

IMCO report

Amendment 9	
Proposal for a directive – amending act <i>Recital 12 c (new)</i>	
EP Amendment	Amendment
<p><i>(12c) In order to address public interest issues with respect to the use of communications services, and to encourage protection of the rights and freedoms of others, the relevant national authorities should be able to produce and have disseminated, with the aid of providers, information related to the use of communications services. This information should include warnings regarding copyright infringement, other unlawful uses and dissemination of harmful content, and advice and means of protection against risks to personal security, which may for example arise from disclosure of personal information in certain circumstances, privacy and personal data. The information could be coordinated by way of the cooperation procedure established in Article 33(2a) of Directive 2002/22/EC. Such public interest information should be produced either as a preventative measure or in response to particular problems, should be updated whenever necessary and should be presented in easily comprehensible printed and electronic formats, as determined by each Member State, and on national public authority websites. National regulatory authorities should be able to oblige providers to disseminate this information to their customers in a manner deemed appropriate by the national regulatory authorities.</i></p> <p><i>Significant additional costs incurred by service providers for dissemination of such information, for example if the provider is obliged to send the information by post and thereby incurs additional postage costs, should be agreed between the providers and the relevant authorities and met by those authorities. The information should also be included in contracts.</i></p>	<p><i>(12c) In order to address public interest issues, <u>rights and freedoms</u> with respect to the use of communications services, the relevant national authorities should be able to produce and <u>disseminate</u>, with the aid of providers, information related to the use of communications services. This information should include warnings regarding unlawful uses and dissemination of harmful content, and advice and means of protection against risks to personal security, which may for example arise from disclosure of personal information in certain circumstances, privacy and personal data. The information could be coordinated by way of the cooperation procedure established in Article 33(2a) of Directive 2002/22/EC. Such public interest information should be <u>updated whenever necessary</u> and should be presented in easily comprehensible printed and electronic formats, as determined by each Member State, and on national public authority websites. National regulatory authorities should be able to oblige providers to disseminate this information to their customers in a manner deemed appropriate by the national regulatory authorities.</i></p> <p><i>Significant additional costs incurred by service providers for dissemination of such information, for example if the provider is obliged to send the information by post and thereby incurs additional postage costs, should be agreed between the providers and the relevant authorities and met by those authorities. The information should also be included in contracts.</i></p>

Justification

The explicit reference to copyright infringement creates a double standard among the prevention of unlawful uses. There are many other cases of unlawful uses that create significant harm to legitimate rights, security and privacy. Reference to “point 2a” of Article 33 of Directive 2002/22/EC is not necessary, as this point was supposed to be created by Amendment 112 of the IMCO report (see page 76/230), which should be rejected for the very same reasons.

The mention of information being produced « in response to particular problems » has generated fears that it could send the ground for sending information to Internet users on the basis of observation of their behaviour, as exposed in the opinion from EDPS (the European Data Protection Supervisor). The mention of information needing to be updated regularly is sufficient to imply that newly arising problems should be taken in account.

Amendment 11 (first amendment)

Proposal for a directive – amending act

Recital 14

Text proposed by the Commission	EP Amendment	Amendment
<p>(14) A competitive market should ensure that end-users are able to access and distribute any lawful content and to use any lawful applications and/or services of their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of any restrictions and/or limitations imposed on the use of electronic communications services by the service and/or network provider. <i>Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them in Directive 2002/19/EC to ensure that users' access to particular types of content or applications is not unreasonably restricted.</i></p>	<p>(14) End-users should decide what lawful content they want to be able to send and receive, and which services, applications, hardware and software they want to use for such purposes, without prejudice to the need to preserve the integrity and security of networks and services. A competitive market with transparent offerings as provided for in Directive 2002/22/EC should ensure that end-users are able to access and distribute any lawful content and to use any lawful applications and/or services of their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of any restrictions and/or limitations imposed on the use of electronic communications services by the service and/or network provider. Such information should, at the option of the provider, specify either the type of content, application or service concerned, or individual applications or services, or both. Depending on the technology used and the type of restriction and/or limitation, such restrictions and/or limitations may require user consent under Directive 2002/58/EC (Privacy Directive).</p>	<p>(14) A competitive market should ensure that end-users are able to access and distribute any content and to use any applications and/or services of their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of any restrictions and/or limitations imposed on the use of electronic communications services by the service and/or network provider. Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them in Directive 2002/19/EC to ensure that users' access to particular types of content or applications is not unreasonably restricted.</p>

In addition to voting against Amendment 11, two amendments are proposed to the original Commission text: one to remove the words “lawful”, and the other to prevent Net neutrality.

