



2017/0003(COD)

14.7.2017

AMENDMENTS

136 - 331

Draft report
Marju Lauristin
(PE606.011v01-00)

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))

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Amendment 136

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Article 7 of the Charter of Fundamental Rights of the European Union ("the Charter") protects the fundamental right of everyone to the respect for his or her private and family life, home and communications. Respect for the privacy of one's communications is an essential dimension of this right. Confidentiality of electronic communications ensures that information exchanged between parties and the external elements of such communication, including when the information has been sent, from where, to whom, is not to be revealed to anyone other than to the ***parties involved in a communication***. The principle of confidentiality should apply to current and future means of communication, including calls, internet access, instant messaging applications, e-mail, internet phone calls and ***personal*** messaging provided through social media.

Amendment

(1) Article 7 of the Charter of Fundamental Rights of the European Union ("the Charter") protects the fundamental right of everyone to the respect for his or her private and family life, home and communications. Respect for the privacy of one's communications is an essential dimension of this right. Confidentiality of electronic communications ensures that information exchanged between parties and the external elements of such communication, including ***information regarding*** when the information has been sent, from where, to whom, is not to be revealed to anyone other than to the ***communicating parties***. The principle of confidentiality should apply to current and future means of communication, including calls, internet access, instant messaging applications, e-mail, internet phone calls and ***inter-personal*** messaging provided through social media. ***It should also apply when the confidentiality of electronic communications and the privacy of the physical environment converge, i.e. where terminal devices for electronic communication can also listen into their physical environment or use other input channels such as Bluetooth signalling or movement sensors.***

Or. en

Amendment 137

Cornelia Ernst

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Article 7 of the Charter of Fundamental Rights of the European Union ("the Charter") protects the fundamental right of everyone to the respect for his or her private and family life, home and communications. Respect for the privacy of one's communications is an essential dimension of this right. Confidentiality of electronic communications ensures that information exchanged between parties and the external elements of such communication, including when the information has been sent, from where, to whom, is not to be revealed to anyone other than to the ***parties involved in a communication***. The principle of confidentiality should apply to current and future means of communication, including calls, internet access, instant messaging applications, e-mail, internet phone calls and ***personal*** messaging provided through social media.

Amendment

(1) Article 7 of the Charter of Fundamental Rights of the European Union ("the Charter") protects the fundamental right of everyone to the respect for his or her private and family life, home and communications. Respect for the privacy of one's communications is an essential dimension of this right. Confidentiality of electronic communications ensures that information exchanged between parties and the external elements of such communication, including ***information regarding*** when the information has been sent, from where, to whom, is not to be revealed to anyone other than to the ***communicating parties***. The principle of confidentiality should apply to current and future means of communication, including calls, internet access, instant messaging applications, e-mail, internet phone calls and messaging provided through social media.

Or. en

Amendment 138

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) ***The content of*** electronic communications may reveal highly sensitive information about the natural persons involved in the communication, from personal experiences and emotions to medical conditions, sexual preferences and political views, the disclosure of which could result in personal and social harm, economic loss or embarrassment. Similarly, metadata derived from electronic communications may also reveal very sensitive and personal information. These metadata includes the numbers called, the websites visited, geographical location, the

Amendment

(2) Electronic communications ***data*** may reveal highly sensitive information about the natural persons involved in the communication, from personal experiences and emotions to medical conditions, sexual preferences and political views, the disclosure of which could result in personal and social harm, economic loss or embarrassment. ***For the content of communications, the Court of Justice has clarified that access on a generalised basis by parties other than the communication partners and the communications service provider must be***

time, date and duration when an individual made a call etc., allowing precise conclusions to be drawn regarding the private lives of the persons involved in the electronic communication, such as their social relationships, their habits and activities of everyday life, their interests, tastes etc.

regarded as compromising the essence of the fundamental right to respect for private life, which is never acceptable.

Similarly, metadata derived from electronic communications may also reveal very sensitive and personal information. These metadata includes the numbers called, the websites visited, geographical location, the time, date and duration when an individual made a call etc., allowing precise conclusions to be drawn regarding the private lives of the persons involved in the electronic communication, such as their social relationships, their habits and activities of everyday life, their interests, tastes etc. ***Metadata can also be processed and analysed much easier than content, as it is already brought into a structured and standardised format. The protection of confidentiality of communications is an essential condition for the respect of other connected fundamental rights and freedoms, such as the protection of freedom of thought, conscience and religion, freedom of assembly, freedom of expression and information.***

Or. en

Amendment 139

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The content of electronic communications may reveal highly sensitive information about the natural persons involved in the communication, ***from personal experiences and emotions to medical conditions, sexual preferences and political views, the disclosure of which could result in personal and social harm, economic loss or embarrassment.*** Similarly, metadata derived from electronic communications may also reveal very sensitive and personal information. These

Amendment

(2) The content of electronic communications may reveal highly sensitive information about the natural persons involved in the communication. Similarly, metadata derived from electronic communications may also reveal very sensitive and personal information. These metadata includes the numbers called, the websites visited, geographical location, the time, date and duration when an individual made a call etc., allowing conclusions to be drawn regarding the private lives of the

metadata includes the numbers called, the websites visited, geographical location, the time, date and duration when an individual made a call etc., allowing *precise* conclusions to be drawn regarding the private lives of the persons involved in the electronic communication, *such as their social relationships, their habits and activities of everyday life, their interests, tastes etc.*

persons involved in the electronic communication.

Or. en

Amendment 140 **Maria Grapini**

Proposal for a regulation **Recital 2**

Text proposed by the Commission

(2) Conținutul comunicațiilor electronice poate dezvălui informații extrem de sensibile despre persoanele fizice implicate în comunicare, de la experiențe și emoții personale, la starea de sănătate, preferințe sexuale și opinii politice, a căror divulgare ar putea conduce la prejudicii personale și sociale, pierderi economice sau situații neplăcute. În mod similar, metadatele provenite din comunicațiile electronice pot, de asemenea, dezvălui informații extrem de sensibile și cu caracter personal. Aceste metadate includ numerele apelate, site-urile web vizitate, localizarea geografică, ora, data și durata unui apel telefonic efectuat de o persoană etc., ceea ce ar permite să se tragă concluzii precise cu privire la viața privată a persoanelor implicate în comunicațiile electronice, cum ar fi, de exemplu, cele referitoare la relațiile sociale, obiceiurile și activitățile acestora din viața de zi cu zi, interesele și preferințele lor, etc.

Amendment

(2) Conținutul comunicațiilor electronice poate dezvălui informații extrem de sensibile despre persoanele fizice implicate în comunicare, de la experiențe și emoții personale, la starea de sănătate, preferințe sexuale, opinii politice și ***orientări religioase*** a căror divulgare ar putea conduce la prejudicii personale și sociale, pierderi economice sau situații neplăcute. În mod similar, metadatele provenite din comunicațiile electronice ***au un înalt grad de confidențialitate și*** pot, de asemenea, dezvălui informații extrem de sensibile și cu caracter personal. Aceste metadate includ numerele apelate, site-urile web vizitate, localizarea geografică, ora, data și durata unui apel telefonic efectuat de o persoană etc., ceea ce ar permite să se tragă concluzii precise cu privire la viața privată a persoanelor implicate în comunicațiile electronice, cum ar fi, de exemplu, cele referitoare la relațiile sociale, obiceiurile și activitățile acestora din viața de zi cu zi, interesele și preferințele lor, etc. ***Protecția confidențialității comunicațiilor este prioritară și importantă și de aceea ar trebui să fie stabilite reguli precise pentru***

a consolida încrederea și securitatea în piața unică digitală.

Or. ro

Amendment 141
Daniel Dalton, John Procter

Proposal for a regulation
Recital 3

Text proposed by the Commission

Amendment

(3) *Electronic communications data may also reveal information concerning legal entities, such as business secrets or other sensitive information that has economic value. Therefore, the provisions of this Regulation should apply to both natural and legal persons. Furthermore, this Regulation should ensure that provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council²¹, also apply to end-users who are legal persons. This includes the definition of consent under Regulation (EU) 2016/679. When reference is made to consent by an end-user, including legal persons, this definition should apply. In addition, legal persons should have the same rights as end-users that are natural persons regarding the supervisory authorities; furthermore, supervisory authorities under this Regulation should also be responsible for monitoring the application of this Regulation regarding legal persons.*

deleted

²¹ *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).*

Amendment 142
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 3

Text proposed by the Commission

Amendment

(3) *Electronic communications data may also reveal information concerning legal entities, such as business secrets or other sensitive information that has economic value. Therefore, the provisions of this Regulation should apply to both natural and legal persons. Furthermore, this Regulation should ensure that provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council²¹, also apply to end-users who are legal persons. This includes the definition of consent under Regulation (EU) 2016/679. When reference is made to consent by an end-user, including legal persons, this definition should apply. In addition, legal persons should have the same rights as end-users that are natural persons regarding the supervisory authorities; furthermore, supervisory authorities under this Regulation should also be responsible for monitoring the application of this Regulation regarding legal persons.*

deleted

²¹ ***Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).***

Amendment 143
Heinz K. Becker

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Elektronische Kommunikationsdaten können zudem Informationen über juristische Personen wie Geschäftsgeheimnisse oder andere sensible Informationen offenlegen, die einen wirtschaftlichen Wert haben. ***Deshalb sollten*** die Bestimmungen dieser Verordnung ***sowohl für natürliche als auch für juristische Personen gelten.*** ***Außerdem sollte diese Verordnung sicherstellen, dass die Verordnung (EU) 2016/679 des Europäischen Parlaments und des Rates²¹ auch für Endnutzer gilt, die juristische Personen sind. Dies bezieht sich auch auf die Begriffsbestimmung für „Einwilligung“ in der Verordnung (EU) 2016/679. Bei Bezugnahmen auf die Einwilligung von Endnutzern, einschließlich juristischer Personen, sollte diese Begriffsbestimmung gelten.*** ***Außerdem sollten*** juristische Personen ***gegenüber den Aufsichtsbehörden dieselben Rechte haben wie Endnutzer, die natürliche Personen sind; die nach dieser Verordnung zuständigen Aufsichtsbehörden sollten zudem auch für die Überwachung der Anwendung dieser Verordnung im Hinblick auf juristische Personen zuständig sein.***

²¹ Verordnung (EU) 2016/679 des Europäischen Parlaments und des Rates vom 27. April 2016 zum Schutz natürlicher Personen bei der Verarbeitung personenbezogener Daten, zum freien Datenverkehr und zur Aufhebung der Richtlinie 95/46/EG (Datenschutz-Grundverordnung) (ABl. L 119 vom 4.5.2016, S. 1).

Amendment

(3) Elektronische Kommunikationsdaten können zudem Informationen über juristische Personen wie Geschäftsgeheimnisse oder andere sensible Informationen offenlegen, die einen wirtschaftlichen Wert haben. Die Bestimmungen dieser Verordnung ***sollten auf*** juristische Personen ***insofern zur Anwendung kommen, als es notwendig ist um das Kommunikationsgeheimnis zu schützen.***

Amendment 144

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Electronic communications data may also reveal information concerning legal entities, such as business secrets or other sensitive information that has economic value. Therefore, the provisions of this Regulation should apply to both natural and legal persons. Furthermore, this Regulation should ensure that provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council²¹, also apply to **end-users** who are legal persons. This includes the definition of consent under Regulation (EU) 2016/679. When reference is made to consent by **an end-user**, including legal persons, this definition should apply. In addition, legal persons should have the same rights as **end-users** that are natural persons regarding the supervisory authorities; furthermore, supervisory authorities **under this** Regulation should also be responsible for monitoring the application of this Regulation regarding legal persons.

²¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).

Amendment

(3) Electronic communications data may also reveal information concerning legal entities, such as business secrets or other sensitive information that has economic value. Therefore, the provisions of this Regulation should apply to both natural and legal persons. Furthermore, this Regulation should ensure that **certain** provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council²¹, also apply to **subscribers** who are legal persons. This includes **the confidentiality and security of their communications data and** the definition of consent under Regulation (EU) 2016/679. When reference is made to consent by **a subscriber**, including legal persons, this definition should apply. In addition, legal persons should have the same rights as **subscribers** that are natural persons regarding the supervisory authorities; furthermore, supervisory authorities **established on the basis of** Regulation (EU) 2016/679 should also be responsible for monitoring the application of this Regulation regarding legal persons.

²¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).

Amendment 145
Cornelia Ernst

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Electronic communications data may also reveal information concerning legal entities, such as business secrets or other sensitive information that has economic value. Therefore, **the** provisions of this Regulation should apply to both natural and legal persons. Furthermore, this Regulation should ensure that provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council²¹, also apply to end-users who are legal persons. This includes the definition of consent under Regulation (EU) 2016/679. When reference is made to consent by an end-user, including legal persons, this definition should apply. In addition, legal persons should have the same rights as end-users that are natural persons regarding the supervisory authorities; furthermore, supervisory authorities **under this** Regulation should also be responsible for monitoring the application of this Regulation regarding legal persons.

²¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).

Amendment

(3) Electronic communications data may also reveal information concerning legal entities, such as business secrets or other sensitive information that has economic value. Therefore, **certain** provisions of this Regulation should apply to both natural and legal persons. Furthermore, this Regulation should ensure that provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council²¹, also apply to end-users who are legal persons. This includes the **confidentiality and security of their communications data and the** definition of consent under Regulation (EU) 2016/679. When reference is made to consent by an end-user, including legal persons, this definition should apply. In addition, legal persons should have the same rights as end-users that are natural persons regarding the supervisory authorities; furthermore, supervisory authorities **established on the basis of** Regulation (EU) 2016/679 should also be responsible for monitoring the application of this Regulation regarding legal persons.

²¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).

Or. en

Amendment 146
Maria Grapini

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Datele transmise în cadrul comunicațiilor electronice pot, de asemenea, să divulge informații referitoare la persoane juridice, cum ar fi secrete de afaceri sau alte informații sensibile cu valoare economică. Prin urmare, dispozițiile prezentului regulament ar trebui să se aplice atât persoanelor fizice, cât și persoanelor juridice. În plus, prezentul regulament ar trebui să asigure faptul că dispozițiile Regulamentului (UE) 2016/679 al Parlamentului European și al Consiliului²¹ se aplică, de asemenea, utilizatorilor finali care sunt persoane juridice. Aceasta include definiția consimțământului în temeiul Regulamentului (UE) 2016/679. Atunci când se face trimitere la consimțământul utilizatorilor finali, inclusiv al persoanelor juridice, ar trebui să se aplice această definiție. În plus, persoanele juridice ar trebui să aibă aceleași drepturi ca și utilizatorii finali care sunt persoane fizice în ceea ce privește autoritățile de supraveghere, care ar trebui, în temeiul prezentului regulament, să fie responsabile cu monitorizarea aplicării acestuia cu privire la persoanele juridice.

²¹ Regulamentul (UE) 2016/679 al Parlamentului European și al Consiliului din 27 aprilie 2016 privind protecția persoanelor fizice în ceea ce privește prelucrarea datelor cu caracter personal și privind libera circulație a acestor date și de abrogare a Directivei 95/46/CE (Regulamentul general privind protecția datelor), (JO L 119, 4.5.2016, p. 1-88).

Amendment

(3) Datele transmise în cadrul comunicațiilor electronice pot, de asemenea, să divulge informații referitoare la persoane juridice, cum ar fi secrete de afaceri, **secrete comerciale**, sau alte informații sensibile cu valoare economică. Prin urmare, dispozițiile prezentului regulament ar trebui să se aplice atât persoanelor fizice, cât și persoanelor juridice. În plus, prezentul regulament ar trebui să asigure faptul că dispozițiile Regulamentului (UE) 2016/679 al Parlamentului European și al Consiliului²¹ se aplică, de asemenea, utilizatorilor finali care sunt persoane juridice. Aceasta include definiția consimțământului în temeiul Regulamentului (UE) 2016/679. Atunci când se face trimitere la consimțământul utilizatorilor finali, inclusiv al persoanelor juridice, ar trebui să se aplice această definiție. În plus, persoanele juridice ar trebui să aibă aceleași drepturi ca și utilizatorii finali care sunt persoane fizice în ceea ce privește autoritățile de supraveghere, care ar trebui, în temeiul prezentului regulament, să fie responsabile cu monitorizarea aplicării acestuia cu privire la persoanele juridice.

²¹ Regulamentul (UE) 2016/679 al Parlamentului European și al Consiliului din 27 aprilie 2016 privind protecția persoanelor fizice în ceea ce privește prelucrarea datelor cu caracter personal și privind libera circulație a acestor date și de abrogare a Directivei 95/46/CE (Regulamentul general privind protecția datelor), (JO L 119, 4.5.2016, p. 1-88).

Or. ro

Brice Hortefeux, Rachida Dati

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Pursuant to Article 8(1) of the Charter and Article 16(1) of the Treaty on the Functioning of the European Union, everyone has the right to the protection of personal data concerning him or her. Regulation (EU) 2016/679 lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data. Electronic communications data may include personal data as defined in Regulation (EU) 2016/679.

Amendment

(4) Pursuant to Article 8(1) of the Charter and Article 16(1) of the Treaty on the Functioning of the European Union, everyone has the right to the protection of personal data concerning him or her. Regulation (EU) 2016/679 lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data. ***Since*** electronic communications data may include personal data as defined in Regulation (EU) 2016/679, ***the provisions related to the protection of natural persons apply to that extent in regard to the processing of personal data.***

Or. en

Amendment 148

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Pursuant to Article 8(1) of the Charter and Article 16(1) of the Treaty on the Functioning of the European Union, everyone has the right to the protection of personal data concerning him or her. Regulation (EU) 2016/679 lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data. Electronic communications data ***may include*** personal data as defined in Regulation (EU) 2016/679.

