessible and intelligible information to** end-users who are natural persons whose personal data are in the directory of the available search functions of the directory and **provide the** end-users' **the option to disable** such search functions related to their own data.

Or. en

Justification

The publicly available directories are now based on a functional opt-out system. This proposal would create a opt-in system, where the providers are forced to gain consent from all end-users, creating an unnecessary burden for the providers. Securing the end-user's right to object should be sufficient.

Amendment 454

Morten Løkkegaard, Gérard Deprez, Jean-Marie Cavada, Dita Charanzová, Fredrick Federley, Pavel Telička

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. The **providers of publicly** available directories shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. **Providers** shall give such end-users that are legal persons the means to verify, correct and delete such data.

Amendment

3. The **operators of electronic communication services** available directories shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. **The operators** shall give such end-users that are legal persons the means to verify, correct and delete such data. **Natural persons who act for a commercial or economic purpose, such as freelancers, one-man businesses and individual professionals shall be considered legal persons.**

Or. en

Justification

Freelancers, one-man businesses and individual professional would be considered as natural persons, but should be considered as legal persons due to their commercial and economic purpose.

Amendment 455
Sabine Verheyen

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

(3) The providers of **publicly available directories** shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.

Amendment

(3) The providers of **electronic information, communications and telecommunications services** shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct, **update, supplement** and delete such data. **Natural persons acting for an economic purpose, such as independent**

professionals, operators of small businesses or freelancers, shall be equated with legal persons.

Or. de

Amendment 456
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. The providers *of publicly available directories* shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.

Amendment

3. The providers *electronic information, communication and telecommunication services* shall provide end-users that are legal persons *or natural persons acting in their business capacity* with the possibility to object to data related to them being included in the directory. Providers shall give such end-users that are legal persons the means to verify, correct, *update, supplement* and delete such data.

Or. en

Amendment 457
Daniel Dalton, Richard Sulík

Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.

Amendment

4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct, *update, supplement* and delete any data related to them shall be provided free of charge.

Or. en

Amendment 458
Sabine Verheyen

Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

(4) The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.

Amendment

(4) The possibility for end-users not to be included in a publicly available directory, or to verify, correct, **update, supplement** and delete any data related to them shall be provided free of charge.

Or. de

Amendment 459
Kaja Kallas, Morten Løkkegaard, Dita Charanzová

Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge.

Amendment

4. The possibility for end-users not to be included in a publicly available directory, or to verify, correct and delete any data related to them shall be provided free of charge **and in an easily accessible manner**.

Or. en

Amendment 460
Sabine Verheyen

Proposal for a regulation
Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The provisions of paragraphs 1 to 4 shall not apply to data and information published in other publicly accessible sources and data provided by end-users

themselves.

Or. de

Amendment 461
Daniel Dalton

Proposal for a regulation
Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The provisions of paragraphs 1 to 4 shall not apply to data and information published in other publicly accessible sources and data provided by end-users themselves.

Or. en

Amendment 462
Eva Maydell, Antonio López-Istúriz White

Proposal for a regulation
Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. This article shall not apply to data which are provided by end users themselves, nor to data information published in other publicly accessible sources.

Or. en

Amendment 463
Sabine Verheyen

Proposal for a regulation
Article 15 – paragraph 4 b (new)

4b. Any undertaking which provides publicly accessible information, communications or telecommunications services and which issues or uses telephone numbers, user names or other means of user identification shall be required, upon request and with due regard for provisions relating to data protection, to make subscriber data available to any undertaking which provides or operates directory or information services, in order to provide publicly accessible directory or information services. The data shall be communicated immediately and in a non-discriminatory manner.

Or. de

Amendment 464
Sabine Verheyen

Proposal for a regulation
Article 16

Text proposed by the Commission

Amendment

Article 16

deleted

Unsolicited communications

(1) Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent.

(2) Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own

similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

(3) Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the purposes of placing direct marketing calls shall:

a) present the identity of a line on which they can be contacted; or

b) present a specific code/or prefix identifying the fact that the call is a marketing call.