Justification

There exist no means by which operators can, at the network level, ascertain the “lawfulness” of some content or application. Consequently, operators must unconditionally ensure proper quality of service to users, leaving the handling of user misconducts to relevant laws and jurisdictions.

Amendment 11 (second amendment)

Proposal for a directive – amending act

Recital 14

Text proposed by the Commission	EP Amendment	Amendment
<p>(14) A competitive market should ensure that end-users are able to access and distribute any lawful content and to use any lawful applications and/or services of their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of any restrictions and/or limitations imposed on the use of electronic communications services by the service and/or network provider. <i>Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them in Directive 2002/19/EC to ensure that users' access to particular types of content or applications is not unreasonably restricted.</i></p>	<p>(14) End-users should decide what lawful content they want to be able to send and receive, and which services, applications, hardware and software they want to use for such purposes, without prejudice to the need to preserve the integrity and security of networks and services. A competitive market with transparent offerings as provided for in Directive 2002/22/EC should ensure that end-users are able to access and distribute any lawful content and to use any lawful applications and/or services of their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of any restrictions and/or limitations imposed on the use of electronic communications services by the service and/or network provider. Such information should, at the option of the provider, specify either the type of content, application or service concerned, or individual applications or services, or both. Depending on the technology used and the type of restriction and/or limitation, such restrictions and/or limitations may require user consent under Directive 2002/58/EC (Privacy Directive).</p>	<p>(14) A competitive market should ensure that end-users are able to access and distribute any content and to use any applications and/or services of their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of any restrictions and/or limitations imposed on the use of electronic communications services by the service and/or network provider. <u>Such restrictions should not discriminate particular types of content or applications.</u> Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them in Directive 2002/19/EC to ensure that users' access to particular types of content or applications is <u>guaranteed as far as technically possible.</u></p>

In addition to voting against Amendment 11, two amendments are proposed to the original Commission text: one to remove the words “lawful”, and the other to change the end of the text.

Justification

Simply informing consumers of restrictions to their choice of content, services or applications is not enough in a market which is not truly competitive, especially as more users connect to the Internet through mobile broadband. While there can be legitimate restrictions to user access, for instance on traffic bandwidth according to different pricing schemes, these restrictions cannot extend to the filtering of specific applications or services. Legitimising such distortions of traffic for other reasons than for the purely technical management of the networks in cases of acute congestion would be at the detriment of user choice, competition and innovation.

Amendment 12

Proposal for a directive – amending act

Recital 14 a (new)

EP Amendment	Amendment
<p><i>(14a) A competitive market should also ensure that users are able to have the quality of service they require, but in particular cases it may be necessary to ensure that public communications networks attain minimum quality levels so as to prevent degradation of service, usage restrictions and/or limitations and the slowing of traffic. Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them under the Directives establishing the regulatory framework for electronic communications networks and services to ensure that users' access to particular types of content or applications is not unreasonably restricted. It should also be possible for national regulatory authorities to issue guidelines setting minimum quality of service requirements under Directive 2002/22/EC and to take other measures where such other remedies have, in their judgement, not been effective with regard to the interests of users and all other relevant circumstances. Such guidelines or measures could include the provision of a basic tier of unrestricted services.</i></p>	<p><i>(14a) A competitive market should also ensure that users are able to have the quality of service they require, but in particular cases it may be necessary to ensure that public communications networks attain minimum quality levels so as to prevent degradation of service, usage restrictions and/or limitations and the slowing of traffic. Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them under the Directives establishing the regulatory framework for electronic communications networks and services to ensure that users' access to <u>any</u> type of content or applications is <u>guaranteed as far as technically possible</u>. It should also be possible for national regulatory authorities to issue guidelines setting minimum quality of service requirements under Directive 2002/22/EC and to take other measures where such other remedies have, in their judgement, not been effective with regard to the interests of users and all other relevant circumstances. Such guidelines or measures could include the provision of a basic tier of unrestricted services.</i></p>