Amendment

(4) Pursuant to Article 8(1) of the Charter and Article 16(1) of the Treaty on the Functioning of the European Union, everyone has the right to the protection of personal data concerning him or her. Regulation (EU) 2016/679 lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data. Electronic communications data ***are generally*** personal data as defined in Regulation (EU) 2016/679, ***at least where the users or subscribers are natural persons.***

Amendment 149
Cornelia Ernst

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) Pursuant to Article 8(1) of the Charter and Article 16(1) of the Treaty on the Functioning of the European Union, everyone has the right to the protection of personal data concerning him or her. Regulation (EU) 2016/679 lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data. Electronic communications data **may include** personal data as defined in Regulation (EU) 2016/679.

Amendment

(4) Pursuant to Article 8(1) of the Charter and Article 16(1) of the Treaty on the Functioning of the European Union, everyone has the right to the protection of personal data concerning him or her. Regulation (EU) 2016/679 lays down rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data. Electronic communications data **generally are** personal data as defined in Regulation (EU) 2016/679.

Amendment 150
Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) The provisions of this Regulation particularise and complement the general rules on the protection of personal data laid down in Regulation (EU) 2016/679 as regards electronic communications data that qualify as personal data. This Regulation therefore does not lower the level of protection enjoyed by natural persons under Regulation (EU) 2016/679. **Processing of electronic communications data by providers** of electronic communications **services** should only be

Amendment

(5) The provisions of this Regulation particularise and complement the general rules on the protection of personal data laid down in Regulation (EU) 2016/679 as regards electronic communications data that qualify as personal data. This Regulation therefore does not lower the level of protection enjoyed by natural persons under Regulation (EU) 2016/679. **On the contrary, it aims to provide additional, and complementary, safeguards taking into account the need for additional protection as regards the**

permitted in accordance with this Regulation.

confidentiality of communications.
Processing of electronic communications ***data*** should only be permitted in accordance with, ***and on a legal ground specifically provided under,*** this Regulation.

Or. en

Amendment 151

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) The provisions of this Regulation ***particularise and*** complement the general rules on the protection of personal data laid down in Regulation (EU) 2016/679 as regards electronic communications data that qualify as personal data. This Regulation therefore does not lower the level of protection enjoyed by natural persons under Regulation (EU) 2016/679. Processing of electronic communications data by providers of electronic communications services should only be permitted in accordance with this Regulation.

Amendment

(5) The provisions of this Regulation complement the general rules on the protection of personal data laid down in Regulation (EU) 2016/679 as regards electronic communications data that qualify as personal data ***and do not go beyond or contradict the high level of protection set down in Regulation (EU) 2016/679.*** This Regulation therefore does not lower the level of protection enjoyed by natural persons under Regulation (EU) 2016/679. Processing of electronic communications data by providers of electronic communications services should only be permitted in accordance with this Regulation.

Or. en

Amendment 152

Maria Grapini

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Dispozițiile prezentului regulament detaliază și completează normele generale privind protecția datelor cu caracter

Amendment

(5) Dispozițiile prezentului regulament detaliază și completează normele generale privind protecția datelor cu caracter

personal prevăzute în Regulamentul (UE) 2016/679 referitoare la datele transmise în cadrul comunicațiilor electronice care se încadrează în categoria datelor cu caracter personal. Prin urmare, prezentul regulament nu reduce nivelul de protecție de care beneficiază persoanele fizice în temeiul Regulamentului (UE) 2016/679. Prelucrarea datelor transmise în cadrul comunicațiilor electronice de către furnizorii de servicii de comunicații electronice ar trebui să fie permisă numai în conformitate cu prezentul regulament.

personal prevăzute în Regulamentul (UE) 2016/679 referitoare la datele transmise în cadrul comunicațiilor electronice care se încadrează în categoria datelor cu caracter personal. Prin urmare, prezentul regulament nu reduce nivelul de protecție de care beneficiază persoanele fizice în temeiul Regulamentului (UE) 2016/679. Prelucrarea datelor transmise în cadrul comunicațiilor electronice de către furnizorii de servicii de comunicații electronice ar trebui să fie permisă numai **cu respectarea garanțiilor privind prelucrarea datelor** în conformitate cu prezentul regulament.

Or. ro

Amendment 153
Cornelia Ernst

Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) The provisions of this Regulation particularise and complement the general rules on the protection of personal data laid down in Regulation (EU) 2016/679 as regards electronic communications data that qualify as personal data. This Regulation therefore does not lower the level of protection enjoyed by natural persons under Regulation (EU) 2016/679. Processing of electronic communications data **by providers of electronic communications services** should only be permitted in accordance with this Regulation.

Amendment

(5) The provisions of this Regulation particularise and complement the general rules on the protection of personal data laid down in Regulation (EU) 2016/679 as regards electronic communications data that qualify as personal data. This Regulation therefore does not lower the level of protection enjoyed by natural persons under Regulation (EU) 2016/679. Processing of electronic communications data should only be permitted in accordance with this Regulation.

Or. en

Amendment 154
Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) While the principles and main provisions of Directive 2002/58/EC of the European Parliament and of the Council²² remain generally sound, that Directive has not fully kept pace with the evolution of technological and market reality, resulting in ***an inconsistent or insufficient effective*** protection of privacy and confidentiality in relation to electronic communications. Those developments include the entrance on the market of electronic communications services that from a consumer perspective are substitutable to traditional services, ***but do not have to comply with the same set of rules.*** ***Another development concerns*** new techniques that allow for tracking of online behaviour of end-users, which are ***not*** covered by ***Directive 2002/58/EC.*** ***Directive 2002/58/EC should therefore be repealed and replaced by this Regulation.***

²² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

Amendment

(6) While the principles and main provisions of Directive 2002/58/EC of the European Parliament and of the Council²² remain generally sound, that Directive has not fully kept pace with the evolution of technological and market reality, resulting in ***insufficient clarity and enforcement of the*** protection of privacy and confidentiality in relation to electronic communications. Those developments include the entrance on the market of electronic communications services that from a consumer perspective are substitutable to traditional services, ***or*** new techniques that allow for tracking of online behaviour of end-users, ***both of*** which are covered by ***Regulation (EU) 2016/679.***

²² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

Or. en

Amendment 155

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) While the principles and main provisions of Directive 2002/58/EC of the European Parliament and of the Council²²

Amendment

(6) While the principles and main provisions of Directive 2002/58/EC of the European Parliament and of the Council²²

remain generally sound, that Directive has not fully kept pace with the evolution of technological and market reality, resulting in an inconsistent or insufficient effective protection of privacy and confidentiality in relation to electronic communications. Those developments include the entrance on the market of electronic communications services that from a consumer perspective are substitutable to traditional services, but do not have to comply with the same set of rules. Another development concerns new techniques that allow for tracking of *online behaviour of end-users*, which are not covered by Directive 2002/58/EC. Directive 2002/58/EC should therefore be repealed and replaced by this Regulation.

²² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

remain generally sound, that Directive has not fully kept pace with the evolution of technological and market reality, resulting in an inconsistent or insufficient effective protection of privacy and confidentiality in relation to electronic communications. Those developments include the entrance on the market of electronic communications services that from a consumer perspective are substitutable to traditional services, but do not have to comply with the same set of rules. Another development concerns new techniques that allow for tracking of *users*, which are not covered by Directive 2002/58/EC. Directive 2002/58/EC should therefore be repealed and replaced by this Regulation.

²² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

Or. en

Amendment 156

Cornelia Ernst

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) While the principles and main provisions of Directive 2002/58/EC of the European Parliament and of the Council²² remain generally sound, that Directive has not fully kept pace with the evolution of technological and market reality, resulting in an inconsistent or insufficient effective protection of privacy and confidentiality in relation to electronic communications. Those developments include the entrance

Amendment

(6) While the principles and main provisions of Directive 2002/58/EC of the European Parliament and of the Council²² remain generally sound, that Directive has not fully kept pace with the evolution of technological and market reality, resulting in an inconsistent or insufficient effective protection of privacy and confidentiality in relation to electronic communications. Those developments include the entrance

on the market of electronic communications services that from a consumer perspective are substitutable to traditional services, but do not have to comply with the same set of rules. Another development concerns new techniques that allow for tracking of **online behaviour of end-users**, which are not covered by Directive 2002/58/EC. Directive 2002/58/EC should therefore be repealed and replaced by this Regulation.

²² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

on the market of electronic communications services that from a consumer perspective are substitutable to traditional services, but do not have to comply with the same set of rules. Another development concerns new techniques that allow for tracking of **users**, which are not covered by Directive 2002/58/EC. Directive 2002/58/EC should therefore be repealed and replaced by this Regulation.

²² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p.37).

Or. en

Amendment 157

Cornelia Ernst

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) The Member States should be allowed, within the limits of this Regulation, to maintain or introduce national provisions to further specify and clarify the application of the rules of this Regulation in order to ensure an effective application and interpretation of those rules. Therefore, the margin of discretion, which Member States have in this regard, should maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.

Amendment

deleted

Or. en

Amendment 158
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 7

Text proposed by the Commission

Amendment

(7) The Member States should be allowed, within the limits of this Regulation, to maintain or introduce national provisions to further specify and clarify the application of the rules of this Regulation in order to ensure an effective application and interpretation of those rules. Therefore, the margin of discretion, which Member States have in this regard, should maintain a balance between the protection of private life and personal data and the free movement of electronic communications data. **deleted**

Or. en

Justification

This recital must have slipped through the quality control of the Commission. It would undermine the approach of harmonisation of the Digital Single Market by means of a Regulation.

Amendment 159
Emilian Pavel

Proposal for a regulation
Recital 7

Text proposed by the Commission

Amendment

(7) The Member States should be allowed, within the limits of this Regulation, to maintain or introduce national provisions to further specify and clarify the application of the rules of this Regulation in order to ensure an effective application and interpretation of those rules. Therefore, the margin of discretion, which Member States have in this regard, should maintain a balance between the protection of private life and personal **deleted**

data and the free movement of electronic communications data.

Or. en

Amendment 160
Sophia in 't Veld

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) The *Member States* should *be allowed*, within the limits of this Regulation, to maintain or introduce national provisions to further specify and clarify the application of the rules of this Regulation in order to ensure an effective application and interpretation of those rules. *Therefore, the margin of discretion, which Member States have in this regard, should* maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.

Amendment

(7) The *European Data Protection Board* should, *where necessary, issue guidance and opinions* within the limits of this Regulation, to maintain or introduce national provisions to further specify and clarify the application of the rules of this Regulation in order to ensure an effective application and interpretation of those rules. *Cooperation and consistency between Member States, in particular between national Data Protection Authorities, is essential to* maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.

Or. en

Amendment 161
Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Viviane Reding, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) The *Member States* should *be allowed*, within the limits of this Regulation, to *maintain or introduce national provisions to* further *specify and* clarify the application of the rules of this Regulation in order to ensure an effective

Amendment

(7) The *European Data Protection Board* should, *where necessary, issue guidance and opinions* within the limits of this Regulation, to further clarify the application of the rules of this Regulation in order to ensure an effective application

application and interpretation of those rules. ***Therefore, the margin of discretion, which Member States have in this regard,*** should maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.

and interpretation of those rules. ***These guidance and opinions should take into account the dual objective of this Regulation, therefore they*** should maintain a balance between the protection of private life and personal data and the free movement of electronic communications data.

Or. en

Amendment 162
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) This Regulation should apply to providers of electronic communications services, to providers of publicly available directories, and to software providers permitting electronic communications, including the retrieval and presentation of information on the internet. This Regulation should also apply to natural and legal persons who use electronic communications services to send direct marketing commercial communications or collect information related to or stored in ***end-users'*** terminal equipment.

Amendment

(8) This Regulation should apply to providers of electronic communications services, to providers of publicly available directories, and to ***hardware and*** software providers permitting electronic communications, including the retrieval and presentation of information on the internet. This Regulation should also apply to natural and legal persons who use electronic communications services to send direct marketing commercial communications or collect information related to, ***processed by*** or stored in ***subscribers'*** terminal equipment.

Or. en

Amendment 163
Cornelia Ernst

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) This Regulation should apply to providers of electronic communications services, to providers of publicly available

Amendment

(8) This Regulation should apply to providers of electronic communications services, to providers of publicly available

directories, and to *software* providers permitting electronic communications, including the retrieval and presentation of information on the internet. This Regulation should also apply to natural and legal persons who use electronic communications services to send direct marketing commercial communications or *collect* information related to or stored in end-users' terminal equipment.

directories, and to providers *of equipment* permitting electronic communications, including the retrieval and presentation of information on the internet. This Regulation should also apply to natural and legal persons who use electronic communications services to send direct marketing commercial communications or *process* information related to or stored in end-users' terminal equipment.

Or. en

Amendment 164
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) This Regulation should apply to providers of electronic communications services, to providers of publicly available directories, and to software providers permitting electronic communications, including the retrieval and presentation of information on the internet. This Regulation should also apply to natural *and legal* persons who use electronic communications services to send direct marketing commercial communications or collect information related to or stored in *end-users'* terminal equipment.

Amendment

(8) This Regulation should apply to providers of electronic communications services, to providers of publicly available directories, and to software providers permitting electronic communications, including the retrieval and presentation of information on the internet. This Regulation should also apply to natural persons who use electronic communications services to send direct marketing commercial communications or collect information related to or stored in *consumers'* terminal equipment.

Or. en

Amendment 165
Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8 a) This Regulation permits the processing of electronic communications

data and of information conveyed to, stored in, retrieved from or otherwise processed in relation to terminal equipment to the extent strictly necessary and proportionate for the purposes of ensuring network and information security, i.e. the ability of networks or information systems to resist, at a given level of confidence, accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or transmitted electronic communications data, and the security of the related services offered by, or accessible via, those networks and systems. Such processing is permitted to providers of electronic communications networks and services, to users, as well as to relevant third parties such as public authorities, computer emergency response teams (CERTs), computer security incident response teams (CSIRTs) and providers of security technologies and services.

Or. en

Amendment 166
Cornelia Ernst

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) This Regulation should apply to electronic communications data processed in connection with the provision and use of electronic communications services in the Union, regardless of whether or not the processing takes place in the Union. Moreover, in order not to deprive end-users in the Union of effective protection, this Regulation should also apply to electronic communications data processed in connection with the provision of electronic communications services from outside the Union to end-users in the Union.

Amendment

(9) This Regulation should apply to electronic communications data processed in connection with the provision and use of electronic communications services in the Union, regardless of whether or not the processing takes place in the Union. Moreover, in order not to deprive end-users in the Union of effective protection, this Regulation should also apply to electronic communications data processed in connection with the provision of electronic communications services from outside the Union to end-users in the Union. ***This Regulation shall apply to electronic***

communications data processed in connection with the provision and use of electronic communications services, both paid and free of charge.

Or. en

Amendment 167
Daniel Dalton, John Procter

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) This Regulation should apply to electronic communications data processed in connection with the *provision* and use of electronic communications services in the Union, regardless of whether or not the processing takes place in the Union. Moreover, in order not to deprive end-users in the Union of effective protection, this Regulation should also apply to electronic communications data processed in connection with the provision of electronic communications services from outside the Union to end-users in the Union.

Amendment

(9) This Regulation should apply to electronic communications data processed in connection with the *offering* and use of electronic communications services in the Union, regardless of whether or not the processing takes place in the Union. Moreover, in order not to deprive end-users in the Union of effective protection, this Regulation should also apply to electronic communications data processed in connection with the provision of electronic communications services from outside the Union to end-users in the Union. *The mere accessibility of the electronic communication service in the Union is not sufficient to ascertain such intention.*

Or. en

Amendment 168
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) This Regulation should apply to electronic communications data processed in connection with the provision and use of electronic communications services in the Union, regardless of whether or not the

Amendment

(9) This Regulation should apply to electronic communications data processed in connection with the provision and use of electronic communications services in the Union, regardless of whether or not the

processing takes place in the Union. Moreover, in order not to deprive **end-users** in the Union of effective protection, this Regulation should also apply to electronic communications data processed in connection with the provision of electronic communications services from outside the Union to **end-users** in the Union.

processing takes place in the Union. Moreover, in order not to deprive **subscribers** in the Union of effective protection, this Regulation should also apply to electronic communications data processed in connection with the provision of electronic communications services from outside the Union to **subscribers** in the Union. ***This should be the case irrespective of whether the electronic communications are connected to a payment or not.***

Or. en

Amendment 169 **Maria Grapini**

Proposal for a regulation **Recital 9**

Text proposed by the Commission

(9) Prezentul regulament ar trebui să se aplice datelor transmise în cadrul comunicațiilor electronice care sunt prelucrate în legătură cu furnizarea și utilizarea serviciilor de comunicații electronice în Uniune, indiferent dacă prelucrarea are loc sau nu pe teritoriul Uniunii. În plus, pentru a nu priva utilizatorii finali din Uniune de o protecție eficace, prezentul regulament ar trebui să se aplice și în cazul datelor transmise în cadrul comunicațiilor electronice care sunt prelucrate în legătură cu furnizarea serviciilor de comunicații electronice din afara Uniunii către utilizatorii finali din Uniune.

Amendment

(9) Prezentul regulament ar trebui să se aplice datelor transmise în cadrul comunicațiilor electronice care sunt prelucrate în legătură cu furnizarea și utilizarea serviciilor de comunicații electronice în Uniune, indiferent dacă prelucrarea are loc sau nu pe teritoriul Uniunii. În plus, pentru a nu priva utilizatorii finali din Uniune de o protecție eficace, ***în condiții de siguranță și cu un înalt grad de confidențialitate***, prezentul regulament ar trebui să se aplice și în cazul datelor transmise în cadrul comunicațiilor electronice care sunt prelucrate în legătură cu furnizarea serviciilor de comunicații electronice din afara Uniunii către utilizatorii finali din Uniune.

Or. ro

Amendment 170

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9 a) For the purpose of this Regulation, where the provider of an electronic communications service is not established in the Union, it shall designate a representative in the Union. The representative should be designated in writing. The representative may be the same as the one designated under Article 27 of Regulation (EU) 2016/679.