(4) Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.

(5) Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.

(6) Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in an easy manner, to receiving further marketing communications.

(7) The Commission shall be empowered to adopt implementing measures in accordance with Article 26(2) specifying the code/or prefix to identify marketing calls, pursuant to point (b) of paragraph 3.

Or. de

Amendment 465
Richard Sulík

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

Amendment

1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons that have given their consent. *deleted*

Or. en

Justification

The aim of Article 10(1) is already covered in Article 10(2). The aim of this amendment is to avoid double text and related misinterpretation.

Amendment 466

Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

Amendment

1. Natural or legal persons *may use* electronic communications services for the purposes of *sending* direct marketing communications to *end-users who are natural persons that* have given their

1. *The use by* natural or legal persons *of electronic communications services, including voice-to-voice calls, automated calling and communications systems, including semi-automated systems that*

consent.

connect the call person to an individual, faxes, e-mail or other use of electronic communications services for the purposes of *presenting unsolicited or* direct marketing communications to *users, shall be allowed only in respect of users who* have given their *prior explicit* consent.

Or. en

Amendment 467
Jan Philipp Albrecht

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

1. Natural or legal persons may use electronic communications services for the purposes of sending direct marketing communications to end-users who are natural persons *that* have given their consent.

Amendment

1. Natural or legal persons may use electronic communications services for the purposes of *presenting or* sending *unsolicited or* direct marketing communications to end-users who are natural persons *and* have given their *explicit* consent

Or. en

Justification

Based on the German Act Against Unfair Competition, which stipulates prior explicit consent for advertising by means of a voice-to-voice call or advertising using automated calling machines, faxes or e-mails.

Amendment 468
Inese Vaidere

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

1. Natural or legal persons may use electronic communications services for the purposes of *sending* direct marketing

Amendment

1. Natural or legal persons may use electronic communications services for the purposes of *making* direct marketing

communications to end-users who are natural persons that have given their consent.

communications to end-users who are natural persons that have given their consent.

Or. en

Amendment 469
Jan Philipp Albrecht

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

2. Where a natural or legal person obtains electronic contact details for **electronic mail** from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Amendment

2. Where a natural or legal person obtains electronic contact details for **e-mail** from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The **customer shall be informed about the** right to object **and** shall be given **an easy way to exercise it** at the time of collection and each time a message is sent.

Or. en

Justification

To avoid confusion it should be clear that only electronic contact details for e-mail (as defined under RFC 5322) fall under this provision.

Amendment 470
Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

Amendment

2. Where a natural or legal person obtains electronic contact details for **electronic mail** from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

2. Where a natural or legal person obtains electronic contact details for **e-mail** from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own similar products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Or. en

Amendment 471
Anna Maria Corazza Bildt

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own **similar** products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Amendment

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Or. en

Amendment 472
Kaja Kallas, Morten Løkkegaard, Dita Charanzová

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own *similar* products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Amendment

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Or. en

Amendment 473

Eva Maydell, Antonio López-Istúriz White, Pascal Arimont

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own *similar* products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Amendment

2. Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Amendment 474
Pascal Arimont

Proposal for a regulation
Article 16 – paragraph 2

Text proposed by the Commission

(2) Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own *similar* products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Amendment

(2) Where a natural or legal person obtains electronic contact details for electronic mail from its customer, in the context of the sale of a product or a service, in accordance with Regulation (EU) 2016/679, that natural or legal person may use these electronic contact details for direct marketing of its own products or services only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy manner, to such use. The right to object shall be given at the time of collection and each time a message is sent.