Justification

Restrictions to customers' choice of content, services or applications are not acceptable as they create a bias in the market, especially as more users connect to the Internet through mobile broadband. While there can be legitimate restrictions to user access, for instance on traffic bandwidth according to different pricing schemes, these restrictions cannot extend to the filtering of specific applications or services. Legitimising such distortions of traffic for other reasons than for the purely technical management of the networks in cases of acute congestion would be at the detriment of user choice, competition and innovation.

Amendment 62

Proposal for a directive – amending act
Recital 14 a (new)

Text proposed by the Commission	EP Amendment
<p><i>(b) services provided, the service quality</i> levels offered, as well as the time for the initial connection;</p>	<p><i>(b) services provided, including in particular:</i></p> <ul style="list-style-type: none"> - where access to emergency services and caller location information is to be provided under Article 26, the level of reliability of such access, where relevant, and whether access is provided in the whole of the national territory, - information on any restrictions imposed by the provider regarding a subscriber's ability to access, use or distribute lawful content or run lawful applications and services; - the service quality levels, with reference to any parameters specified under Article 22(2) as appropriate, - types of maintenance and customer support services offered, as well as how to contact customer support, - the time for the initial connection, and - any restrictions on the use of terminal equipment imposed by the provider;

There should be a split vote on the amendment so as to remove these words.

Justification

There exist no means by which operators can, at the network level, ascertain the “lawfulness” of some content or application. Consequently, operators must unconditionally ensure proper quality of service to users, leaving the handling of user misconducts to relevant laws and jurisdictions.

Also, restrictions to customers' choice of content, services or applications are not acceptable as they create a bias in the market, especially as more users connect to the Internet through mobile broadband. While there can be legitimate restrictions to user access, for instance on traffic bandwidth according to different pricing schemes, these restrictions cannot extend to the filtering of specific applications or services. Legitimising such distortions of traffic for other reasons than for the purely technical management of the networks in cases of acute congestion would be at the detriment of user choice, competition and innovation.

Amendment 75

Proposal for a directive – amending act

Article 1 – point 12

Directive 2002/22/EC

Article 21 – paragraph 4

Text proposed by the Commission	EP Amendment
4. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing electronic communications services to provide applicable tariff information to customers at the time and point of purchase to ensure that customers are fully informed of pricing conditions.	[...] (e) inform subscribers of any change to any restrictions imposed by the undertaking on their ability to access, use or distribute lawful content or run lawful applications and services of their choice; [...]

There should be a split vote on the amendment so as to remove item c).

Justification

There exist no means by which operators can, at the network level, ascertain the “lawfulness” of some content or application. Consequently, operators must unconditionally ensure proper quality of service to users, leaving the handling of user misconducts to relevant laws and jurisdictions.

Also, restrictions to customers' choice of content, services or applications are not acceptable as they create a bias in the market, especially as more users connect to the Internet through mobile broadband. While there can be legitimate restrictions to user access, for instance on traffic bandwidth according to different pricing schemes, these restrictions cannot extend to the filtering of specific applications or services. Legitimising such distortions of traffic for other reasons than for the purely technical management of the networks in cases of acute congestion would be at the detriment of user choice, competition and innovation.

Amendment	
Proposal for a directive – amending act Article 8 – point e Directive 2002/22/EC Article 8 – paragraph 4, point g	
Text proposed by the Commission	Amendment
(g) applying the principle that end-users should be able to access and distribute any lawful content and use any lawful applications and/or services of their choice.	(g) applying the principle that end-users should be able to access and distribute any lawful content and use any lawful applications and/or services of their choice.

There should be a split vote on the amendment so as to remove these words.

Justification

There exist no means by which operators can, at the network level, ascertain the “lawfulness” of some content or application. Consequently, operators must unconditionally ensure proper quality of service to users, leaving the handling of user misconducts to relevant laws and jurisdictions.