Or. en

Amendment 171
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 10

Text proposed by the Commission

Amendment

(10) Radio equipment and its software which is placed on the internal market in the Union, must comply with Directive 2014/53/EU of the European Parliament and of the Council²³. This Regulation should not affect the applicability of any of the requirements of Directive 2014/53/EU nor the power of the Commission to adopt delegated acts pursuant to Directive 2014/53/EU requiring that specific categories or classes of radio equipment incorporate safeguards to ensure that personal data and privacy of **end-users** are protected.

(10) Radio equipment and its software which is placed on the internal market in the Union, must comply with Directive 2014/53/EU of the European Parliament and of the Council²³. This Regulation should not affect the applicability of any of the requirements of Directive 2014/53/EU nor the power of the Commission to adopt delegated acts pursuant to Directive 2014/53/EU requiring that specific categories or classes of radio equipment incorporate safeguards to ensure that personal data and privacy of **subscribers** are protected.

²³ Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).

²³ Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).

Amendment 172**Brice Hortefeux, Rachida Dati****Proposal for a regulation****Recital 11***Text proposed by the Commission*

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure an effective and equal protection of end-users when using functionally equivalent services, this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code²⁴]. That definition encompasses not only internet access services and services consisting wholly *or partly* in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services.

The protection of confidentiality of communications is crucial also as regards interpersonal communications services that are ancillary to another service; therefore, such type of services also having a communication functionality should be covered by this Regulation.

²⁴ Commission proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast)

Amendment

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure an effective and equal protection of end-users when using functionally equivalent services, this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code²⁴]. That definition encompasses not only internet access services and services consisting wholly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services.

²⁴ Commission proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast)

(COM/2016/0590 final - 2016/0288
(COD)).

(COM/2016/0590 final - 2016/0288
(COD)).

Or. en

Amendment 173

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure an effective and equal protection of end-users when using functionally equivalent services, this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code²⁴]. That definition encompasses not only internet access services and services consisting wholly or partly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services.

The protection of confidentiality of communications is crucial also as regards interpersonal communications services that are ancillary to another service; therefore, such type of services also having a communication functionality should be covered by this Regulation.

Amendment

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure an effective and equal protection of end-users when using functionally equivalent services, this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code²⁴]. That definition encompasses not only internet access services and services consisting wholly or partly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services.

²⁴ Commission proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast) (COM/2016/0590 final - 2016/0288 (COD)).

²⁴ Commission proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast) (COM/2016/0590 final - 2016/0288 (COD)).

Or. en

Amendment 174

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. **End-users** increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. **In order to ensure** an effective and equal protection of **end-users** when using functionally equivalent services, **this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code²⁴]**. That definition encompasses not only internet access services and services consisting wholly or partly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services. The protection of confidentiality of communications is crucial also as regards interpersonal communications services that are ancillary to another service; therefore, such type of services

Amendment

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. **Users and subscribers** increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services, **also known as "over-the-top services" (OTTs). This Regulation aims at ensuring** an effective and equal protection of **users and subscribers** when using functionally equivalent services, **so as to ensure the confidentiality of their communication, irrespective of the technological medium chosen.** That definition encompasses not only internet access services and services consisting wholly or partly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services. The protection of confidentiality of communications is crucial also as regards interpersonal communications services that are ancillary to another **service, such as internal messaging, newsfeeds, timelines and similar functions in online services where messages are**

also having a communication functionality should be covered by this Regulation.

exchanged with other users within or outside that service; therefore, such type of services also having a communication functionality should be covered by this Regulation.

²⁴ Commission proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast) (COM/2016/0590 final - 2016/0288 (COD)).

Or. en

Amendment 175 **Cornelia Ernst**

Proposal for a regulation **Recital 11**

Text proposed by the Commission

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. ***In order to*** ensure an effective and equal protection of ***end-users when using functionally equivalent services, this Regulation uses the definition of electronic communications services set forth in the [Directive of the European Parliament and of the Council establishing the European Electronic Communications Code²⁴]***. That definition encompasses not only internet access services and services consisting wholly or partly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP,

Amendment

(11) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly replace traditional voice telephony, text messages (SMS) and electronic mail conveyance services in favour of functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. ***This Regulation should*** ensure an effective and equal protection of ***the confidentiality of communications of end-users, and their privacy, when using functionally equivalent services***. That definition encompasses not only internet access services and services consisting wholly or partly in the conveyance of signals but also interpersonal communications services, which may or may not be number-based, such as for example, Voice over IP, messaging services and web-based e-mail services. The protection of confidentiality of communications is crucial also as regards interpersonal communications

messaging services and web-based e-mail services. The protection of confidentiality of communications is crucial also as regards interpersonal communications services that are ancillary to another service; therefore, such type of services also having a communication functionality should be covered by this Regulation.

services that are ancillary to another *service, such as internal messaging, newsfeeds, closed groups, timelines and similar functions in online services where messages are exchanged with other users within or outside that* service; therefore, such type of services also having a communication functionality should be covered by this Regulation.

²⁴ Commission proposal for a Directive of the European Parliament and of the Council establishing the European Electronic Communications Code (Recast) (COM/2016/0590 final - 2016/0288 (COD)).

Or. en

Amendment 176
Daniel Dalton, John Procter

Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation should apply to the transmission of machine-to-machine communications. Therefore, the principle of confidentiality enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards

deleted

could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU.

Or. en

Amendment 177

Axel Voss, Heinz K. Becker, Rachida Dati, Brice Hortefeux

Proposal for a regulation

Recital 12

Text proposed by the Commission

Amendment

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation should apply to the transmission of machine-to-machine communications. Therefore, the principle of confidentiality enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU. **deleted**

Or. en

Justification

Recital 12 includes networked devices and machines within the scope of the proposal. Not all of the definitions or of the scope of the proposal are clear. That would render the impact on machine-to-machine communication (e.g. in the car industry, logistics or smart homes) uncertain. It is not clear where the conveyance of communications under ePrivacy begins and where data transmission under Regulation (EU) No 2016/679 begins.

Amendment 178
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation should apply to the transmission of machine-to-machine communications. Therefore, the principle of confidentiality enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU. **deleted**

Or. en

Amendment 179
Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) Connected devices and machines increasingly communicate with each other by using electronic communications **deleted**

networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation should apply to the transmission of machine-to-machine communications. Therefore, the principle of confidentiality enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU.

Or. en

Amendment 180
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation should apply to the transmission of machine-to-machine communications. Therefore, the principle of confidentiality

Amendment

(12) Connected devices and machines increasingly communicate with each other by using electronic communications networks (Internet of Things). The transmission of machine-to-machine communications involves the conveyance of signals over a network and, hence, usually constitutes an electronic communications service. In order to ensure full protection of the rights to privacy and confidentiality of communications, and to promote a trusted and secure Internet of Things in the digital single market, it is necessary to clarify that this Regulation should apply to the transmission of machine-to-machine communications. ***In the context of automated supply-chains***

enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU.

and elsewhere in the manufacturing or industrial context, the communication by the machines involved may not be interpersonal and may not involve natural persons. However, its confidentiality still needs protection in order to protect internal business information. Therefore, the principle of confidentiality enshrined in this Regulation should also apply to the transmission of machine-to-machine communications. Specific safeguards could also be adopted under sectorial legislation, as for instance Directive 2014/53/EU.

Or. en

(see justification for new Article 5(2))

Amendment 181

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as **'hotspots'** situated at different places within a city, department stores, shopping malls **and hospitals**. To the extent that those communications networks are provided to ***an undefined group of end-users***, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed

Amendment

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as ***wireless internet access points*** situated at different places within a city, department stores, shopping malls, ***hospitals, airports, hotels and restaurants***. ***Those access points might require a login or provide a password and might be provided also by public administrations, including Union bodies and agencies.*** To the extent that those communications networks are provided to ***users***, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation

groups of *end-users* such as corporate networks, access to which is limited to members of *the corporation*.

should apply to electronic communications data using electronic communications services and public communications networks. ***This regulation should also apply to closed social media profiles and groups that the users have defined as private.*** In contrast, this Regulation should not apply to closed groups of *subscribers* such as corporate networks, access to which is limited to members of *an organisation*.

Or. en

Amendment 182

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Brice Hortefeux, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate

Amendment

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. ***It should apply to restricted-access services offered by social network services, such as user-created groups or private messaging, as***

networks, access to which is limited to members of the corporation.

long as the social network service as a whole is publicly available. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.

Or. en

Amendment 183 **Sophia in 't Veld**

Proposal for a regulation **Recital 13**

Text proposed by the Commission

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.

Amendment

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation. *The mere requirement of a password should not be considered as providing access to a closed group of end-users if the access is*

provided to an undefined group of end-users.

Or. en

Amendment 184

Daniel Dalton, John Procter

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. ***The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.***

Amendment

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. ***This Regulation should apply to electronic communications data using publicly available electronic communications services and public communications networks. In this context, publicly available means only services intended for consumers. It should not include services intended for business users, nor should the means of the delivery of the service in question, whether obtained over the public internet or not have any bearing on the interpretation of whether the service is publicly available or not.*** This Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.

Or. en

Amendment 185

Anna Maria Corazza Bildt

**Proposal for a regulation
Recital 13**

Text proposed by the Commission

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. ***The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of end-users such as corporate networks, access to which is limited to members of the corporation.***

Amendment

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of internet access via wireless networks accessible by anyone in public and semi-private spaces such as 'hotspots' situated at different places within a city, department stores, shopping malls and hospitals. To the extent that those communications networks are provided to an undefined group of end-users, the confidentiality of the communications transmitted through such networks should be protected. ***Therefore, this Regulation should apply to electronic communications data using electronic communications services which are targeting the general public and public communications networks. This Regulation should not apply to closed groups of end-users such as corporate networks access to which is limited to members of the corporation. However, even if undefined end-users use the network in question in the context of the activities of the defined group of end-users, it should not preclude them from being considered outside the material scope of the Regulation.***

Or. en

**Amendment 186
Cornelia Ernst**

**Proposal for a regulation
Recital 13**

Text proposed by the Commission

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of

Amendment

(13) The development of fast and efficient wireless technologies has fostered the increasing availability for the public of

internet access via wireless networks accessible by anyone in public and semi-private spaces such as *'hotspots' situated at different places within a city, department stores, shopping malls and hospitals*. *To the extent that those communications networks are provided to an undefined group of end-users*, the confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. In contrast, this Regulation should not apply to closed groups of *end-users* such as corporate networks, access to which is limited to members of *the corporation*.

internet access via wireless networks accessible by anyone in public and semi-private spaces such as *wireless internet access points*. The confidentiality of the communications transmitted through such networks should be protected. The fact that wireless electronic communications services may be ancillary to other services should not stand in the way of ensuring the protection of confidentiality of communications data and application of this Regulation. Therefore, this Regulation should apply to electronic communications data using electronic communications services and public communications networks. *This regulation should also apply to closed social media profiles and groups that the users have defined as private*. In contrast, this Regulation should not apply to closed groups of *users* such as corporate networks, access to which is limited to members of *an organisation*.

Or. en

Amendment 187

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted or exchanged (electronic communications content) and the information concerning *an end-user* of electronic communications services processed for the purposes of transmitting, distributing or enabling the exchange of electronic communications content; including data to trace and identify the source and destination of a communication, geographical location and the date, time,

Amendment

(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted or exchanged (electronic communications content) and the information concerning *a user or subscriber* of electronic communications services processed for the purposes of transmitting, distributing or enabling the exchange of electronic communications content; including data to trace and identify the source and destination of a communication, geographical location and

duration and the type of communication. Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit- and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such signals should be considered as electronic communications metadata and therefore be subject to the provisions of this Regulation. Electronic communications metadata may include information that is part of the subscription to the service when such information is processed for the purposes of transmitting, distributing or exchanging electronic communications content.

the date, time, duration and the type of communication. ***It should also include location data, such as for example, the location of the terminal equipment from or to which a phone call or an internet connection has been made or the wireless access points that a device is connected to. It should also include data necessary to identify users' terminal equipment and data emitted by terminal equipment when searching for access points or other equipment.*** Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit- and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such signals should be considered as electronic communications metadata and therefore be subject to the provisions of this Regulation. Electronic communications metadata may include information that is part of the subscription to the service when such information is processed for the purposes of transmitting, distributing or exchanging electronic communications content. ***The exclusion of services providing "content transmitted using electronic communications networks" from the definition of "electronic communications service" in Article 4 of this Regulation does not mean that service providers who offer both electronic communications services and content services are outside the scope of the provisions of the Regulation which applies to the providers of electronic communications services.***

Or. en

Justification

This clarifies that wifi- or bluetooth tracking is processing of metadata. See amendment to Article 8(2) and the definition of "metadata" in Article 4.

Amendment 188
Cornelia Ernst

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted or exchanged (electronic communications content) and the information concerning an end-user of electronic communications services processed for the purposes of transmitting, distributing or enabling the exchange of electronic communications content; including data to trace and identify the source and destination of a communication, geographical location and the date, time, duration and the type of communication. Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit- and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such signals should be considered as electronic communications metadata and therefore be subject to the provisions of this Regulation. Electronic communications metadata may include information that is part of the subscription to the service when such information is processed for the purposes of transmitting, distributing or exchanging electronic communications content.

Amendment

(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted or exchanged (electronic communications content) and the information concerning an end-user of electronic communications services processed for the purposes of transmitting, distributing or enabling the exchange of electronic communications content; including data to trace and identify the source and destination of a communication, geographical location and the date, time, duration and the type of communication. ***It should also include location data, such as the location of the terminal equipment from or to which a phone call or an internet connection has been made or the wireless access points that a device is connected to. It should also include data necessary to identify users' terminal equipment and data emitted by terminal equipment when searching for access points or other equipment.*** Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit- and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such signals should be considered as electronic communications metadata and therefore be subject to the provisions of this Regulation. Electronic communications metadata may include information that is part of the subscription to the service when such information is processed for the purposes of transmitting, distributing or exchanging electronic communications content. ***The exclusion of services providing "content transmitted using electronic communications networks" from the definition of "electronic communications***

service" in Article 4 of this Regulation does not mean that service providers who offer both electronic communications services and content services are outside the scope of the provisions of the Regulation which applies to the providers of electronic communications services.

Or. en

Amendment 189
Daniel Dalton, John Procter

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted ***or exchanged*** (electronic communications content) and the information concerning an end-user of electronic communications services processed for the purposes of transmitting, ***distributing or enabling the exchange*** of electronic communications content; including data to trace and identify the source and destination of a communication, geographical location and the date, time, duration and the type of communication. Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit- and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such signals should be considered as electronic communications metadata and therefore be subject to the provisions of this Regulation. Electronic communications metadata may include information that is part of the subscription to the service when such information is processed for the purposes

Amendment

(14) Electronic communications data should be defined in a sufficiently broad and technology neutral way so as to encompass any information concerning the content transmitted (electronic communications content) and the information concerning an end-user of electronic communications services processed for the purposes of transmitting of electronic communications content; including data to trace and identify the source and destination of a communication, geographical location and the date, time, duration and the type of communication. Whether such signals and the related data are conveyed by wire, radio, optical or electromagnetic means, including satellite networks, cable networks, fixed (circuit- and packet-switched, including internet) and mobile terrestrial networks, electricity cable systems, the data related to such signals should be considered as electronic communications metadata and therefore be subject to the provisions of this Regulation. Electronic communications metadata may include information that is part of the subscription to the service when such information is processed for the purposes of transmitting electronic communications content.

of transmitting, *distributing or exchanging* electronic communications content.

Or. en

Amendment 190
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) Modern electronic communications services, including the internet and the OTT services that run on top of it, function on the basis of the separation of layers of protocols and services, as defined by the Open Systems Interconnection model (OSI model, ISO/IEC 7498-1). An internet (TCP/IP) data packet for example is encapsulated in an underlying ethernet or wireless data packet for local routing between the terminal equipment and the nearest router, which means that the full TCP/IP packet is content as seen from the ethernet or wireless connection layer. One layer above, an e-mail including its content and metadata is encapsulated in one or more TCP/IP packets, therefore the full e-mail is treated as content on the level of the TCP/IP protocol layer. The e-mail, in turn, consists of metadata using the SMTP protocol, and content data in the body of the e-mail. That means that what is metadata on one protocol layer is content data for the layers below. Where this Regulation lays down different rules for the processing of content and metadata, this should be understood for the respective electronic communications service and the protocol layer it is operating on. An internet access provider, for example, should therefore not scan the content of the TCP/IP packets routed by it, in order to detect malicious e-mail senders or attachments, because for the internet layer, e-mail is fully content. The

scanning of e-mails however could be done by the e-mail provider if it is necessary for the security of the service or if the user specifically requests this. This separation of protocol layers is crucial for maintaining the neutrality of the electronic communications services (net neutrality), which is protected under Regulation (EU) 2015/2120.

Or. en

Justification

This explains the clarification in the definitions of “content” and “metadata” in Article 4.

Amendment 191

Monica Macovei, Barbara Spinelli

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) ***Electronic communications data should be treated as confidential. This means that*** any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, ***without the consent of all the communicating parties should be prohibited.*** The prohibition of interception of communications data should apply during their conveyance, i.e. until receipt of the content of the electronic communication by the intended addressee. Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. Interception also occurs when third parties monitor websites visited, timing of the visits, interaction with others, etc., without the

Amendment

(15) ***Any processing of electronic communications data or*** any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, ***by persons other than the end-users, should be prohibited. When the processing is allowed under any exception to the prohibitions under the this Regulation, any other processing of the electronic communications data on the basis of Article 6 of the Regulation (EU) 2016/679 shall be considered as prohibited, including processing for another purpose on the basis of Article 6(4) of that Regulation. This would not prevent controllers from asking for additional consent for new processing operations.***

The prohibition of interception of communications data should apply ***also*** during their conveyance, i.e. until receipt of the content of the electronic communication by the intended addressee

consent of the end-user concerned. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the end-users' consent.

and any temporary files in the network after receipt. Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. Interception also occurs when third parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the end-user concerned. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, ***and analysis of end users' electronic communications metadata,*** including browsing habits without the end-users' consent.