Or. de

Amendment 475
Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation
Article 16 – paragraph 3 – point a

Text proposed by the Commission

(a) present the identity of a line on which they can be contacted; *or*

Amendment

(a) present the identity of a line on which they can be contacted; *and*

Or. en

Amendment 476
Jan Philipp Albrecht

Proposal for a regulation
Article 16 – paragraph 3 – point a

Text proposed by the Commission

(a) present the identity of a line on which they can be contacted; *or*

Amendment

(a) present the identity of a line on which they can be contacted; *and*

Or. en

Amendment 477
Philippe Juvin

Proposal for a regulation
Article 16 – paragraph 3 – point a

Text proposed by the Commission

(a) present the identity of a line on which they can be contacted; *or*

Amendment

(a) present the identity of a line on which they can be contacted; *and*

Or. fr

Amendment 478
Pascal Arimont

Proposal for a regulation
Article 16 – paragraph 3 – point a

Text proposed by the Commission

(a) present the identity of a line on which they can be contacted; *or*

Amendment

(a) present the identity of a line on which they can be contacted; *and*

Or. de

Amendment 479
Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer, Olga Sehnalová

Proposal for a regulation
Article 16 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Unsolicited marketing communications shall be clearly recognisable as such and shall indicate the identity of the legal or natural person transmitting the communication or on behalf of whom the communication is transmitted. Such communications shall provide the necessary information for recipients to exercise their right to refuse further written or oral marketing messages.

Or. en

Amendment 480
Jan Philipp Albrecht

Proposal for a regulation
Article 16 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Unsolicited marketing communications shall be clearly recognisable as such and shall indicate the identity of the legal or natural person transmitting the communication or on behalf of whom the communication is transmitted. Such communications shall provide the necessary information for recipients to exercise their right to refuse further written or oral marketing messages.

Or. en

Amendment 481
Pascal Arimont

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

Amendment

(4) *Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.* **deleted**

Or. de

Amendment 482
Jan Philipp Albrecht

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

Amendment

4. *Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to end-users who are natural persons shall only be allowed in respect of end-users who are natural persons who have not expressed their objection to receiving those communications.* **deleted**

Or. en

Justification

We should prohibit all direct marketing cold calls to natural persons across the EU and not only leave it to the Member States to introduce a Robinson List or a consent requirement.

Amendment 483
Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer, Olga Sehnalová

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to ***end-users who are natural persons*** shall only be allowed in respect of ***end-users who are natural persons*** who have not expressed their objection to receiving those communications.

Amendment

4. Notwithstanding paragraph 1, Member States may provide by law that the placing of direct marketing voice-to-voice calls to ***users*** shall only be allowed in respect of ***users*** who have not expressed their objection to receiving those communications. ***Member States shall provide that users can object to receiving the unsolicited communications via a national Do Not Call Register, thereby also ensuring that the user is only required to opt out once.***

Or. en

Amendment 484
Jan Philipp Albrecht

Proposal for a regulation
Article 16 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent by means set forth under paragraph 1 are sufficiently protected.

Amendment

5. Member States shall ensure , in the framework of Union law and applicable national law, that the legitimate interest of end-users that are legal persons with regard to unsolicited communications sent ***to them*** by means set forth under paragraph 1 are sufficiently protected. ***Member States shall specifically provide that the placing of direct marketing voice-to-voice calls to end-users who are legal persons shall only be allowed in respect of end-users who have not expressed their objection or have consented to receiving those communications. Member States shall provide that end-users can object to receiving the unsolicited communications via a national Do Not Call Register, thereby also ensuring that the user is only required to opt out once.***

Or. en

Justification

This amendment moves parts of the provisions in paragraph 4 here, where it is limited to end-users that are legal persons. This would allow the Member States a certain leeway.

Amendment 485 **Jan Philipp Albrecht**

Proposal for a regulation **Article 16 – paragraph 6**

Text proposed by the Commission

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, ***in an easy manner***, to receiving further marketing communications.

Amendment

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent ***or to object, in a manner that is as easy as giving the consent and free of charge***, to receiving further marketing communications.

Or. en

Amendment 486 **Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Arndt Kohn, Josef Weidenholzer, Olga Sehnalová**

Proposal for a regulation **Article 16 – paragraph 6**

Text proposed by the Commission

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is

Amendment

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall inform end-users of the marketing nature of the communication and the identity of the legal or natural person on behalf of whom the communication is

transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in *an easy manner*, to receiving further marketing communications.

transmitted and shall provide the necessary information for recipients to exercise their right to withdraw their consent, in *a manner that is as easy as giving the consent and free of charge*, to receiving further marketing communications.