Amendment	
Proposal for a directive – amending act Article 8 – point e Directive 2002/22/EC Article 8 – paragraph 4, point g a (new)	
Text proposed by the Commission	Amendment
	<u><i>(g a) applying the principle that restriction to end-users' rights to access and distribute any content, applications and/or services of their choice can only be dictated by force majeure, by the requirements of preserving network integrity and security, or subject to national provisions of criminal law imposed for reasons of public policy, public security or public morality.</i></u>

Justification

Network access should be as less restricted as possible, but there are legitimate reasons for such restrictions, which must be mentioned. In particular, it is important to stress that electronic networks cannot be lawless areas.

Amendment 76

Proposal for a directive – amending act

Article 1 – point 12

Directive 2002/22/EC

Article 21 – paragraph 4 a (new)

Text proposed by the Commission	EP Amendment
	<p><i>4a. Member States shall ensure that national regulatory authorities oblige the undertakings referred to in paragraph 4 to distribute public interest information to existing and new subscribers where appropriate. Such information shall be produced by the relevant public authorities in a standardised format and shall inter alia cover the following topics:</i></p> <p><i>(a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related right, and their consequences; and</i></p> <p><i>(b) means of protection against risks to personal security, privacy and personal data in using electronic communications services.</i></p> <p><i>Significant additional costs incurred by an undertaking in complying with these obligations shall be reimbursed by the relevant public authorities.</i></p>

There should be a split vote on the amendment so as to remove item a).

Justification

Item a) of the above amendment is inappropriate in an Information Society Directive, as it relates to both copyright and criminal matters which have to be handled elsewhere by Member States and European institutions. Moreover, it is likely to be used in a way to bias the cultural market in favor of dominant players and at the detriment of self-produced small groups seeking publicity over the Internet by means of tools such as peer-to-peer systems, which are most often depicted as tools used solely in the purpose of copyright infringement.

Amendment 81 (first amendment)

Proposal for a directive – amending act
 Article 1 – point 13 – point b
 Directive 2002/22/EC
 Article 22 – paragraph 3

Text proposed by the Commission	EP Amendment
<p>3. In order to prevent degradation of service and slowing of traffic over networks, <i>the Commission may, having consulted the Authority, adopt technical implementing measures concerning minimum quality of service requirements to be set by the national regulatory authority on undertakings providing public communications networks.</i></p> <p><i>These measures designed to amend nonessential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(3).</i></p>	<p>3. A national regulatory authority may issue guidelines setting minimum quality of service requirements, and, if appropriate, take other measures, in order to prevent degradation of service and slowing of traffic over networks, and to ensure that the ability of users to access or distribute lawful content or to run lawful applications and services of their choice is not unreasonably restricted. Those guidelines or measures shall take due account of any standards issued under Article 17 of Directive 2002/21/EC (Framework Directive).</p> <p><i>The Commission may, having examined such guidelines or measures and consulted [xxx], adopt technical implementing measures in that regard if it considers that the guidelines or measures may create a barrier to the internal market. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2).</i></p>

Two amendments are proposed to Amendment 81: one to remove the words “lawful”, and the other to preserve Net neutrality.

Justification

There exist no means by which operators can, at the network level, ascertain the “lawfulness” of some content or application. Consequently, operators must unconditionally ensure proper quality of service to users, leaving the handling of user misconducts to relevant laws and jurisdictions.

Amendment 81 (second amendment)