Or. en

Amendment 192

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the

Amendment

(15) Electronic communications data should be treated as confidential. This means that any ***processing of electronic communications data or any*** interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by

communicating parties should be prohibited. The prohibition of **interception** of communications data should apply during their conveyance, *i.e. until receipt of the content of the electronic communication by the intended addressee.*

Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. Interception also occurs when **third** parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the **end-user** concerned. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating **end-user** profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the **end-users'** consent.

machines, without the consent **of the user requesting a specific service or** of all the communicating parties should be prohibited. **When the processing is allowed under this Regulation, any other processing on the basis of Article 6 of Regulation (EU) 2016/679 should be considered as prohibited, including processing for another purpose on the basis of Article 6(4) of that Regulation. This should not prevent requesting additional consent for new processing operations.** The prohibition of **processing** of communications data should apply during their conveyance **and when they are stored afterwards, in order to reflect the growing trend that subscribers do not store all communications data on their own terminal equipment, but use cloud-based storage space of the communications provider or other parties.** Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. Interception also occurs when **other** parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the **user** concerned. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating **user** profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, **and analysis of users' traffic data,** including browsing habits, without the **users'** consent.

Amendment 193
Cornelia Ernst

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the communicating parties should be prohibited. The prohibition of *interception* of communications data should apply during their conveyance, *i.e. until receipt of the content of the electronic communication by the intended addressee*. Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. Interception also occurs when third parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the end-user concerned. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and

Amendment

(15) Electronic communications data should be treated as confidential. This means that any ***processing of electronic communications data or any*** interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of ***the user requesting a specific service or of*** all the communicating parties should be prohibited. ***When the processing is allowed under this Regulation, any other processing on the basis of Article 6 of Regulation (EU) 2016/679 should be considered as prohibited, including processing for another purpose on the basis of Article 6(4) of that Regulation.*** The prohibition of ***processing*** of communications data should apply during their conveyance ***and when they are stored afterwards, in order to reflect the growing trend that subscribers do not store all communications data on their own terminal equipment, but use cloud-based storage space of the communications provider or other parties.*** Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. Interception also occurs when third parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the end-user concerned. As technology evolves, the technical ways to

routers, including browsing habits without the *end-users'* consent.

engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, *and analysis of customers' traffic data*, including browsing habits without the *users'* consent.

Or. en

Amendment 194
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications *data*, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the communicating parties should be prohibited. The prohibition of interception of communications *data* should apply during their conveyance, i.e. until receipt of the content of the electronic communication by the intended addressee. Interception of electronic communications *data* may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. Interception also occurs when third parties monitor

Amendment

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications *content*, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the communicating parties should be prohibited *except for permissible uses described under this Regulation*. The prohibition of interception of communications *content* should apply during their conveyance, i.e. until receipt of the content of the electronic communication by the intended addressee. Interception of electronic communications *content* may occur, for example, when someone other than the communicating parties *or their electronic communications service providers*, listens to calls, reads, scans or stores the content of electronic communications, or the associated

websites visited, timing of the visits, interaction with others, etc., ***without the consent of the end-user concerned***. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the end-users' consent.

metadata, for purposes other than the exchange of communications. Interception ***may*** also occur when third parties monitor websites visited, timing of the visits, interaction with others, etc., ***by accessing electronic communications data during their transmission***. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the end-users' consent.

Or. en

Amendment 195
Daniel Dalton, John Procter

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the communicating parties should be prohibited. The prohibition of interception of communications data should apply during their conveyance, i.e. until receipt of the content of the electronic communication by the intended addressee. Interception of electronic communications data may occur, for example, when

Amendment

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the communicating parties should be prohibited. The prohibition of interception of communications data should apply during their conveyance, i.e. until receipt of the content of the electronic communication by the intended addressee. Interception of electronic communications data may occur, for example, when

someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. ***Interception also occurs when third parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the end-user concerned.*** As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the end-users' consent.

someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the end-users' consent.

Or. en

Amendment 196

Michal Boni, Frank Engel, Tomáš Zdechovský, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the communicating parties should be prohibited. The prohibition of interception of communications data should apply during their conveyance, *i.e. until* receipt

Amendment

(15) Electronic communications data should be treated as confidential. This means that any interference with the transmission of electronic communications data, whether directly by human intervention or through the intermediation of automated processing by machines, without the consent of all the communicating parties should be prohibited. The prohibition of interception of communications data should apply during their conveyance. ***For non-real-***

of the content of the electronic communication by the intended *addressee*. Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. ***Interception also occurs when third parties monitor websites visited, timing of the visits, interaction with others, etc., without the consent of the end-user concerned.*** As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the end-users' consent.

time electronic communication such as email or messaging, the transmission starts with the submission of the content for delivery and finishes with the receipt of the content of the electronic communication by the service provider of the intended recipient. Interception of electronic communications data may occur, for example, when someone other than the communicating parties, listens to calls, reads, scans or stores the content of electronic communications, or the associated metadata for purposes other than the exchange of communications. As technology evolves, the technical ways to engage in interception have also increased. Such ways may range from the installation of equipment that gathers data from terminal equipment over targeted areas, such as the so-called IMSI (International Mobile Subscriber Identity) catchers, to programs and techniques that, for example, surreptitiously monitor browsing habits for the purpose of creating end-user profiles. Other examples of interception include capturing payload data or content data from unencrypted wireless networks and routers, including browsing habits without the end-users' consent.

Or. en

Amendment 197

Axel Voss, Heinz K. Becker, Rachida Dati, Brice Hortefeux

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. It should not prohibit either the processing of electronic communications data to ensure the security

Amendment

(16) The prohibition of storage of communications ***during conveyance*** is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. It should not prohibit either the processing of electronic

and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.

communications data to ensure the security and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.

Or. en

Amendment 198
Marju Lauristin

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission *in the* electronic communications *network*. ***It should not prohibit either the processing of electronic communications data to ensure the security and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.***

Amendment

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission. ***It should not prohibit the processing of electronic communications data by public authorities, computer emergency response teams (CERTs), computer security incident response teams (CSIRTs), providers of electronic communications networks and services and by certified providers of security technologies and services, in compliance with Regulation 2016/679 and to the extent strictly necessary and proportionate for the sole purposes of ensuring network and information security, i.e. preservation of availability, integrity and confidentiality of information, and ensuring the security of the related services offered by, or accessible via, those networks and systems. This could, for example, include preventing unauthorised access to electronic communications networks and malicious code distribution and stopping 'denial of service' attacks and damage to computer and electronic communication systems, checking security threats such as***

the presence of malware, *spam or to check against DDoS attacks*, or the processing of metadata to ensure the necessary quality of service requirements such as latency, jitter etc.

Or. en

Amendment 199

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. It should not prohibit either the processing of electronic communications data to ensure the security and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the *necessary* quality of service requirements, such as latency, jitter etc.

Amendment

(16) The prohibition of storage of communications *during transmission* is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. *The processing of pseudonymised data, should be incentivised as the act of pseudonymisation dramatically reduces any privacy and security risk associated with processing of data related to transmission.* It should not prohibit either the processing of electronic communications data to ensure the security and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the *appropriate* quality of service requirements, such as latency, jitter etc.

Or. en

Amendment 200

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. It should not prohibit either the processing of electronic communications data to ensure the security and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.

Amendment

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. It should not prohibit either the processing of electronic communications data to ensure the security, **confidentiality, integrity, availability, authenticity** and continuity of the electronic communications services **and networks**, including checking security threats such as the presence of malware or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.

Or. en

Amendment 201

Maria Grapini

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) Interdicția stocării comunicațiilor nu vizează împiedicarea stocării automate, intermediare și tranzitorii a acestor informații, în măsura în care are loc cu unicul scop de a efectua transmisia **în rețeaua de comunicații electronice**. Acesta nu ar trebui să interzică nici prelucrarea datelor transmise în cadrul comunicațiilor electronice cu scopul de a asigura securitatea și continuitatea serviciilor de comunicații electronice, inclusiv verificările în vederea depistării amenințărilor la adresa securității, cum ar fi prezența unui software rău-intenționat, nici prelucrarea de metadate pentru a răspunde cerințelor în materie de calitate a serviciilor, cum ar fi timpul de așteptare,

Amendment

(16) Interdicția stocării comunicațiilor nu vizează împiedicarea stocării automate, intermediare și tranzitorii a acestor informații, în măsura în care are loc cu unicul scop de a efectua transmisia **și cu garantarea confidențialității datelor în timpul perioadei de stocare**. Acesta nu ar trebui să interzică nici prelucrarea datelor transmise în cadrul comunicațiilor electronice cu scopul de a asigura securitatea și continuitatea serviciilor de comunicații electronice, inclusiv verificările în vederea depistării amenințărilor la adresa securității, cum ar fi prezența unui software rău-intenționat, nici prelucrarea de metadate pentru a răspunde cerințelor în materie de calitate a serviciilor, cum ar fi timpul de așteptare,

variația întârzierii de transfer a pachetelor de date etc.

variația întârzierii de transfer a pachetelor de date etc.

Or. ro

Amendment 202
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. It should not prohibit either the processing of electronic communications data to ensure the security and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the *necessary* quality of service requirements, such as latency, jitter etc.

Amendment

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission in the electronic communications network. It should not prohibit either the processing of electronic communications data to ensure the security, *availability* and continuity of the electronic communications services *and networks*, including checking security threats such as the presence of malware or the processing of metadata to ensure the *appropriate* quality of service requirements, such as latency, jitter etc.

Or. en

Amendment 203
Cornelia Ernst

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission *in the electronic communications network*. It should not

Amendment

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission. It should not prohibit either the processing of electronic

prohibit either the processing of electronic communications data to ensure the security and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.

communications data to ensure the security and continuity of the electronic communications services, including checking security threats such as the presence of malware or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.

Or. en

Amendment 204

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission ***in the electronic communications network***. It should not prohibit either the processing of electronic communications data to ensure the security and continuity of the electronic communications services, including checking security threats ***such as the presence of malware*** or the processing of metadata to ensure the necessary quality of service requirements, such as latency, jitter etc.

Amendment

(16) The prohibition of storage of communications is not intended to prohibit any automatic, intermediate and transient storage of this information insofar as this takes place for the sole purpose of carrying out the transmission. It should not prohibit either the processing of electronic communications data to ensure the security and continuity of the electronic communications services, including checking security threats ***related to the respective service***, or the processing of metadata ***of the respective service*** to ensure the necessary quality of service requirements, such as latency, jitter etc.

Or. en

(related to the clarifications in Recital 14a(new) and Article 4.)

Amendment 205

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) The processing of electronic communications **data** can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, **based on end-users consent**. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to **obtain end-users' consent to process** electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. Where a type of processing of electronic communications metadata, in particular using new technologies, and

Amendment

(17) The processing of electronic communications **metadata** can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, **in accordance with Article 6(1) and 6(4) of Regulation (EU) No 2016/679**. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to **comply with Regulation (EU) No 2016/679 when processing** electronic communications metadata, which should include data on the location of the device. **As an exception from obtaining end-users' consent, the processing of electronic communications metadata for purposes other than those for which the personal data were initially collected should be allowed in cases where further processing is compatible in accordance with Article 6 (4) and Article 6 (1) of Regulation (EU) 2016/679.** generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous

taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 **and 36** of Regulation (EU) 2016/679.

data were to be used and such movement could not be displayed. **Therefore, whenever the purpose(s) of further processing cannot be achieved by processing data that is made anonymous, pseudonymisation of data should be allowed.** Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. Where a type of processing of electronic communications metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 of Regulation (EU) 2016/679.

Or. en

Amendment 206

Axel Voss, Heinz K. Becker, Anna Maria Corazza Bildt

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, **based on end-users consent**. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other

Amendment

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata **in accordance with Regulation (EU) No 2016/679**. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for

than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to ***obtain end-users' consent to process*** electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. ***Where a type of processing of electronic communications metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.***

purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to ***comply with Regulation (EU) No 2016/679 when processing*** electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure.

Or. en

Emilian Pavel

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) The processing of electronic communications **data** can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, based on end-users consent. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where

Amendment

(17) The processing of electronic communications **metadata** can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to **further** process electronic communications metadata, based on end-users consent. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication, **billing, interconnection payments or security**. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to **further** process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. ***As an exception from obtaining end-users' consent, the. The further processing of electronic communications metadata, where such processing is not based on the data subject's consent, and for purposes other than those for which the personal data were initially collected, should be allowed in cases where the processing is compatible in accordance with point (4) of Article 6 of Regulation (EU) 2016/679.*** Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence

to develop new infrastructure, based on the usage of and pressure on the existing structure. *Where a type of processing of electronic communications metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.*

of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure.

Or. en

Amendment 208
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) The processing of electronic communications **data** can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, **based on end-users consent**. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service.

Amendment

(17) The processing of electronic communications **metadata** can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications **networks and** services to **further** process electronic communications metadata. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication, **billing, interconnection payments or security**. Therefore, this Regulation should, **in principle**, require providers of electronic communications **networks and** services to obtain end-users' consent to **further** process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and

Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. *Where a type of processing of electronic communications metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.*

maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. *As an exception from obtaining end-users' consent, the processing of electronic communications metadata for purposes other than those for which the personal data were initially collected should be allowed in cases where the processing is compatible in accordance with point (4) of Article 6 of Regulation (EU) 2016/679.* Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure.

Or. en

Amendment 209
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) The processing of electronic communications data can be useful for

Amendment

(17) The processing of electronic communications data can be useful for

businesses, consumers and society as a whole. *Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, based on end-users consent. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata.* Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier *is* necessary to link the positions of individuals at certain time intervals. *This identifier would be missing if anonymous data were to be used and such movement could not be displayed.* Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. Where *a type of* processing of electronic communications *metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons,* a data

businesses, consumers and society as a whole. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier *may be* necessary to link the positions of individuals at certain time intervals. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. Where processing of electronic communications *data is foreseen,* a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.

protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.

Or. en

Justification

Based on LIBE AM 17 Rapporteur, moved parts to this to Recital (17a)(new).

Amendment 210 **Cornelia Ernst**

Proposal for a regulation **Recital 17**

Text proposed by the Commission

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole. *Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, based on end-users consent. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata.* Examples of commercial usages of electronic

Amendment

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier *may be* necessary to link the positions of individuals at certain time intervals. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. Where processing of electronic communications metadata *is envisaged*, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.

communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a certain period of time, an identifier *is* necessary to link the positions of individuals at certain time intervals. ***This identifier would be missing if anonymous data were to be used and such movement could not be displayed.*** Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. Where ***a type of*** processing of electronic communications metadata, ***in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons***, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.

Or. en

Amendment 211
Sophia in 't Veld

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole. ***Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process***

Amendment

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and they want to control the use

electronic communications metadata, based on end-users consent. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and ***that*** they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of ***commercial*** usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. ***To display the traffic movements in certain directions during a certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed.*** Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. Where a type of processing of electronic communications metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with

of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. Where a type of processing of electronic communications metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.

Amendment 212

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, based on end-users consent. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a

Amendment

(17) The processing of electronic communications data can be useful for businesses, consumers and society as a whole. Vis-à-vis Directive 2002/58/EC, this Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, based on end-users consent. However, end-users attach great importance to the confidentiality of their communications, including their online activities, and that they want to control the use of electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain end-users' consent to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. Location data that is generated other than in the context of providing electronic communications services should not be considered as metadata. Examples of commercial usages of electronic communications metadata by providers of electronic communications services may include the provision of heatmaps; a graphical representation of data using colors to indicate the presence of individuals. To display the traffic movements in certain directions during a

certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. *Where a type of processing of electronic communications metadata, in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, a data protection impact assessment and, as the case may be, a consultation of the supervisory authority should take place prior to the processing, in accordance with Articles 35 and 36 of Regulation (EU) 2016/679.*

certain period of time, an identifier is necessary to link the positions of individuals at certain time intervals. This identifier would be missing if anonymous data were to be used and such movement could not be displayed. Such usage of electronic communications metadata could, for example, benefit public authorities and public transport operators to define where to develop new infrastructure, based on the usage of and pressure on the existing structure. *As an exemption from obtaining end-user's consent, the processing of metadata for purposes other than those for which they were initially collected should be allowed in cases where the processing is compatible and is subject to specific safeguards, especially pseudonymisation as set forth in point (4) of Article 6 of Regulation (EU) 2016/679, as well as if it is necessary in accordance with Article 6 (1) (f) of Regulation (EU) 2016/679 for the purpose of legitimate interest, provided that the data protection impact assessment was carried out, as prescribed in Article 35 of Regulation (EU) 2016/679.*

Or. en

Amendment 213
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 17 a (new)

Text proposed by the Commission

Amendment

(17 a) Regulation (EU) 2016/679 lays down rules relating to the further processing of personal data where such processing is not based on the data subject's consent. In accordance with point (4) of Article 6 of Regulation (EU) 2016/679, the processing of electronic communications metadata for purposes other than for which the data were initially collected should be allowed where the processing is compatible with the

purposes for which the data were initially collected. In such a case, no legal basis separate from that which allowed the collection of the electronic communications metadata should be required. In accordance with Regulation (EU) 2016/679, further processing of electronic communications metadata for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes should be considered to be compatible lawful processing operations.

Or. en

Amendment 214

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17 a) This Regulation broadens the possibilities for providers of electronic communications services to process electronic communications metadata, which should include data on the location of the device generated for the purposes of granting and maintaining access and connection to the service. However, users attach great importance to the confidentiality of their communications, including their online activities, and they want to control the use of their electronic communications data for purposes other than conveying the communication. Therefore, this Regulation should require providers of electronic communications services to obtain users' consent to process electronic communications data. For the purposes of this Regulation, the consent of a user should have the same meaning and be subject to the same conditions as the consent of the data subject under Regulation (EU) 2016/679.

Or. en

Justification

Based on LIBE AM 17 Rapporteur.