Or. en

Amendment 487
Sabine Verheyen

Proposal for a regulation
Article 17

Text proposed by the Commission

Amendment

Article 17

deleted

Information about detected security risks

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

Or. de

Amendment 488
Kaja Kallas, Morten Løkkegaard, Dita Charanzová

Proposal for a regulation
Article 17

Text proposed by the Commission

Amendment

Article 17

deleted

Information about detected security risks

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

Or. en

Justification

Security and personal data breaches are already regulated under respectively article 40 of EECC, and article 34 of GDPR , therefore this article creates duplications and risks undermining actions undertaken in other legislations.

Amendment 489
Jan Philipp Albrecht

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Information about *detected* security risks

Amendment

Integrity of the communications and information about security risks

Or. en

Amendment 490
Jan Philipp Albrecht

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

In the case of a particular risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning

Amendment

The providers of electronic communications services shall ensure that there is sufficient protection in place against unauthorised access or alterations to the electronic communications data, and

such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, including an indication of the likely costs involved.

that the confidentiality and integrity of the communication in transmission or stored are also guaranteed by technical measures according to the state of the art, including end-to-end encryption of the electronic communications data. When encryption of electronic communications data is used, decryption by anybody else than the user shall be prohibited. Member States shall not impose any obligations on electronic communications service providers that would result in the weakening of the confidentiality and integrity of their networks and services, including the encryption methods used.

Or. en

Amendment 491
Inese Vaidere

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

In the case of a **particular** risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies, **including an indication of the likely costs involved.**

Amendment

In the case of a **serious** risk that may compromise the security of networks and electronic communications services, the provider of an electronic communications service shall inform end-users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies.

Or. en

Amendment 492
Jan Philipp Albrecht

Proposal for a regulation
Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Providers of electronic communications services and manufacturers of terminal equipment shall not use any means, no matter if technical, operational, or by terms of use or by contracts, that could prevent users and end-users from applying the best available techniques against intrusions and interceptions and to secure their networks, terminal equipment and electronic communications. Breaking, decrypting, restricting or circumventing such measure taken by users or end-users shall be prohibited.

Or. en

Amendment 493
Jan Philipp Albrecht

Proposal for a regulation
Article 17 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

In the case of a particular risk that may compromise the security of networks, electronic communications services, or terminal equipment, the relevant provider or manufacturer shall inform end-users of such a risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform end-users of any possible remedies. It shall also inform the relevant manufacturer and service provider.

Or. en

Amendment 494
Jan Philipp Albrecht

Proposal for a regulation
Article 17 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

As regards the security of networks and services and related security obligations, the obligations of Article 40 of the [European Electronic Communications Code] shall apply mutatis mutandis to all services in the scope of this Regulation.

Or. en

Amendment 495
Jan Philipp Albrecht

Proposal for a regulation
Article 17 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

This Article shall be without prejudice to the security obligations provided for in Articles 32 to 34 of Regulation (EU) 2016/679.

Or. en

Justification

Clarification that Article 17 ePrivacy is not conclusive lex specialis, and the security section of the GDPR still applies where personal data are affected.

Amendment 496
Philippe Juvin

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. ***The independent supervisory authority or*** authorities responsible for

1. ***Each Member State shall provide that one or more independent public***

monitoring the application of **Regulation (EU) 2016/679 shall also be responsible for monitoring the application of** this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.

authorities **are** responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.

Or. fr

Amendment 497

Morten Løkkegaard, Gérard Deprez, Jean-Marie Cavada, Pavel Telička

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

1. **The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also** be responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.

Amendment

1. **Each member state shall determine which relevant supervisory authority should** be responsible for monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.