Proposal for a directive – amending act

Article 1 – point 13 – point b

Directive 2002/22/EC

Article 22 – paragraph 3

Text proposed by the Commission	EP Amendment	Amendment
<p>3. In order to prevent degradation of service and slowing of traffic over networks, <i>the Commission may, having consulted the Authority, adopt technical implementing measures concerning minimum quality of service requirements to be set by the national regulatory authority on undertakings providing public communications networks.</i></p> <p><i>These measures designed to amend nonessential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(3).</i></p>	<p><i>3. A national regulatory authority may issue guidelines setting minimum quality of service requirements, and, if appropriate, take other measures, in order to prevent degradation of service and slowing of traffic over networks, and to ensure that the ability of users to access or distribute lawful content or to run lawful applications and services of their choice is not unreasonably restricted. Those guidelines or measures shall take due account of any standards issued under Article 17 of Directive 2002/21/EC (Framework Directive). The Commission may, having examined such guidelines or measures and consulted [xxx], adopt technical implementing measures in that regard if it considers that the guidelines or measures may create a barrier to the internal market. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2).</i></p>	<p><i>3. A national regulatory authority may issue guidelines setting minimum quality of service requirements, and, if appropriate, take other measures, in order to prevent degradation of service and slowing of traffic over networks, and to ensure that the ability of users to access or distribute lawful content or to run lawful applications and services of their choice is <u>guaranteed as far as technically possible</u>. Those guidelines or measures shall take due account of any standards issued under Article 17 of Directive 2002/21/EC (Framework Directive). The Commission may, having examined such guidelines or measures and consulted [xxx], adopt technical implementing measures in that regard if it considers that the guidelines or measures may create a barrier to the internal market. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2).</i></p>

Two amendments are proposed to Amendment 81: one to remove the words “lawful”, and the other to preserve Net neutrality.

Justification

Restrictions to customers' choice of content, services or applications are not acceptable as they create a bias in the market, especially as more users connect to the Internet through mobile broadband. While there can be legitimate restrictions to user access, for instance on traffic bandwidth according to different pricing schemes, these restrictions cannot extend to the filtering of specific applications or services. Legitimising such distortions of traffic for other reasons than for the purely technical management of the networks in cases of acute congestion would be at the detriment of user choice, competition and innovation.

Amendment 122

Proposal for a directive – amending act

Article 2 – point 3 – point a a (new)

Directive 2002/58/EC

Article 4 – paragraphs 1 a and 1 b (new)

EP Amendment

Amendment

(aa) the following paragraphs shall be inserted:

"1a. Without prejudice to the provisions of Directive 95/46/EC and Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks¹, these measures shall include:

– appropriate technical and organisational measures to ensure that personal data can be accessed only by authorised personnel for legally authorised purposes and to protect personal data stored or transmitted against accidental or unlawful destruction, accidental loss or alteration and unauthorised or unlawful storage, processing, access or disclosure;

~~*– appropriate technical and organisational measures to protect the network and services against accidental, unlawful or unauthorised usage or interference with or hindering of their functioning or availability;*~~

- a security policy with respect to the processing of personal data;

– a process for identifying and assessing reasonably foreseeable vulnerabilities in the systems maintained by the provider of electronic communications services, which shall include regular monitoring for security breaches; and

(aa) the following paragraphs shall be inserted:

"1a. Without prejudice to the provisions of Directive 95/46/EC and Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks¹, these measures shall include:

– appropriate technical and organisational measures to ensure that personal data can be accessed only by authorised personnel for legally authorised purposes and to protect personal data stored or transmitted against accidental or unlawful destruction, accidental loss or alteration and unauthorised or unlawful storage, processing, access or disclosure;

~~*– appropriate technical and organisational measures to preserve the integrity, confidentiality and availability of networks and services;*~~

- a security policy with respect to the processing of personal data;

– a process for identifying and assessing reasonably foreseeable vulnerabilities in the systems maintained by the provider of electronic communications services, which shall include regular monitoring for security breaches; and

<p><i>– a process for taking preventive, corrective and mitigating action against any vulnerabilities discovered in the process described under the fourth indent and a process for taking preventive, corrective and mitigating action against security incidents that can lead to a security breach.</i></p> <p><i>Ib. National regulatory authorities shall be able to audit the measures taken by providers of publicly available electronic communication services and information society services and to issue recommendations about best practices and performance indicators concerning the level of security which these measures should achieve.</i></p>	<p><i>– a process for taking preventive, corrective and mitigating action against any vulnerabilities discovered in the process described under the fourth indent and a process for taking preventive, corrective and mitigating action against security incidents that can lead to a security breach.</i></p> <p><i>Ib. National regulatory authorities shall be able to audit the measures taken by providers of publicly available electronic communication services and information society services and to issue recommendations about best practices and performance indicators concerning the level of security which these measures should achieve.</i></p>
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Justification

The removed paragraph could lead to misunderstandings regarding the meaning of the “unlawful usage” of networks. Since this amendment belongs to the e-privacy directive, its provisions must clearly refer to network security issues and not to content monitoring or filtering.