Amendment 215

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) *End-users* may consent to the processing of their *metadata* to receive specific services *such as protection services against fraudulent activities (by analysing usage data, location and customer account in real time)*. *In the digital economy, services are often supplied against counter-performance other than money, for instance by end-users being exposed to advertisements. For the purposes of this Regulation, consent of an end-user, regardless of whether the latter is a natural or a legal person, should have the same meaning and be subject to the same conditions as the data subject's consent under Regulation (EU) 2016/679. Basic broadband internet access and voice communications services are to be considered as essential services for individuals to be able to communicate and participate to the benefits of the digital economy. Consent for processing data from internet or voice communication usage will not be valid if the data subject has no genuine and free choice, or is unable to refuse or withdraw consent without detriment.*

Amendment

(18) *Users* may consent to the processing of their *electronic communications data* to receive specific services *requested by them, such as protection services against malware, unsolicited communication, or fraudulent activities. Consent for processing electronic communications data will not be valid if the data subject has no genuine and free choice, or is unable to refuse or withdraw consent without detriment. Without prejudice to Article 7 of Regulation (EU) 2016/679, consent should not be considered as freely given if it is required to access any service or obtained through insisting and repetitive requests. In order to prevent such abusive requests, users should be able to order service providers to remember their choice not to consent and to adhere to technical specifications signalling not to consent, withdrawal of consent, or an objection.*

Or. en

Amendment 216

Cornelia Ernst

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) ***End-users*** may consent to the processing of their ***metadata*** to receive specific services ***such as protection services against fraudulent activities (by analysing usage data, location and customer account in real time)***. ***In the digital economy, services are often supplied against counter-performance other than money, for instance by end-users being exposed to advertisements. For the purposes of this Regulation, consent of an end-user, regardless of whether the latter is a natural or a legal person, should have the same meaning and be subject to the same conditions as the data subject's consent under Regulation (EU) 2016/679. Basic broadband internet access and voice communications services are to be considered as essential services for individuals to be able to communicate and participate to the benefits of the digital economy. Consent for processing data from internet or voice communication usage will not be valid if the data subject has no genuine and free choice, or is unable to refuse or withdraw consent without detriment.***

Amendment

(18) ***Users*** may consent to the processing of their ***electronic communications data*** to receive specific services ***requested by them, such as protection services against malware, unsolicited communication, or fraudulent activities. Consent for processing electronic communications data will not be valid if the data subject has no genuine and free choice, or is unable to refuse or withdraw consent without detriment. Without prejudice to Article 7 of Regulation (EU) 2016/679, consent should not be considered as freely given if it is required to access any service or obtained through insisting and repetitive requests. In order to prevent such abusive requests, users should be able to order service providers to remember their choice not to consent and to adhere to technical specifications signalling not to consent, withdrawal of consent, or an objection.***

Or. en

Amendment 217

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) End-users may consent to the processing of their metadata to receive specific services such as protection services against fraudulent activities (by analysing usage data, location and customer account in real time). In the

Amendment

(18) End-users may consent to the processing of their metadata to receive specific services such as protection services against fraudulent activities (by analysing usage data, location and customer account in real time). In the

digital economy, services are often supplied against counter-performance other than money, for instance by end-users being exposed to advertisements. For the purposes of this Regulation, consent of an end-user, regardless ***of whether the latter is a natural or a legal person***, should have the same meaning and be subject to the same conditions as the data subject's consent under Regulation (EU) 2016/679. Basic broadband internet access and voice communications services are to be considered as essential services for individuals to be able to communicate and participate to the benefits of the digital economy. Consent for processing data from internet or voice communication usage will not be valid if the data subject has no genuine and free choice, or is unable to refuse or withdraw consent ***without detriment***.

digital economy, services are often supplied against counter-performance other than money, for instance by end-users being exposed to advertisements. For the purposes of this Regulation, consent of an end-user, regardless, should have the same meaning and be subject to the same conditions as the data subject's consent ***or another basis for processing*** under Regulation (EU) 2016/679. Basic broadband internet access and voice communications services are to be considered as essential services for individuals to be able to communicate and participate to the benefits of the digital economy. Consent for processing data from internet or voice communication usage will not be valid if the data subject has no genuine and free choice, or is unable to refuse or withdraw consent.

Or. en

Amendment 218 **Sophia in 't Veld**

Proposal for a regulation **Recital 18**

Text proposed by the Commission

(18) End-users may consent to the processing of their metadata to receive specific services such as protection services against fraudulent activities (by analysing usage data, location and customer account in real time). In the digital economy, services are often supplied against ***counter-performance*** other than money, for instance by end-users being exposed to advertisements. For the purposes of this Regulation, consent of an end-user, regardless of whether the latter is a natural or a legal person, should have the same meaning and be subject to the same conditions as the data subject's consent under Regulation (EU) 2016/679. Basic broadband internet access and voice

Amendment

(18) End-users may consent to the processing of their metadata to receive specific services such as protection services against fraudulent activities (by analysing usage data, location and customer account in real time). In the digital economy, services are often supplied against ***payment*** other than money, for instance by end-users being exposed to advertisements. For the purposes of this Regulation, consent of an end-user, regardless of whether the latter is a natural or a legal person, should have the same meaning and be subject to the same conditions as the data subject's consent under Regulation (EU) 2016/679. Basic broadband internet access and voice

communications services are to be considered as essential services for individuals to be able to communicate and participate to the benefits of the digital economy. Consent for processing data from internet or voice communication usage will not be valid if the data subject has no genuine and free choice, or is unable to refuse or withdraw consent without detriment.

communications services are to be considered as essential services for individuals to be able to communicate and participate to the benefits of the digital economy. Consent for processing data from internet or voice communication usage will not be valid if the data subject has no genuine and free choice, or is unable to refuse or withdraw consent without detriment.

Or. en

Amendment 219

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any ***interference with the*** content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the ***end-users*** concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of ***the content of communications***, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always ***consult the supervisory authority prior to the processing. Such***

Amendment

(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any ***processing of*** content ***data*** of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the ***users*** concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of ***electronic communications data***, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always ***carry out an impact assessment as provided for in*** Regulation (EU) 2016/679 ***and if necessary under***

consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service. After electronic communications content has been sent by the *end-user* and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by *a third* party entrusted by them to record or store such data. Any processing of such *data* must comply with Regulation (EU) 2016/679.

that Regulation, consult the supervisory authority prior to the processing. After electronic communications content has been sent by the *user* and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by *another* party entrusted by them to record or store such data, *which could be the electronic communications provider.* Any processing of such *stored communications data where the data is stored on behalf of the end-user must comply with this Regulation. The end-user may further process the data, and if it contains personal data,* must comply with Regulation (EU) 2016/679.

Or. en

Amendment 220 **Cornelia Ernst**

Proposal for a regulation **Recital 19**

Text proposed by the Commission

(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing

Amendment

(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing

of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always **consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service.** After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679.

of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always **carry out an impact assessment as provided for in Regulation (EU) 2016/679 and if necessary under that Regulation, consult the supervisory authority prior to the processing.** After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679.

Or. en

Amendment 221

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data **in transit**,

Amendment

(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse **provided in Regulation (EU) 2016/679.** This Regulation provides for the possibility of providers of electronic communications services to process

with the informed consent of ***all the end-users concerned***. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service. After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679.

electronic communications data, with the informed consent of ***the electronic communication service provider's end-user***. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service, ***for example text to voice service, organization of the mailbox or spam filter services***. After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679.

Or. en

Amendment 222

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The content of electronic communications pertains to the essence of

Amendment

(19) The content of electronic communications pertains to the essence of

the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service. After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679.

the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service, ***for example text to voice service, organisation of the mailbox, calendar assistants or SPAM filter service.*** After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded or stored by the end-user, end-users or by a third party entrusted by them to record or store such data. Any processing of such data must comply with Regulation (EU) 2016/679.

Amendment 223
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service. After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded *or stored* by the end-user, end-users or by a third party entrusted by them to record *or store* such data. Any

Amendment

(19) The content of electronic communications pertains to the essence of the fundamental right to respect for private and family life, home and communications protected under Article 7 of the Charter. Any interference with the content of electronic communications should be allowed only under very clear defined conditions, for specific purposes and be subject to adequate safeguards against abuse. This Regulation provides for the possibility of providers of electronic communications services to process electronic communications data in transit, with the informed consent of all the end-users concerned. For example, providers may offer services that entail the scanning of emails to remove certain pre-defined material. Given the sensitivity of the content of communications, this Regulation sets forth a presumption that the processing of such content data will result in high risks to the rights and freedoms of natural persons. When processing such type of data, the provider of the electronic communications service should always consult the supervisory authority prior to the processing. Such consultation should be in accordance with Article 36 (2) and (3) of Regulation (EU) 2016/679. The presumption does not encompass the processing of content data to provide a service requested by the end-user where the end-user has consented to such processing and it is carried out for the purposes and duration strictly necessary and proportionate for such service. After electronic communications content has been sent by the end-user and received by the intended end-user or end-users, it may be recorded, *stored or processed* by the end-user, end-users or by a third party entrusted by them to record, *store or*

processing of such data must comply with Regulation (EU) 2016/679.

process such data. Any processing of such data must comply with Regulation (EU) 2016/679.

Or. en

Amendment 224

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19 a) It should be possible to process electronic communications data for the purposes of providing services specifically requested by a user for personal or personal work-related purposes such as search or keyword indexing functionality, text-to-speech engines and translation services, including picture-to-voice or other automated content processing used as accessibility tools by persons with disabilities. This should be possible without the consent of all users who are part of the communication, but may take place with the consent of the user requesting the service. Such specific consent also precludes the provider from processing those data for different purposes.

Or. en

Justification

Based on LIBE AM 20 Rapporteur

Amendment 225

Sophia in 't Veld

Proposal for a regulation

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19 a) Interference with the confidentiality of metadata or interference with the protection of information stored in and related to end-users' terminal equipment can only be regarded to be lawful where it is strictly necessary and proportionate to protect an interest which is essential for the life of the data subject or that of another natural person. Such interference based on the vital interest of another natural person should take place only in a specific case and where the processing cannot be manifestly based on another legal basis.

Or. en

Justification

Alignment with Recital 46 of the GDPR, applicable to for instance 112 services and Amber Alert for locating victims, injured people or missing children.

Amendment 226

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Terminal equipment of ***end-users*** of electronic communications networks and any information relating to the usage of such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part of the private sphere of the ***end-users*** requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes ***information*** that may reveal details of ***an individual's*** emotional, political, social complexities, including the content of communications, pictures, the location of

Amendment

(20) Terminal equipment of ***users*** of electronic communications networks and any information relating to the usage of such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part of the private sphere of the ***users*** requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes ***very sensitive data*** that may reveal details of ***the behaviour, psychological features, emotional condition and political convictions, religious beliefs and*** social

individuals by accessing the device's GPS capabilities, contact lists, and other information already stored in the device, the information related to such equipment requires enhanced privacy protection. Furthermore, the so-called spyware, web bugs, hidden identifiers, tracking cookies and other similar *unwanted* tracking tools can enter *end-user's* terminal equipment without their knowledge in order to gain access to information, to store hidden information *and to trace the activities*. ***Information related to the end-user's device may also be collected remotely for the purpose of identification and tracking, using techniques such as the so-called 'device fingerprinting', often without the knowledge of the end-user, and may seriously intrude upon the privacy of these end-users.*** Techniques that surreptitiously monitor the actions of *end-users*, for example by tracking their activities online or the location of their terminal equipment, or subvert the operation of the *end-users'* terminal equipment pose a serious threat to the privacy of *end-users*. Therefore, any such interference with the *end-user's* terminal equipment should be allowed only with the *end-user's* consent and for specific and transparent purposes.

complexities *of an individual*, including the content of communications, pictures, the location of individuals by accessing the device's GPS capabilities, contact lists, and other information already stored in the device, the information *processed by or* related to such equipment requires enhanced privacy protection. ***Information related to the user's device may also be collected remotely for the purpose of identification and tracking, using techniques such as the so-called 'device fingerprinting', often without the knowledge of the user, and may seriously intrude upon the privacy of these users.*** Furthermore, the so-called spyware, web bugs, hidden identifiers, tracking cookies and other similar tracking tools can enter *user's* terminal equipment without their knowledge in order to gain access to information, to store hidden information, *to process data and use input and output functionalities* such as *sensors, and to trace the activities*. Techniques that surreptitiously monitor the actions of *users*, for example by tracking their activities online or the location of their terminal equipment, or subvert the operation of the *users'* terminal equipment pose a serious threat to the privacy of *users*. Therefore, any such interference with the *user's* terminal equipment should be allowed only with the *user's* consent and for specific and transparent purposes.

Or. en

Amendment 227

Michał Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Terminal equipment of end-users of electronic communications networks and any information relating to the usage of

Amendment

(20) Terminal equipment of end-users of electronic communications networks and any information relating to the usage of

such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part of the private sphere of the end-users requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes information that may reveal details of an individual's emotional, political, social complexities, including the content of communications, pictures, the location of individuals by accessing the device's GPS capabilities, contact lists, and other information already stored in the device, the information related to such equipment requires enhanced privacy protection. Furthermore, the so-called spyware, web bugs, hidden identifiers, tracking cookies and other similar unwanted tracking tools can enter end-user's terminal equipment without their knowledge in order to gain access to information, to store hidden information and to trace the activities. Information related to the end-user's device may also be collected remotely for the purpose of identification and tracking, using techniques such as the so-called 'device fingerprinting', often without the knowledge of the end-user, and may seriously intrude upon the privacy of these end-users. Techniques that surreptitiously monitor the actions of end-users, for example by tracking their activities online or the location of their terminal equipment, or subvert the operation of the end-users' terminal equipment pose a serious threat to the privacy of end-users. Therefore, any such interference with the end-user's terminal equipment should be allowed only with the end-user's consent and for specific and transparent purposes.

such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part of the private sphere of the end-users requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes information that may reveal details of an individual's emotional, political, social complexities, including the content of communications, pictures, the location of individuals by accessing the device's GPS capabilities, contact lists, and other information already stored in the device, the information related to such equipment requires enhanced privacy protection. Furthermore, the so-called spyware, web bugs, hidden identifiers, tracking cookies and other similar unwanted tracking tools can enter end-user's terminal equipment without their knowledge in order to gain access to information, to store hidden information and to trace the activities. Information related to the end-user's device may also be collected remotely for the purpose of identification and tracking, using techniques such as the so-called 'device fingerprinting', often without the knowledge of the end-user, and may seriously intrude upon the privacy of these end-users. Techniques that surreptitiously monitor the actions of end-users, for example by tracking their activities online or the location of their terminal equipment, or subvert the operation of the end-users' terminal equipment pose a serious threat to the privacy of end-users. Therefore, any such interference with the end-user's terminal equipment should be allowed only with the end-user's consent *or for clearly defined exceptions* and for specific and transparent purposes.

Amendment 228
Maria Grapini

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) Echipamentele terminale ale utilizatorilor finali ai rețelelor de comunicații electronice și orice informații referitoare la utilizarea unor astfel de echipamente terminale, în special în cazul în care informațiile sunt stocate în astfel de echipamente sau emise de acestea, solicitate acestora sau prelucrate în scopul de a le permite conectarea la un alt dispozitiv și/sau alte echipamente de rețea, fac parte din sfera privată a utilizatorilor finali și necesită protecție în temeiul Cartei drepturilor fundamentale a Uniunii Europene și a Convenției europene pentru apărarea drepturilor omului și a libertăților fundamentale. Având în vedere faptul că astfel de echipamente conțin sau prelucrează informații care ar putea dezvălui detalii privind complexitatea emoțională, politică sau socială a unei persoane fizice, inclusiv conținutul comunicațiilor, imagini, localizarea persoanelor prin accesarea funcțiilor GPS ale dispozitivelor, listele datelor de contact și alte informații deja stocate în dispozitiv, informațiile legate de astfel de echipamente necesită o protecție sporită a vieții private. În plus, așa-numitele programe spyware, semnalizatoare web (web bugs), identificatori ascunși (hidden identifiers), cookie-uri permanente și alte instrumente similare de urmărire nedorită pot intra în echipamentele terminale ale utilizatorului final fără cunoștința acestuia pentru a obține accesul la informații, a stoca informații ascunse și a monitoriza activitățile. Informațiile referitoare la dispozitivul utilizatorului final pot fi, de asemenea, colectate de la distanță în scopuri de identificare și urmărire, utilizând tehnici cum ar fi așa-numita

Amendment

(20) Echipamentele terminale ale utilizatorilor finali ai rețelelor de comunicații electronice și orice informații referitoare la utilizarea unor astfel de echipamente terminale, în special în cazul în care informațiile sunt stocate în astfel de echipamente sau emise de acestea, solicitate acestora sau prelucrate în scopul de a le permite conectarea la un alt dispozitiv și/sau alte echipamente de rețea, fac parte din sfera privată a utilizatorilor finali și necesită protecție în temeiul Cartei drepturilor fundamentale a Uniunii Europene și a Convenției europene pentru apărarea drepturilor omului și a libertăților fundamentale. Având în vedere faptul că astfel de echipamente conțin sau prelucrează informații care ar putea dezvălui detalii privind complexitatea emoțională, politică sau socială **și orientarea religioasă** a unei persoane fizice, inclusiv conținutul comunicațiilor, imagini, localizarea persoanelor prin accesarea funcțiilor GPS ale dispozitivelor, listele datelor de contact și alte informații deja stocate în dispozitiv, informațiile legate de astfel de echipamente necesită o protecție sporită a vieții private. În plus, așa-numitele programe spyware, semnalizatoare web (web bugs), identificatori ascunși (hidden identifiers), cookie-uri permanente și alte instrumente similare de urmărire nedorită pot intra în echipamentele terminale ale utilizatorului final fără cunoștința acestuia pentru a obține accesul la informații, a stoca informații ascunse și a monitoriza activitățile. Informațiile referitoare la dispozitivul utilizatorului final pot fi, de asemenea, colectate de la distanță în scopuri de identificare și urmărire,

„prelevare a amprentelor digitale” (device fingerprinting), adesea fără cunoștința utilizatorului final, ceea ce poate periclita în mod flagrant viața privată a acestor utilizatori finali. Tehnicile prin care se monitorizează în mod discret acțiunile utilizatorilor finali, de exemplu prin urmărirea activităților online ale acestora sau a localizării echipamentelor lor terminale sau care subminează funcționarea echipamentelor terminale ale utilizatorilor finali reprezintă o amenințare majoră la adresa vieții lor private. Prin urmare, orice astfel de amestec în legătură cu echipamentele terminale ale utilizatorului final ar trebui să fie permis numai cu consimțământul acestuia și în scopuri specifice și transparente.

utilizând tehnici cum ar fi așa-numita „prelevare a amprentelor digitale” (device fingerprinting), adesea fără cunoștința utilizatorului final, ceea ce poate periclita în mod flagrant viața privată a acestor utilizatori finali. Tehnicile prin care se monitorizează în mod discret acțiunile utilizatorilor finali, de exemplu prin urmărirea activităților online ale acestora sau a localizării echipamentelor lor terminale sau care subminează funcționarea echipamentelor terminale ale utilizatorilor finali reprezintă o amenințare majoră la adresa vieții lor private. Prin urmare, orice astfel de amestec în legătură cu echipamentele terminale ale utilizatorului final ar trebui să fie permis numai cu consimțământul acestuia și în scopuri specifice și transparente.