Or. en

Amendment 498

Jan Philipp Albrecht

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

1. The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible for

Amendment

1. The independent supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible for

monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to end-users.

monitoring the application of this Regulation. Chapter VI and VII of Regulation (EU) 2016/679 shall apply mutatis mutandis. The tasks and powers of the supervisory authorities shall be exercised with regard to *users and* end-users.

Or. en

Amendment 499
Philippe Juvin

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

2. The supervisory authority or authorities referred to in paragraph 1 shall cooperate whenever appropriate with national regulatory authorities established pursuant to the [Directive Establishing the European Electronic Communications Code].

Amendment

2. ***Each supervisory authority shall contribute to the consistent implementation of this Regulation throughout the Union.*** The supervisory authority or authorities referred to in paragraph 1 shall cooperate whenever appropriate with national regulatory authorities established pursuant to the [Directive Establishing the European Electronic Communications Code] ***and the national authorities responsible for monitoring the implementation of consumer protection legislation (CPC Regulation).***

Or. fr

Amendment 500
Jan Philipp Albrecht

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission

2. The supervisory authority or authorities referred to in paragraph 1 shall cooperate whenever appropriate with

Amendment

2. The supervisory authority or authorities referred to in paragraph 1 shall cooperate whenever appropriate with

national regulatory authorities established pursuant to the [Directive Establishing the European Electronic Communications Code].

national regulatory authorities established pursuant to the [Directive Establishing the European Electronic Communications Code], *and vice versa*.

Or. en

Amendment 501
Jan Philipp Albrecht

Proposal for a regulation
Article 19 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) draw up guidelines for supervisory authorities concerning the application of Article 9(1) and the particularities of expression of consent by legal entities;

Or. en

Amendment 502
Jan Philipp Albrecht

Proposal for a regulation
Article 19 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(b b) issue guidelines, recommendations and best practices in accordance with point (b) of this paragraph for the purpose of further specifying the criteria and requirements for types of services that may be requested for purely individual or work-related usage as referred to in Article 6(3a);

Or. en

Amendment 503

Jan Philipp Albrecht

**Proposal for a regulation
Article 19 – paragraph 1 – point b c (new)**

Text proposed by the Commission

Amendment

(b c) issue guidelines, recommendations and best practices in accordance with point (b) of this paragraph for the purpose of further specifying the criteria and requirements for:

(i) security updates referred to in Article 8(1)(e);

(ii) the interference in the context of employment relationships referred to in Article 8(1)(f);

(iv) the collection processing of information emitted by the terminal equipment referred to in Article 8(2)(c);

(v) technical specifications and signalling methods that fulfil the conditions for consent and objection pursuant to Article 8(2a).

(vi) software settings referred to in Article 10(1) and (2); and

(vii) technical measures according to ensure confidentiality and integrity of the communication pursuant to Article 17(1).

Or. en

Amendment 504

Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

**Proposal for a regulation
Article 21 – paragraph 1**

Text proposed by the Commission

Amendment

1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services shall have the same remedies

1. Without prejudice to any other administrative or judicial remedy, every **user and** end-user of electronic communications services **and, where**

provided for in Articles 77, 78, and 79 of Regulation (EU) 2016/679.

applicable, every body, organisation or association, shall have the same remedies provided for in Articles 77, 78, and 79, ***and 80*** of Regulation (EU) 2016/679.

Or. en

Amendment 505
Jan Philipp Albrecht

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services shall have the same remedies provided for in Articles 77, 78, ***and 79*** of Regulation (EU) 2016/679.

Amendment

1. Without prejudice to any other administrative or judicial remedy, every ***user and*** end-user of electronic communications services ***and, where applicable, every body, organisation or association***, shall have the same remedies provided for in Articles 77, 78, ***79, and 80*** of Regulation (EU) 2016/679.

Or. en

Justification

Alignment with GDPR.

Amendment 506
Inese Vaidere

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission

1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services shall have the same remedies provided for in Articles 77, 78, ***and 79*** of Regulation (EU) 2016/679.