Rather than striving to enumerate all possible harms, it is more efficient to use positive wording to define the values and properties to preserve.

Amendment 134

Proposal for a directive – amending act

Article 2 – point 5 a (new)

Directive 2002/58/EC

Article 14 – paragraph 1

Text proposed by the Commission	Amendment
	<p>(5a) Article 14(1) shall be replaced by the following:</p> <p>"1. In implementing the provisions of this Directive, Member States shall ensure, subject to paragraphs 2 and 3, that no mandatory requirements for specific technical features, including, without limitation, for the purpose of detecting, intercepting or preventing infringements of intellectual property rights by users, are imposed on terminal or other electronic communication equipment which could impede the placing of equipment on the market and the free circulation of such equipment in and between Member States."</p>

Ask for a split vote to remove the above part.

Justification

There exist no means by which a device or software located on a terminal equipment can ascertain that any user action, content or application constitutes an “infringement of intellectual property rights”. Consequently, mentions to such devices are irrelevant in this article, which deals with the conditions for the enabling a free market for terminal equipments themselves.

Amendment 148

Proposal for a directive– amending act
Annex I – Part B – point b b (new)
Directive 2002/22/EC
Annex I – Part B – point b b (new)

Text proposed by the Commission	EP Amendment	Amendment
	<p>(bb) Protection software Member States shall ensure that national regulatory authorities are able to require operators to make available free of charge to their subscribers reliable and easy-to-use protection and/or filtering software to control access by children or vulnerable people to unlawful or dangerous content.</p>	<p>(bb) Protection software <u>Member States shall ensure that national regulatory authorities are able to require operators to make available free of charge to their subscribers reliable, easy-to-use, and freely and fully configurable protection and/or filtering software to prevent access by children or vulnerable people to content unsuitable to them.</u> <u>Traffic monitoring data that this software may collect is for the sole use of the subscriber only.</u></p>

Justification

There exist no means by which a device or software located on a terminal equipment can ascertain that some content is “unlawful” or “dangerous”.

In order for citizens to exercise their freedom of choice, and to prevent any anti-competitive bias, filtering actions performed by such optional protection and/or filtering software should be under the full control of the subscribers themselves, according to the needs and wishes of their vulnerable family members.

This software can by no means be used as a traffic monitoring or filtering tool by the provider or third parties.

IRE report

Amendment 61		
Proposal for a directive– amending act Annex I – Part B – point b b (new) Directive 2002/22/EC Annex I – Part B – point b b (new)		
Text proposed by the Commission	EP Amendment	Amendment
(g) applying the principle that end-users should be able to access and distribute any lawful content and use any lawful applications and/or services of their choice.	(g) applying the principle that end-users should be able to access and distribute any lawful content and use any lawful applications and/or services of their choice and for this purpose contributing to the promotion of lawful content in accordance with Article 33 of Directive 2002/22/EC (Universal Service Directive).	(g) applying the principle that end-users should be able to access and distribute any lawful content and use any lawful applications and/or services of their choice.

Justification

There exist no means by which operators can, at the network level, ascertain the “lawfulness” of some content or application. Consequently, operators must unconditionally ensure proper quality of service to users, leaving the handling of user misconducts to relevant laws and jurisdictions.

The added mention about the “promotion of lawful content” is likely to be used in a way to bias the cultural market in favor of dominant players and at the detriment of self-produced small groups seeking publicity over the Internet my means of tools such as peer-to-peer systems, which are most often depicted as tools used solely in the purpose of copyright infringement.

Partial voting list

Vote FOR:

IMCO: 70, 71

IRE: 120

Vote AGAINST:

IMCO: 11 (amendments to the original Commission text to be tabled), 67 (out-of-scope advertising), 112 (out-of-scope advertising)

IRE: 61 (amendment to the original Commission text to be tabled)