Or. ro

Amendment 229

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Terminal equipment of end-users of electronic communications networks and any information relating to the usage of such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part of the private sphere of the end-users requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes information that may reveal details of an individual's emotional, political, social complexities, including the content of communications, pictures, the location of

Amendment

(20) Terminal equipment of end-users of electronic communications networks and any information relating to the usage of such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part of the private sphere of the end-users requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes information that may reveal details of an individual's emotional, political, social complexities, including the content of communications, pictures, the location of

individuals by accessing the device's GPS capabilities, contact lists, and other information already stored in the device, the information related to such equipment requires enhanced privacy protection. Furthermore, the so-called spyware, web bugs, hidden identifiers, *tracking cookies* and other *similar* unwanted tracking tools can enter end-user's terminal equipment without their knowledge in order to gain access to information, to store hidden information and to trace the activities. Information related to the end-user's device may also be collected remotely for the purpose of identification and tracking, using techniques such as the so-called 'device fingerprinting', often without the knowledge of the end-user, and may seriously intrude upon the privacy of these end-users. Techniques that surreptitiously monitor the actions of end-users, for example by tracking their activities online or the location of their terminal equipment, or subvert the operation of the end-users' terminal equipment pose a serious threat to the privacy of end-users. Therefore, any such interference with the end-user's terminal equipment should be allowed only with the end-user's consent and for specific and transparent purposes.

individuals by accessing the device's GPS capabilities, contact lists, and other information already stored in the device, the information related to such equipment requires enhanced privacy protection. Furthermore, the so-called spyware, web bugs, hidden identifiers, and other unwanted tracking tools can enter end-user's terminal equipment without their knowledge in order to gain access to information, to store hidden information and to trace the activities. Information related to the end-user's device may also be collected remotely for the purpose of identification and tracking, using techniques such as the so-called 'device fingerprinting', often without the knowledge of the end-user, and may seriously intrude upon the privacy of these end-users. Techniques that surreptitiously monitor the actions of end-users, for example by tracking their activities online or the location of their terminal equipment, or subvert the operation of the end-users' terminal equipment pose a serious threat to the privacy of end-users. Therefore, any such interference with the end-user's terminal equipment should be allowed only with the end-user's consent and for specific and transparent purposes.

Or. en

Amendment 230

Axel Voss, Heinz K. Becker, Anna Maria Corazza Bildt

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Terminal equipment of end-users of electronic communications networks and any information relating to the usage of such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part

Amendment

(20) Terminal equipment of end-users of electronic communications networks and any information relating to the usage of such terminal equipment, whether in particular is stored in or emitted by such equipment, requested from or processed in order to enable it to connect to another device and or network equipment, are part

of the private sphere of the end-users requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes information that may reveal details of an individual's emotional, political, social complexities, including the content of communications, pictures, the location of individuals by accessing the device's GPS capabilities, contact lists, and other information already stored in the device, the information related to such equipment requires enhanced privacy protection. Furthermore, the so-called spyware, web bugs, hidden identifiers, *tracking cookies* and other similar unwanted tracking tools can enter end-user's terminal equipment without their knowledge in order to gain access to information, to store hidden information and to trace the activities. Information related to the end-user's device may also be collected remotely for the purpose of identification and tracking, using techniques such as the so-called 'device fingerprinting', often without the knowledge of the end-user, and may seriously intrude upon the privacy of these end-users. Techniques that surreptitiously monitor the actions of end-users, for example by tracking their activities online or the location of their terminal equipment, or subvert the operation of the end-users' terminal equipment pose a serious threat to the privacy of end-users. Therefore, any such interference with the end-user's terminal equipment should be allowed only with the end-user's consent and for specific and transparent purposes.

of the private sphere of the end-users requiring protection under the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Given that such equipment contains or processes information that may reveal details of an individual's emotional, political, social complexities, including the content of communications, pictures, the location of individuals by accessing the device's GPS capabilities, contact lists, and other information already stored in the device, the information related to such equipment requires enhanced privacy protection. Furthermore, the so-called spyware, web bugs, hidden identifiers and other similar unwanted tracking tools can enter end-user's terminal equipment without their knowledge in order to gain access to information, to store hidden information and to trace the activities. Information related to the end-user's device may also be collected remotely for the purpose of identification and tracking, using techniques such as the so-called 'device fingerprinting', often without the knowledge of the end-user, and may seriously intrude upon the privacy of these end-users. Techniques that surreptitiously monitor the actions of end-users, for example by tracking their activities online or the location of their terminal equipment, or subvert the operation of the end-users' terminal equipment pose a serious threat to the privacy of end-users. Therefore, any such interference with the end-user's terminal equipment should be allowed only with the end-user's consent and for specific and transparent purposes.

Or. en

Amendment 231
Heinz K. Becker

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) Die Endeinrichtungen der Endnutzer elektronischer Kommunikationsnetze und alle Informationen im Zusammenhang mit der Nutzung dieser Endeinrichtungen, ob sie nun von solchen Geräten gespeichert oder ausgesendet, von ihnen angefordert oder verarbeitet werden, um sich mit anderen Geräten oder mit Netzanlagen verbinden zu können, sind Teil der Privatsphäre der Endnutzer, die dem Schutz aufgrund der Charta der Grundrechte der Europäischen Union und der Europäischen Konvention zum Schutz der Menschenrechte und Grundfreiheiten unterliegt. Die Informationen im Zusammenhang mit solchen Endeinrichtungen erfordern einen erhöhten Schutz der Privatsphäre, da solche Endeinrichtungen Informationen enthalten oder verarbeiten, die einen tiefen Einblick in komplexe emotionale, politische und soziale Aspekte der Persönlichkeit einer Person geben können, darunter Nachrichteninhalte, Bilder, Aufenthaltsorte durch Zugriff auf die GPS-Funktionen der Geräte sowie Kontaktlisten und andere bereits in dem Gerät gespeicherte Informationen. Darüber hinaus können unerwünschte Verfolgungswerkzeuge wie z. B. Spyware, Webbugs, versteckte Kennungen **und Verfolgungs-Cookies** ohne das Wissen des Endnutzers in dessen Endeinrichtung eindringen, um Zugang zu Informationen zu erlangen, versteckte Informationen zu speichern oder die Nutzeraktivität zu verfolgen. Informationen in Bezug auf das Gerät des Endnutzers können auch im Fernzugang zu Identifizierungs- und Verfolgungszwecken erhoben werden, mit Techniken wie der Verfolgung von Gerätekennungen, was oft ohne Wissen des Endnutzers geschieht, und können eine ernsthafte Verletzung der Privatsphäre dieser Endnutzer darstellen. Techniken, mit denen die Aktivitäten der Endnutzer heimlich beobachtet werden, indem z. B. ihre Online-Aktivitäten oder die Standorte

Amendment

(20) Die Endeinrichtungen der Endnutzer elektronischer Kommunikationsnetze und alle Informationen im Zusammenhang mit der Nutzung dieser Endeinrichtungen, ob sie nun von solchen Geräten gespeichert oder ausgesendet, von ihnen angefordert oder verarbeitet werden, um sich mit anderen Geräten oder mit Netzanlagen verbinden zu können, sind Teil der Privatsphäre der Endnutzer, die dem Schutz aufgrund der Charta der Grundrechte der Europäischen Union und der Europäischen Konvention zum Schutz der Menschenrechte und Grundfreiheiten unterliegt. Die Informationen im Zusammenhang mit solchen Endeinrichtungen erfordern einen erhöhten Schutz der Privatsphäre, da solche Endeinrichtungen Informationen enthalten oder verarbeiten, die einen tiefen Einblick in komplexe emotionale, politische und soziale Aspekte der Persönlichkeit einer Person geben können, darunter Nachrichteninhalte, Bilder, Aufenthaltsorte durch Zugriff auf die GPS-Funktionen der Geräte sowie Kontaktlisten und andere bereits in dem Gerät gespeicherte Informationen. Darüber hinaus können unerwünschte Verfolgungswerkzeuge wie z. B. Spyware, Webbugs **und** versteckte Kennungen ohne das Wissen des Endnutzers in dessen Endeinrichtung eindringen, um Zugang zu Informationen zu erlangen, versteckte Informationen zu speichern oder die Nutzeraktivität zu verfolgen. Informationen in Bezug auf das Gerät des Endnutzers können auch im Fernzugang zu Identifizierungs- und Verfolgungszwecken erhoben werden, mit Techniken wie der Verfolgung von Gerätekennungen, was oft ohne Wissen des Endnutzers geschieht, und können eine ernsthafte Verletzung der Privatsphäre dieser Endnutzer darstellen. Techniken, mit denen die Aktivitäten der Endnutzer heimlich beobachtet werden, indem z. B. ihre Online-Aktivitäten oder die Standorte ihrer Endeinrichtungen

ihrer Endeinrichtungen verfolgt werden, oder mit denen die Funktionsweise der Endeinrichtungen der Endnutzer unbemerkt manipuliert wird, stellen eine ernste Bedrohung der Privatsphäre der Endnutzer dar. Deshalb sollten derartige Eingriffe in die Endeinrichtungen der Endnutzer nur ***mit Einwilligung des Endnutzers und für bestimmte transparente Zwecke*** erlaubt sein.

verfolgt werden, oder mit denen die Funktionsweise der Endeinrichtungen der Endnutzer unbemerkt manipuliert wird, stellen eine ernste Bedrohung der Privatsphäre der Endnutzer dar. Deshalb sollten derartige Eingriffe in die Endeinrichtungen der Endnutzer nur ***aufgrund eines Rechtmäßigkeitsgrundes im Sinne des Artikels 6 der VO (EU) 2016/679*** erlaubt sein.

Or. de

Amendment 232

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the end-user's input when filling in online forms over several pages. Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the end-user's device is unable to receive content requested by the end-user should not constitute access to such a

Amendment

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the end-user's input when filling in online forms over several pages. ***Consent should also not be necessary if the information processed or stored is necessary to protect privacy, security or safety of the end-user, or to protect confidentiality, integrity, availability and authenticity of the terminal equipment.*** Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers

device or use of the device processing capabilities.

that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the end-user's device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities. *As an exemption from obtaining end-user's consent, the processing of information and data that are or are rendered pseudonymous or anonymous should be allowed or for purposes other than those for which they were initially collected in cases where the processing is compatible and is subject to specific safeguards, especially pseudonymisation as set forth in point (4) of Article 6 of Regulation (EU) 2016/679, as well as if it is necessary in accordance with Article 6 (1) (f) of Regulation (EU) 2016/679 for the purpose of legitimate interest, provided that the data protection impact assessment was carried out, as prescribed in Article 35 of Regulation (EU) 2016/679. Adherence to the data protection certification mechanisms, seals or marks, as defined respectively in Article 40 and Article 42 of Regulation (EU) 2016/679, shall be encouraged and promoted, especially to demonstrate compliance with the Regulation in case of exceptions concerning compatible processing and legitimate interests as described above.*

Or. en

Amendment 233
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) Exceptions to the obligation to obtain consent *to make use of the processing and storage capabilities of* terminal equipment or to access

Amendment

(21) Exceptions to the obligation to obtain consent *store information in* terminal equipment or to access information stored in terminal equipment

information stored in terminal equipment should be limited to situations that *involve no, or only very limited, intrusion of privacy*. For instance, *consent should not be requested for authorizing* the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the *end-user*. This may include the storing of cookies *for the duration of a single established session* on a website to keep track of the *end-user's* input when filling in online forms over several pages. Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the *end-user's* settings and the mere logging of the fact that the *end-user's* device is unable to receive content requested by the *end-user* should not constitute access to such a device or use of the device processing capabilities.

should be limited to situations that *comply with all obligations pursuant to regulation (EU) 2016/679*. For instance, the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the *consumer*. This may include the storing of cookies on a website to keep track of the *consumer's* input when filling in online forms over several pages *or enabling other adaptation to individual preferences*. Cookies can also be a legitimate and useful tool *to improve the performance of a website*, for example, in measuring web traffic to a website *or identify if consumers get error messages from certain pages on a website*. *Similarly, providers of terminal equipment and the software needed to operate such equipment regularly need access to configuration and other device information and the processing and storage capabilities to maintain the equipment, prevent security vulnerabilities or their exploitation and correct problems related to the equipment's operation*. Information society providers *and electronic communications service providers* that engage in configuration checking to provide the service in compliance with the *consumer's* settings and the mere logging of the fact that the *consumer's* device is unable to receive content requested by the *consumer* should not constitute access to such a device or use of the device processing capabilities.

Or. en

Amendment 234
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 21

Text proposed by the Commission

Amendment

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only *very* limited, ***intrusion of privacy***. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the end-user's input when filling in online forms over several pages. Cookies can also be a legitimate and useful tool, for example, ***in*** measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the end-user's device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities.

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only limited, ***impact on the privacy of the end-user concerned, in accordance with Regulation (EU) 2016/679***. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of ***providing, including*** enabling ***or subsidizing*** the use of a specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the end-user's input when filling in online forms over several pages. Cookies can also be a legitimate and useful tool ***for other legitimate purposes***, for example, ***securing a service***, measuring web traffic to a website ***or measuring the effectiveness of advertisements***. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the end-user's device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities.

Or. en

Amendment 235
Heinz K. Becker

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) Ausnahmen von der Verpflichtung, ***die Einwilligung in*** die Nutzung der Verarbeitungs- und Speicherfunktionen von Endeinrichtungen oder den Zugriff auf

Amendment

(21) Ausnahmen von der Verpflichtung, ***einen Rechtmäßigkeitsgrund im Sinne des Artikels 6 der VO (EU) 2016/679 für die***

in Endeinrichtungen gespeicherte Informationen **einzuholen**, sollten auf Situationen beschränkt sein, in denen kein oder nur ein geringfügiger Eingriff in die Privatsphäre stattfindet. Beispielsweise sollte keine Einwilligung eingeholt werden für ein technisches Speichern oder Zugreifen, das zu dem rechtmäßigen Zweck, die vom Endnutzer ausdrücklich gewünschte Nutzung eines bestimmten Dienstes zu ermöglichen, unbedingt notwendig und verhältnismäßig ist. Dazu gehört auch das Speichern von Cookies für die Dauer einer für den Besuch einer Website einmal aufgebauten Sitzung, um die Eingaben des Endnutzers beim Ausfüllen von Online-Formularen, die sich über mehrere Seiten erstrecken, mitverfolgen zu können. Cookies können auch ein legitimes und nützliches Hilfsmittel sein, um beispielsweise den Webdatenverkehr **zu einer Website** zu messen. Konfigurationsprüfungen, die Anbieter von Diensten der Informationsgesellschaft vornehmen, um ihren Dienst entsprechend den Einstellungen des Endnutzers bereitstellen zu können, wie auch das bloße Feststellen der Tatsache, dass das Gerät des Endnutzers die vom Endnutzer angeforderten Inhalte nicht empfangen kann, sollten nicht als Zugriff auf ein Gerät oder als Nutzung der Verarbeitungsfunktionen des Geräts betrachtet werden.

Nutzung der Verarbeitungs- und Speicherfunktionen von Endeinrichtungen oder den Zugriff auf in Endeinrichtungen gespeicherte Informationen **nachweisen zu müssen**, sollten auf Situationen beschränkt sein, in denen kein oder nur ein geringfügiger Eingriff in die Privatsphäre stattfindet **oder ein berechtigtes Interesse verfolgt wird**. Beispielsweise sollte keine Einwilligung eingeholt werden für ein technisches Speichern oder Zugreifen, das zu dem rechtmäßigen Zweck, die vom Endnutzer ausdrücklich gewünschte Nutzung eines bestimmten Dienstes zu ermöglichen, unbedingt notwendig und verhältnismäßig ist. Dazu gehört auch das Speichern von Cookies für die Dauer einer für den Besuch einer Website einmal aufgebauten Sitzung, um die Eingaben des Endnutzers beim Ausfüllen von Online-Formularen, die sich über mehrere Seiten erstrecken, mitverfolgen zu können. Cookies können auch ein legitimes und nützliches Hilfsmittel sein, um beispielsweise den Webdatenverkehr **von Websites** zu messen. Konfigurationsprüfungen, die Anbieter von Diensten der Informationsgesellschaft vornehmen, um ihren Dienst entsprechend den Einstellungen des Endnutzers bereitstellen zu können **oder sich dessen bestimmungsgemäße Erbringung vorzubehalten**, wie auch das bloße Feststellen der Tatsache, dass das Gerät des Endnutzers die vom Endnutzer angeforderten Inhalte **ganz oder teilweise** nicht empfangen kann, sollten nicht als Zugriff auf ein Gerät oder als Nutzung der Verarbeitungsfunktionen des Geräts betrachtet werden.

Or. de

Amendment 236
Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is **strictly** necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the **end-user's** input when filling in online forms over several pages. Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the **end-user's** device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities.

Amendment

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the **end-user's** input when filling in online forms over several pages. ***This may also cover situations where end-users use a service across devices for the purpose of service personalisation and content recommendation.*** Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the **end-user's** device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities.