Amendment

1. Without prejudice to any other administrative or judicial remedy, every end-user of electronic communications services shall have the same remedies provided for in Articles 77, 78, ***79 and 80*** of Regulation (EU) 2016/679.

Amendment 507
Sabine Verheyen

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

Amendment

(2) *Any natural or legal person other than end-users adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements, including a provider of electronic communications services protecting its legitimate business interests, shall have a right to bring legal proceedings in respect of such infringements.* *deleted*

Or. de

Amendment 508
Christel Schaldemose, Lucy Anderson, Marc Tarabella, Josef Weidenholzer

Proposal for a regulation
Article 21 – paragraph 2

Text proposed by the Commission

Amendment

2. Any natural or legal person other than *end-users* adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements, including a provider of electronic communications services protecting its legitimate business interests, shall have a right to bring legal proceedings in respect of such infringements.

2. Any natural or legal person other than *users* adversely affected by infringements of this Regulation and having a legitimate interest in the cessation or prohibition of alleged infringements, including a provider of electronic communications services protecting its legitimate business interests, shall have a right to bring legal proceedings in respect of such infringements.

Or. en

Amendment 509
Sabine Verheyen

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

Amendment

Any end-user of electronic communications services who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage in accordance with Article 82 of Regulation (EU) 2016/679.

deleted

Or. de

Amendment 510
Sabine Verheyen

Proposal for a regulation
Article 23

Text proposed by the Commission

Amendment

[...]

deleted

Or. de

Amendment 511
Curzio Maltese

Proposal for a regulation
Article 23 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) *the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;*

deleted

Or. en

Amendment 512
Jan Philipp Albrecht

Proposal for a regulation
Article 23 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) the obligations of *any legal or natural person who process electronic communications data* pursuant to Article 8;

(a) the obligations of *the providers of publicly available directories* pursuant to Article 15;

Or. en

Amendment 513
Jan Philipp Albrecht

Proposal for a regulation
Article 23 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) the obligations of *the provider of software enabling* electronic communications, pursuant to Article 10;

(b) the obligations of *any legal or natural person who uses* electronic communications *services* pursuant to Article 16;

Or. en

Amendment 514
Jan Philipp Albrecht

Proposal for a regulation
Article 23 – paragraph 2 – point c

Text proposed by the Commission

(c) the obligations of the providers of publicly available *directories* pursuant to *Article 15*;

Amendment

(c) the obligations of the providers of publicly available *number-based interpersonal communication services* pursuant to *Articles 12, 13 and 14*;

Or. en

Amendment 515
Jan Philipp Albrecht

Proposal for a regulation
Article 23 – paragraph 2 – point d

Text proposed by the Commission

(d) the obligations of *any legal or natural person who uses* electronic communications *services* pursuant to Article *16*.

Amendment

(d) the obligations of *the provider of an* electronic communications *service* pursuant to Article *17*.

Or. en

Amendment 516
Jan Philipp Albrecht

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

3. Infringements of the *principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, and 7* shall, in accordance with paragraph 1 *of this Article*, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is

Amendment

3. Infringements of the *following provisions of this Regulation* shall, in accordance with paragraph 1, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:
- the principle of confidentiality of communications pursuant to Article 5;
- the permitted processing of electronic communications data, pursuant to Article

higher.

6,
- the time limits for erasure and the confidentiality obligations pursuant to Article 7;
- the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;
- the requirements for consent pursuant to Article 9;
- the obligations of the provider of software enabling electronic communications, pursuant to Article 10;

Or. en

Amendment 517
Curzio Maltese

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

3. Infringements of the principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, **and 7** shall, in accordance with paragraph 1 of this Article, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

Amendment

3. Infringements of the principle of confidentiality of communications, permitted processing of electronic communications data, time limits for erasure pursuant to Articles 5, 6, **7 and 8** shall, in accordance with paragraph 1 of this Article, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

Or. en

Justification

Being able to precisely locate individuals is one of the highest form of surveillance. It shall be limited with the same firmness as other forms of surveillance.