Or. en

Amendment 237

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of

Amendment

(21) Exceptions to the obligation to obtain consent to make use of the **input, output,** processing and storage capabilities

terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the *end-user*. This may include the storing of cookies for the duration of a single established session on a website to keep track of the *end-user's* input when filling in online forms over several pages. ***Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website.*** Information society providers that engage in configuration checking to provide the service in compliance with the *end-user's* settings and the mere logging of the fact that the *end-user's* device is unable to receive content requested by the *end-user* should not constitute ***access to such a device or use of the device processing capabilities.***

of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a specific service explicitly requested by the *user or subscriber*. This may include the storing of ***information (such as cookies and identifiers)*** for the duration of a single established session on a website to keep track of the user's input when filling in online forms over several pages. Information society *service* providers that engage in configuration checking to provide the service in compliance with the *user's* settings and the mere logging of the fact that the user's device is unable to receive content requested by the *user* should not constitute ***illegitimate access.***

Or. en

Amendment 238
Sophia in 't Veld

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a

Amendment

(21) Exceptions to the obligation to obtain consent to make use of the processing and storage capabilities of terminal equipment or to access information stored in terminal equipment should be limited to situations that involve no, or only very limited, intrusion of privacy. For instance, consent should not be requested for authorizing the technical storage or access which is strictly necessary and proportionate for the legitimate purpose of enabling the use of a

specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the *end-user's* input when filling in online forms over several pages. Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the *end-user's* device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities.

specific service explicitly requested by the end-user. This may include the storing of cookies for the duration of a single established session on a website to keep track of the *end-user's* input when filling in online forms over several pages. Cookies can also be a legitimate and useful tool, for example, in measuring web traffic to a website. Information society providers that engage in configuration checking to provide the service in compliance with the end-user's settings and the mere logging of the fact that the *end-user's* device is unable to receive content requested by the end-user should not constitute access to such a device or use of the device processing capabilities *for which consent is required*.

Or. en

Amendment 239
Heinz K. Becker

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) Die Methoden zur Bereitstellung von Informationen und die Einholung der Einwilligung des Endnutzers sollten so benutzerfreundlich wie möglich sein. Wegen der allgegenwärtigen Verwendung von Verfolgungs-Cookies und anderer Verfolgungstechniken werden die Endnutzer immer häufiger aufgefordert, ihre Einwilligung in die Speicherung solcher Verfolgungs-Cookies in ihren Endeinrichtungen zu geben. Infolge dessen werden die Endnutzer mit Einwilligungsanfragen überhäuft. Mit Hilfe technischer Mittel für die Erteilung der Einwilligung, z. B. durch transparente und benutzerfreundliche Einstellungen, könnte dieses Problem behoben werden. Deshalb sollte diese Verordnung die Möglichkeit vorsehen, dass die Einwilligung durch die entsprechenden Einstellungen in einem Browser oder

Amendment

entfällt

einer anderen Anwendung erteilt werden kann. Die Auswahl, die Endnutzer bei der Festlegung ihrer allgemeinen Einstellungen zur Privatsphäre in einem Browser oder einer anderen Anwendung getroffen haben, sollte für Dritte verbindlich und ihnen gegenüber auch durchsetzbar sein. Webbrowser sind eine Art von Softwareanwendung, die es ermöglicht, Informationen aus dem Internet abzurufen und darzustellen. Andere Arten von Anwendungen wie solche, die Anrufe und die Nachrichtenübermittlung ermöglichen oder Navigationshilfe bieten, sind dazu ebenfalls in der Lage. Ein Großteil der Vorgänge, die zwischen dem Endnutzer und der Website ablaufen, werden von Webbrowsern abgewickelt. Aus dieser Sicht kommt ihnen eine Sonderstellung zu, wenn es darum geht, den Endnutzern die Kontrolle über den Informationsfluss zu und von ihrer Endeinrichtung zu erleichtern. So können Webbrowser insbesondere als Torwächter dienen und den Endnutzern helfen, ein Speichern von Informationen in ihren Endeinrichtungen (wie Smartphones, Tablets oder Computer) bzw. den Zugriff darauf zu verhindern.

Or. de

Amendment 240

Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal

Amendment

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal

equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by *using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the end-user and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.*

equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by appropriate *technical* settings.

Or. en

Amendment 241

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Csaba Sógor, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of

Amendment

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of

tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using *the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the end-user and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.*

tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using appropriate *technical* settings of a browser or other application.

Or. en

Amendment 242

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Recital 22

Text proposed by the Commission

Amendment

(22) The methods used for providing information and obtaining *end-user's* consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, *end-users* are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, *end-users* are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent *by* using the appropriate settings of a *browser or other application*. The choices made by *end-users* when establishing its general privacy settings of a *browser or other application* should be binding on, and enforceable against, any third parties. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers *mediate much of what occurs between the end-user and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.*

(22) The methods used for providing information and obtaining *user's* consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, *users* are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, *users* are overloaded with requests to provide consent. ***This Regulation should prevent the use of so-called "cookie walls" and "cookie banners" that do not help users to maintain control over their personal information and privacy or become informed about their rights.*** The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express *or withdraw* consent ***and to object by technical specifications*** using *automated means, such as* the appropriate settings of a *hardware or software permitting the retrieval and presentation of information on the internet. Those settings should include choices concerning the use of processing and storage capabilities of the user's terminal equipment as well as a signal sent by the hardware or software indicating the user's preferences* to other parties. The choices made by *users* when establishing its general privacy settings of a *hardware or software* should be binding on, and enforceable against, any third parties. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. ***More particularly*** web browsers, *applications or mobile operating systems may be used as a user's personal privacy assistant communicating the user's choices, thus helping users to prevent information related to or processed by their terminal equipment (for example smart phone, tablet or computer) from being accessed, processed or stored. They should*

therefore not abuse their position as gatekeepers and still allow for possibilities for the user to individually give consent with regard to a certain specific service or service provider.

Or. en

Justification

“Do not track” does not mean “Do not ask”.

Amendment 243
Cornelia Ernst

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) The methods used for providing information and obtaining *end-user's* consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, *end-users* are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, *end-users* are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express *consent by using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate*

Amendment

(22) The methods used for providing information and obtaining *user's* consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, *users* are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, *users* are overloaded with requests to provide consent. ***This Regulation should prevent the use of so-called "cookie walls" and "cookie banners" that do not help users to maintain control over their personal information and privacy or become informed about their rights.*** The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express ***or withdraw consent and to object by technical specifications using automated means, such as the appropriate settings of a hardware or software permitting the retrieval and presentation of information on the internet. Those settings should include choices concerning the use of processing and storage capabilities of the user's terminal equipment as well as a signal***

much of what occurs between the end-user and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.

sent by the hardware or software indicating the user's preferences to other parties. The choices made by users when establishing its general privacy settings should be binding on, and enforceable against, any third parties. Web browsers, applications or mobile operating systems may be used as a user's personal privacy assistant communicating the user's choices, thus helping users to prevent information related to or processed by their terminal equipment (for example smart phone, tablet or computer) from being accessed, processed or stored.

Or. en

Amendment 244
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. ***Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties.*** Web browsers are a type of software application that permits the retrieval and

Amendment

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. ***Mobile operating systems or*** other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of

presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. ***Web browsers mediate much of what occurs between the end-user and the website.*** From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. ***More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.***

information to and from the terminal equipment.

Or. en

Amendment 245
Emilian Pavel

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties. Web browsers

Amendment

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any third parties. Web browsers

are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the end-user and the website. From this perspective, they ***are in a privileged position to play an active role*** to help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.

are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the end-user and the website. From this perspective, they help the end-user to control the flow of information to and from the terminal equipment. More particularly web browsers may be used as gatekeepers, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored. ***This can be done through settings such as those that allow users to block all cookies or only third-party cookies, and those that allow users to choose a "Do Not Track" option during their browsing experience.***

Or. en

Amendment 246 **Maria Grapini**

Proposal for a regulation **Recital 22**

Text proposed by the Commission

(22) Metodele folosite pentru a furniza informații și a obține consimțământul utilizatorului final ar trebui să fie cât mai ușor de utilizat cu puțință. Având în vedere utilizarea omniprezentă a cookie-urilor permanente și a altor tehnici de urmărire, utilizatorilor finali li se solicită într-o măsură tot mai mare să își dea consimțământul privind stocarea acestor cookie-uri permanente în echipamentele lor terminale. Prin urmare, utilizatorii finali sunt supraîncărcați cu solicitări privind acordarea consimțământului. Utilizarea de mijloace tehnice pentru acordarea consimțământului, de exemplu, prin setări transparente și ușor de utilizat, poate

Amendment

(22) Metodele folosite pentru a furniza informații și a obține consimțământul utilizatorului final ar trebui să fie cât mai ușor de utilizat cu puțință. Având în vedere utilizarea omniprezentă a cookie-urilor permanente și a altor tehnici de urmărire, utilizatorilor finali li se solicită într-o măsură tot mai mare să își dea consimțământul privind stocarea acestor cookie-uri permanente în echipamentele lor terminale. Prin urmare, utilizatorii finali sunt supraîncărcați cu solicitări privind acordarea consimțământului. Utilizarea de mijloace tehnice pentru acordarea consimțământului, de exemplu, prin setări transparente și ușor de utilizat, poate

soluționa această problemă. Prin urmare, prezentul regulament ar trebui să prevadă posibilitatea de exprimare a consimțământului prin utilizarea setărilor corespunzătoare ale unui browser sau ale altei aplicații. Alegerile făcute de utilizatorii finali atunci când își stabilesc setările de confidențialitate generale pentru un browser sau o altă aplicație ar trebui să aibă un caracter obligatoriu pentru orice parte terță și să fie opozabile acestora. Browserele sunt un tip de aplicație software care permite obținerea și prezentarea informațiilor pe internet. De asemenea, alte tipuri de aplicații, cum ar fi cele care permit efectuarea de apeluri și transmiterea de mesaje sau care oferă îndrumare rutieră, au aceleași capacități. Browserele asigură o mare parte din interacțiunile care au loc între utilizatorul final și site-ul web. Din acest punct de vedere, ele se află într-o poziție privilegiată pentru a juca un rol activ constând în sprijinirea utilizatorului final în ceea ce privește controlul fluxului de informații către și de la echipamentele terminale. Mai precis, browserele pot fi utilizate ca entități de control, ajutând astfel utilizatorii finali să împiedice accesul la informații provenind de la echipamentele lor terminale (de exemplu telefon inteligent, tabletă sau computer) și stocarea acestora.

soluționa această problemă. Prin urmare, prezentul regulament ar trebui să prevadă posibilitatea de exprimare a consimțământului, ***care să poată fi dat doar după o informare obiectivă, exactă și corectă a utilizatorului***, prin utilizarea setărilor corespunzătoare ale unui browser sau ale altei aplicații. Alegerile făcute de utilizatorii finali atunci când își stabilesc setările de confidențialitate generale pentru un browser sau o altă aplicație ar trebui să aibă un caracter obligatoriu pentru orice parte terță și să fie opozabile acestora. Browserele sunt un tip de aplicație software care permite obținerea și prezentarea informațiilor pe internet. De asemenea, alte tipuri de aplicații, cum ar fi cele care permit efectuarea de apeluri și transmiterea de mesaje sau care oferă îndrumare rutieră, au aceleași capacități. Browserele asigură o mare parte din interacțiunile care au loc între utilizatorul final și site-ul web. Din acest punct de vedere, ele se află într-o poziție privilegiată pentru a juca un rol activ constând în sprijinirea utilizatorului final în ceea ce privește controlul fluxului de informații către și de la echipamentele terminale. Mai precis, browserele pot fi utilizate ca entități de control, ajutând astfel utilizatorii finali să împiedice accesul la informații provenind de la echipamentele lor terminale (de exemplu telefon inteligent, tabletă sau computer) și stocarea acestora.

Or. ro

Amendment 247 **Sophia in 't Veld**

Proposal for a regulation **Recital 22**

Text proposed by the Commission

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of

Amendment

(22) The methods used for providing information and obtaining end-user's consent should be as user-friendly as possible. Given the ubiquitous use of

tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any *third parties*. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the end-user and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. *More particularly* web browsers *may be used as gatekeepers*, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.

tracking cookies and other tracking techniques, end-users are increasingly requested to provide consent to store such tracking cookies in their terminal equipment. As a result, end-users are overloaded with requests to provide consent. The use of technical means to provide consent, for example, through transparent and user-friendly settings, may address this problem. Therefore, this Regulation should provide for the possibility to express consent by using the appropriate settings of a browser or other application. The choices made by end-users when establishing its general privacy settings of a browser or other application should be binding on, and enforceable against, any *party*. Web browsers are a type of software application that permits the retrieval and presentation of information on the internet. Other types of applications, such as the ones that permit calling and messaging or provide route guidance, have also the same capabilities. Web browsers mediate much of what occurs between the end-user and the website. From this perspective, they are in a privileged position to play an active role to help the end-user to control the flow of information to and from the terminal equipment. *The* web browsers *should communicate the user settings to the website visited*, thus helping end-users to prevent information from their terminal equipment (for example smart phone, tablet or computer) from being accessed or stored.

Or. en

Amendment 248
Heinz K. Becker

Proposal for a regulation
Recital 23

Text proposed by the Commission

Amendment

(23) Die Grundsätze des Datenschutzes durch Technikgestaltung und durch datenschutzfreundliche Voreinstellungen wurden in Artikel 25 der Verordnung (EU) 2016/679 festgeschrieben. Gegenwärtig haben die meisten weitverbreiteten Browser für Cookies die Standardeinstellung „Alle Cookies annehmen“. Deshalb sollten Anbieter von Software, die das Abrufen und Darstellen von Informationen aus dem Internet erlaubt, dazu verpflichtet sein, die Software so zu konfigurieren, dass sie die Möglichkeit bietet zu verhindern, dass Dritte Informationen in der Endeinrichtung speichern; diese Einstellung wird häufig als „Cookies von Drittanbietern zurückweisen“ bezeichnet. Den Endnutzern sollte eine Reihe von Einstellungsmöglichkeiten zur Privatsphäre angeboten werden, die vom höheren Schutz (z. B. „Cookies niemals annehmen“) über einen mittleren Schutz (z. B. „Cookies von Drittanbietern zurückweisen“ oder „Nur Cookies von Erstanbietern annehmen“) bis zum niedrigeren Schutz (z. B. „Cookies immer annehmen“) reicht. Solche Einstellungen zur Privatsphäre sollten in leicht sichtbarer und verständlicher Weise dargestellt werden.

entfällt

Or. de

**Amendment 249
Brice Hortefeux, Rachida Dati**

**Proposal for a regulation
Recital 23**

Text proposed by the Commission

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. **Therefore providers of software enabling the retrieval and**

Amendment

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. End-users should be offered **to choose appropriate technical settings**

presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent third parties from storing information on the terminal equipment; this is often presented as 'reject third party cookies'. End-users should be offered a set of privacy setting options, ranging from higher (for example, 'never accept cookies') to lower (for example, 'always accept cookies') and intermediate (for example, 'reject third party cookies' or 'only accept first party cookies'). Such privacy settings should be presented in an easily visible and intelligible manner.

expressing their privacy preferences. Such privacy settings should be presented in an easily visible and intelligible manner.

Or. en

Amendment 250

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to 'accept all cookies'. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent **third parties from** storing information on the terminal equipment; this is often presented as 'reject third party cookies'. **End-users** should be offered a set of privacy setting options, ranging from higher (for example, 'never accept cookies') to lower (for example, 'always accept cookies') and intermediate (for example, 'reject **third party** cookies' or '**only accept first party** cookies'). Such

Amendment

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to 'accept all cookies'. Therefore providers of **hardware or** software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers **and activates as default** the option to prevent **the cross-domain tracking and** storing information on the terminal equipment **by other parties**; this is often presented as 'reject third party **trackers and** cookies'. **Users** should be offered a set of privacy setting options, ranging from higher (for example, 'never accept **trackers and** cookies') to lower (for example, 'always accept **trackers and** cookies') and intermediate (for example, 'reject **all trackers and** cookies **that are not strictly**

privacy settings should be presented in an easily visible and intelligible manner.

necessary to provide a service explicitly requested by the user' or 'reject all cross-domain tracking'). These options may also be more fine-grained and, among other aspects, reflect the possibility that another party might act as a data processor within the meaning of Regulation (EU) 2016/679 for the provider of the service. Privacy settings should also include options to allow the user to decide for example, whether multimedia players, interactive programming language viewers, or similar software can be executed, if a website can collect geo-location data from the user, or if it can access specific hardware such as a webcam or microphone. Such privacy settings should be presented in an easily visible and intelligible manner, and at the moment of installation or first use, users should be informed about the possibility to change the default privacy settings among the various options. Information provided should not dissuade users from selecting higher privacy settings and should include relevant information about the risks associated to allowing cross-domain trackers, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising or sharing with more third parties. Hardware and software manufacturers should be required to provide easy ways for users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain information society services or to specify for such services websites trackers and cookies are always or never allowed. In case of no active choice, or action from the user, the settings shall be set by default in a manner that rejects and blocks trackers, including cookies, that are not strictly necessary in order to provide an information society service specifically requested by the user.