Amendment 518
Jan Philipp Albrecht

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall lay down the rules on penalties for infringements of Articles 12, 13, 14, and 17.

deleted

Or. en

Amendment 519
Sabine Verheyen

Proposal for a regulation
Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23a

Article 83 of Regulation (EU) No 2016/679 shall apply.

Or. de

Amendment 520
Sabine Verheyen

Proposal for a regulation
Article 24

Text proposed by the Commission

Amendment

Article 24

deleted

Penalties

(1) Member States shall lay down the rules on other penalties applicable to infringements of this Regulation in particular for infringements which are not subject to administrative fines

pursuant to Article 23, and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.

(2) Each Member State shall notify to the Commission the provisions of its law which it adopts pursuant to paragraph 1, no later than 18 months after the date set forth under Article 29(2) and, without delay, any subsequent amendment affecting them.

Or. de

Amendment 521
Sabine Verheyen

Proposal for a regulation
Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24a

Article 84 of Regulation (EU) No 2016/679 shall apply.

Or. de

Amendment 522
Kaja Kallas, Dita Charanzová

Proposal for a regulation
Chapter 6 – title

Text proposed by the Commission

Amendment

**DELEGATED ACTS AND
IMPLEMENTING ACTS**

IMPLEMENTING ACTS

Or. en

Amendment 523
Kaja Kallas, Dita Charanzová

Proposal for a regulation
Article 25

Text proposed by the Commission

Amendment

Article 25

deleted

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 8(4) shall be conferred on the Commission for an indeterminate period of time from [the data of entering into force of this Regulation].*
- 3. The delegation of power referred to in Article 8(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016.*
- 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
- 6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council*

within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Or. en

Amendment 524
Jan Philipp Albrecht

Proposal for a regulation
Article 25 – paragraph 6

Text proposed by the Commission

6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **two** months at the initiative of the European Parliament or of the Council.

Amendment

6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **three** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **three** months at the initiative of the European Parliament or of the Council.

Or. en

Justification

Alignment with GDPR.

Amendment 525
Jan Philipp Albrecht

Proposal for a regulation

Article 26 – paragraph 1

Text proposed by the Commission

1. The Commission shall be assisted by the **Communications** Committee established under Article **110 of the [Directive establishing the European Electronic Communications Code]**. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011²⁹.

²⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13–18).

Amendment

1. The Commission shall be assisted by the Committee established under Article **93 of Regulation (EU) 2016/679**. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011²⁹.

²⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13–18).

Or. en

Justification

Alignment with GDPR.

Amendment 526 **Jan Philipp Albrecht**

Proposal for a regulation **Article 27 – paragraph 1**

Text proposed by the Commission

1. Directive 2002/58/EC *is* repealed with effect from 25 May 2018.

Amendment

1. Directive 2002/58/EC *and Commission Regulation 611/2013 are* repealed with effect from 25 May 2018.

Or. en

Justification

This avoids confusion about the possible existence of two parallel frameworks on data breaches, as the rules set forth under the GDPR will apply, and the legal basis for Commission Regulation 611/2013, Directive 2002/58/EC, will be repealed.

Amendment 527

Anna Maria Corazza Bildt

Proposal for a regulation

Article 27 – paragraph 1

Text proposed by the Commission

1. Directive 2002/58/EC is repealed with effect from **25 May 2018**.

Amendment

1. Directive 2002/58/EC is repealed with effect from **[XXX]**.

Or. en

Amendment 528

Anna Maria Corazza Bildt

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

It shall apply **from 25 May 2018**.

Amendment

It shall apply **18 months following entry into force**.

Or. en

Amendment 529

Sabine Verheyen

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

It shall apply from 25 May **2018**.

Amendment

It shall apply from 25 May **2019**.

Or. de

Amendment 530
Inese Vaidere

Proposal for a regulation
Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

It shall apply *from 25 May 2018*.

Amendment

It shall apply

Or. en