Justification

Based on LIBE AMs 24 and 25 Rapporteur (merging Recitals 23 and 24)

Amendment 251 Sophia in 't Veld

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) The principles of data protection by design and by default *were* codified under Article 25 of Regulation (EU) 2016/679. ***Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent third parties from storing information on the terminal equipment; this is often presented as ‘reject third party cookies’. End-users should be offered a set of privacy setting options, ranging from higher (for example, ‘never accept cookies’) to lower (for example, ‘always accept cookies’) and intermediate (for example, ‘reject third party cookies’ or ‘only accept first party cookies’). Such privacy settings should be presented in a an easily visible and intelligible manner.***

Amendment

(23) The principles of data protection by design and by default ***are*** codified under Article 25 of Regulation (EU) 2016/679. ***Therefore providers of software permitting electronic communications (such as browsers, operating systems, communication apps and internet of things devices) shall configure the software so that privacy is protected by default. In addition, providers of such software are required to offer sufficiently granular options to consent to each distinct category of purposes. These distinct categories include, at least, the following categories:***

- (i) tracking for commercial purposes or for direct marketing for non-commercial purposes (behavioural advertising)***
- (ii) tracking for personalised content***
- (iii) tracking for analytical purposes***
- (iv) tracking of location data***
- (v) providing personal data to third parties (including providing unique identifiers to match with personal data held by third parties)***

No consent is required for information that is collected from end-users' terminal equipment when it is strictly necessary for providing an information society service requested by the end-user, for example in order to adapt the screen size to the device, or to remember items in a shopping basket.

Web browsers, operating systems and communication apps should allow the end-user to consent to cookies or other information that is stored on, or read

from terminal equipment (including the browser on that equipment) by a specific website or originator even when the general settings prevent the interference and vice versa. With regard to a specific party, web browsers and communication apps should also allow users to separately consent to internet-wide tracking.

Or. en

Amendment 252
Cornelia Ernst

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent **third parties from** storing information on the terminal equipment; this is often presented as ‘reject third party cookies’. **End-users** should be **offered a set of privacy setting options, ranging from higher (for example, ‘never accept cookies’) to lower (for example, ‘always accept cookies’) and intermediate (for example, ‘reject third party cookies’ or ‘only accept first party cookies’). Such privacy settings should be presented in an easily visible and intelligible manner.**

Amendment

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to 'accept all cookies'. Therefore providers of **hardware or** software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers **and activates as default** the option to prevent **the cross-domain tracking and** storing information on the terminal equipment **by other parties**; this is often presented as 'reject third party **trackers and** cookies'. **Such privacy settings should be presented in an easily visible and intelligible manner. Information provided should not dissuade users from selecting higher privacy settings and should include relevant information about the risks associated to allowing cross-domain trackers, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising or sharing with more third parties. In case of no active choice, or action from the user, the settings shall be set by default in a manner that rejects and blocks trackers,**

including cookies, that are not strictly necessary in order to provide an information society service specifically requested by the user.

Or. en

Amendment 253

Michał Boni, Frank Engel, Tomáš Zdechovský, Csaba Sógor, Carlos Coelho, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to ***configure the software so that it offers the option*** to prevent third parties from storing information on the terminal equipment; ***this is often presented as ‘reject third party cookies’***. End-users should be offered a set of privacy setting options, ranging from ***higher*** (for example, ***‘never accept cookies’***) to ***lower*** (for example, ***‘always accept cookies’***) and ***intermediate*** (for example, ***‘reject third party cookies’*** or ***‘only accept first party cookies’***). ***Such privacy settings should be presented in a an easily visible and intelligible manner.***

Amendment

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling the retrieval and presentation of information on the internet should have an obligation to ***inform the end-user about the possibility to express his or her consent using appropriate technical settings. The end-user should be offered multiple options to choose from, including*** to prevent third parties from storing information on the terminal equipment. End-users should be offered a set of privacy setting options, ranging from, for example, ***rejecting tracking that is not necessary for the functionality of the website or other software to,*** for example, ***accepting tracking necessary for the functionality of the website or other software as well as for other purposes or,*** for example, ***accepting tracking necessary for the functionality of the website or other software and tracking for other purposes by parties that demonstrate the compliance with the EU data protection and privacy legislation, for instance in line with Article 40 and 42 of Regulation (EU) 2016/679.***

Or. en

Amendment 254

Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. ***Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of software enabling*** the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers ***the option to prevent third parties from storing information on the terminal equipment; this is often presented as ‘reject third party cookies’.*** End-users ***should be offered*** a set of privacy setting options, ***ranging from higher (for example, ‘never accept cookies’) to lower (for example, ‘always accept cookies’) and intermediate (for example, ‘reject third party cookies’ or ‘only accept first party cookies’).*** Such privacy settings should be presented in ***a*** an easily visible and intelligible manner.

Amendment

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. ***Therefore providers of software enabling publically available electronic communications services and permitting*** the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers end-users a set of privacy setting options ***in order that end-users may actively select a preferred option after being given the necessary information to make the choice.*** Such privacy settings should be presented in an easily visible and intelligible manner.

Or. en

Amendment 255

Anna Maria Corazza Bildt

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. ***Currently, the default settings for cookies are set in most current browsers to ‘accept all cookies’. Therefore providers of***

Amendment

(23) The principles of data protection by design and by default were codified under Article 25 of Regulation (EU) 2016/679. ***Therefore providers of software enabling publicly available electronic communications services and permitting***

software enabling the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent third parties from storing information on the terminal equipment; this is often presented as ‘reject third party cookies’. **End-users** should be offered a set of privacy setting options, ranging from higher (for example, ‘never accept cookies’) to lower (for example, ‘always accept cookies’) and intermediate (for example, ‘reject third party cookies’ or ‘only accept first party cookies’). Such privacy settings should be presented in an easily visible and intelligible manner.

the retrieval and presentation of information on the internet should have an obligation to configure the software so that it offers the option to prevent third parties from storing information on the terminal equipment; this is often presented as ‘reject third party cookies’. **Consumers** should be offered a set of privacy setting options, ranging from higher (for example, ‘never accept cookies’) to lower (for example, ‘always accept cookies’) and intermediate (for example, ‘reject third party cookies’ or ‘only accept first party cookies’). Such privacy settings should be presented in an easily visible and intelligible manner.

Or. en

Amendment 256
Heinz K. Becker

Proposal for a regulation
Recital 24

Text proposed by the Commission

Amendment

(24) Damit Webbrowser die in der Verordnung (EU) 2016/679 vorgeschriebene Einwilligung der Endnutzer, z. B. in die Speicherung von Verfolgungs-Cookies von Drittanbietern, einholen können, sollten sie unter anderem eine eindeutige bestätigende Handlung von der Endeinrichtung des Endnutzers verlangen, mit der dieser seine freiwillig für den bestimmten Fall, in informierter Weise und unmissverständlich erklärte Zustimmung zur Speicherung solcher Cookies in seiner Endeinrichtung und zum Zugriff darauf bekundet. Eine solche Handlung kann als bestätigend verstanden werden, wenn Endnutzer zur Einwilligung beispielsweise die Option „Cookies von Drittanbietern annehmen“ aktiv auswählen müssen und ihnen die dazu notwendigen Informationen gegeben werden. Hierzu müssen die Anbieter von

entfällt

Software, die den Zugang zum Internet ermöglicht, verpflichtet werden, die Endnutzer zum Zeitpunkt der Installation darauf hinzuweisen, dass die Einstellungen zur Privatsphäre unter den verschiedenen Möglichkeiten ausgewählt werden können, und sie aufzufordern, eine Wahl zu treffen. Die gegebenen Informationen sollten die Endnutzer nicht davon abschrecken, höhere Einstellungen zur Privatsphäre zu wählen, und sie sollten alle wichtigen Informationen über die mit der Annahme von Cookies von Drittanbietern verbundenen Risiken enthalten, wozu auch das Anlegen langfristiger Aufzeichnungen über die Browserverläufe des Betroffenen und die Verwendung solcher Aufzeichnungen zur Übermittlung gezielter Werbung gehören. Es sollte gefördert werden, dass Webbrowser den Endnutzern einfache Möglichkeiten bieten, die Einstellungen zur Privatsphäre während der Benutzung jederzeit zu ändern, und dem Nutzer erlauben, Ausnahmen für bestimmte Websites zu machen oder in Listen festzulegen oder anzugeben, von welchen Websites Cookies (auch von Drittanbietern) immer oder niemals angenommen werden sollen.

Or. de

Amendment 257

Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation

Recital 24

Text proposed by the Commission

Amendment

(24) For web browsers to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific

deleted

informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select ‘accept third party cookies’ to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.

Or. en

Amendment 258
Cornelia Ernst

Proposal for a regulation
Recital 24

Text proposed by the Commission

Amendment

(24) For web browsers to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action

deleted

from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select ‘accept third party cookies’ to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.

Or. en

Amendment 259

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) For web browsers to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party

Amendment

deleted

tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select 'accept third party cookies' to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.

Or. en

Justification

Integrated into Recital 23 for better clarity.

Amendment 260

Michał Boni, Frank Engel, Tomáš Zdechovský, Csaba Sógor, Carlos Coelho, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) For web browsers to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, **for example, to the storage of third party tracking cookies**, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select **'accept third party cookies'** to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use **and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.**

Amendment

(24) For web browsers to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies **or other tracking mechanisms** in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select **one of the offered options** to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, end-users are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the risks associated to allowing third party cookies **or other tracking mechanisms** to be stored in the computer, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use. **Web browsers shall allow the end-user to customise his or her privacy settings for each individual website visited. The website shall be able to communicate to the end-user the fact that their privacy settings may influence his or her customer experience or access to all functionalities of the website and shall be allowed to offer end-user information how to change his or her settings, request consent from the end-user or offer him or her alternative options, such as i.e. subscription or paid access. The choice of**

end user for specific websites shall be respected by web browsers.

Or. en

Amendment 261
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) For web browsers to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, for example, to the storage of **third party** tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. ***Such action may be considered to be affirmative, for example, if end-users are required to actively select 'accept third party cookies' to confirm their agreement and are given the necessary information to make the choice.*** To this end, ***it is necessary to require providers of software enabling access to internet that, at the moment of installation,*** end-users are informed about the possibility to choose the privacy settings among ***the*** various options ***and ask them to make a choice.*** Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the ***risks associated to allowing third party cookies to be stored in the computer, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising.*** Web browsers are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain

Amendment

(24) For web browsers, ***applications or other software*** to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, for example, to the storage of tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. To this end, end-users are informed about the possibility to choose the privacy settings among various options. Information provided should not dissuade end-users from selecting higher privacy settings and should include relevant information about the ***purposes for which data may be processed, including using information about a user's browsing habits to build up an anonymous profile which may determine what type of advertising they are shown.*** Web browsers, ***application or other software,*** are encouraged to provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites ***is*** always or never allowed.

websites or to specify for which websites ***(third) party cookies are*** always or never allowed.

Or. en

Amendment 262 **Sophia in 't Veld**

Proposal for a regulation **Recital 24**

Text proposed by the Commission

(24) For web browsers to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, for example, to the storage ***of third party*** tracking cookies, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select 'accept ***third party cookies***' to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, ***at the moment of installation***, end-users are informed about the ***possibility to choose the privacy settings among the various options and ask them to make a choice***. Information provided should not dissuade end-users from ***selecting higher*** privacy settings and should include relevant information about the risks associated to allowing ***third party*** cookies to be stored in ***the computer***, including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers ***are encouraged to*** provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make

Amendment

(24) For web browsers to be able to obtain end-users' consent as defined under Regulation (EU) 2016/679, for example, to the storage ***or reading of*** tracking cookies ***for commercial purposes or for direct marketing for non-commercial purposes***, they should, among others, require a clear affirmative action from the end-user of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if end-users are required to actively select 'accept ***tracking cookies for commercial purposes or for direct marketing for non-commercial purposes***' to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, ***before the first use***, end-users are informed about the ***privacy by default settings and the possibility to change the privacy settings to other options***. Information provided should not dissuade end-users from ***maintaining high*** privacy settings and should include relevant information about the risks associated to allowing ***the different types of cookies or other tracking mechanisms***, to be stored in, ***or read from, the app or device***, including the compilation of long-term records of individuals' browsing histories,

exceptions for or to whitelist certain websites or to specify for which websites **(third) party** cookies are always or never allowed.

the use of location data, the use of personal data by third parties and the use of such records to send targeted advertising. Web browsers ***should*** provide easy ways for end-users to change the privacy settings at any time during use and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites ***certain categories of*** cookies are always or never allowed.

Or. en

Amendment 263

Anna Maria Corazza Bildt

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) For ***web browsers*** to be able to obtain ***end-users***' consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the ***end-user*** of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if ***end-users*** are required to actively select 'accept third party cookies' to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet that, at the moment of installation, ***end-users*** are informed about the possibility to choose the privacy settings among the various options and ask them to make a choice. Information provided should not dissuade ***end-users*** from selecting higher privacy settings ***and should include relevant information about the risks associated to allowing third party cookies to be stored in the computer,***

Amendment

(24) For ***software enabling publicly available communication services and permitting the retrieval and presentation of information on the internet*** to be able to obtain ***consumers***' consent as defined under Regulation (EU) 2016/679, for example, to the storage of third party tracking cookies, they should, among others, require a clear affirmative action from the ***consumer using*** of terminal equipment to signify his or her freely given, specific informed, and unambiguous agreement to the storage and access of such cookies in and from the terminal equipment. Such action may be considered to be affirmative, for example, if ***consumers*** are required to actively select 'accept third party cookies' to confirm their agreement and are given the necessary information to make the choice. To this end, it is necessary to require providers of software enabling access to internet ***in the context of publicly available electronic communications services*** that, at the moment of installation, ***consumers*** are informed about the possibility to choose the privacy settings among the various options and ask

including the compilation of long-term records of individuals' browsing histories and the use of such records to send targeted advertising. Web browsers are encouraged to provide easy ways for ***end-users*** to change the privacy settings at any time during use ***and to allow the user to make exceptions for or to whitelist certain websites or to specify for which websites (third) party cookies are always or never allowed.***

them to make a choice. Information provided should not dissuade ***consumers*** from selecting higher privacy settings. ***Such obligations do not arise where the software already seeks to prevent third parties from storing information on the terminal equipment of end-user or processing information already stored on that equipment.*** Web browsers are encouraged to provide easy ways for ***consumers*** to change the privacy settings at any time during use.

Or. en

Amendment 264

Michał Boni, Frank Engel, Tomáš Zdechovský, Viviane Reding, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be

Amendment

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be

used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should ***ask for the end-user's consent or should carry out data protection impact assessment and in this case the data collected is or is rendered pseudonymous or anonymous. Where a data protection impact assessment indicates that the processing would result in a high risk in the absence of measures taken by the controller to mitigate the risk, prior consultation with the supervisory authority, as prescribed in Article 36 of Regulation (EU) 2016/679, shall be carried out. Providers should*** display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

Or. en

Amendment 265
Cornelia Ernst

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection

Amendment

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection

with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to **end-users**, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should ***display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.***

with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to **users**, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should ***only be permitted to process such electronic communications metadata based on the consent of the users concerned.***

Or. en

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such **information** may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to **end-users**, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should **display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where**

Amendment

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such **electronic communications metadata** may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to **users**, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should **only be permitted to process such electronic communications metadata based on the consent of the users concerned.**

personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

Or. en

Amendment 267

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such *information* may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to *end-users*, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should *display prominent notices located on the edge of the area of*

Amendment

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such *electronic communications metadata* may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to *users*, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices should *only be permitted to*

coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

process such electronic communications metadata based on the consent of the users concerned.

Or. en

Amendment 268
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to end-users,

Amendment

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information may be used for more intrusive purposes, such as to send commercial messages to end-users,

for example when they enter stores, with personalized offers. ***While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in such practices*** should display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679.

for example when they enter stores, with personalized offers. ***Information emitted by terminal equipment should be considered a separate category from metadata and information from the consumer's terminal equipment itself. Nevertheless, collection of such information should be subject to specific transparency measures and safeguards. Entities deploying such solutions*** should display ***or make available*** prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. Additional information should be provided where personal data are collected pursuant to Article 13 of Regulation (EU) 2016/679 ***and the processing of such personal data will also be subject to the Regulation.***

Or. en

Amendment 269 **Sophia in 't Veld**

Proposal for a regulation **Recital 25**

Text proposed by the Commission

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the

Amendment

(25) Accessing electronic communications networks requires the regular emission of certain data packets in order to discover or maintain a connection with the network or other devices on the network. Furthermore, devices must have a unique address assigned in order to be identifiable on that network. Wireless and cellular telephone standards similarly involve the emission of active signals containing unique identifiers such as a MAC address, the IMEI (International Mobile Station Equipment Identity), the

IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information *may be* used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in *such practices* should display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. *Additional information should be provided where personal data are collected* pursuant to Article 13 of Regulation (EU) 2016/679.

IMSI etc. A single wireless base station (i.e. a transmitter and receiver), such as a wireless access point, has a specific range within which such information may be captured. Service providers have emerged who offer tracking services based on the scanning of equipment related information with diverse functionalities, including people counting, providing data on the number of people waiting in line, ascertaining the number of people in a specific area, etc. This information *is sometimes being* used for more intrusive purposes, such as to send commercial messages to end-users, for example when they enter stores, with personalized offers. While some of these functionalities do not entail high privacy risks, others do, for example, those involving the tracking of individuals over time, including repeated visits to specified locations. Providers engaged in *statistical counting* should display prominent notices located on the edge of the area of coverage informing end-users prior to entering the defined area that the technology is in operation within a given perimeter, the purpose of the tracking, the person responsible for it and the existence of any measure the end-user of the terminal equipment can take to minimize or stop the collection. *Consent is needed for any other type of data collection using the scanning of equipment, after informing the end-user* pursuant to Article 13 of Regulation (EU) 2016/679.

Or. en

Amendment 270
Sophia in 't Veld, Kaja Kallas

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) When the processing of electronic communications data by providers of

Amendment

(26) When the processing of electronic communications data by providers of

electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard ***specific public interests, including*** national security, defence, public security and 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 and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.*** Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard national security, defence, public security, and the prevention, investigation, detection ***and*** prosecution of criminal offences or of ***unauthorised use*** of the ***electronic communications system***. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

Or. en

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and 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 and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.*** Therefore, this Regulation should not ***affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).***

Amendment

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to ***temporarily*** restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. Therefore, this Regulation should not ***prohibit*** Member States ***from carrying out*** lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should ***not be obliged by Union or Member States competent authorities to weaken any measures that ensure the integrity and confidentiality of electronic communications.***

Amendment 272**Jan Philipp Albrecht, Judith Sargentini****Proposal for a regulation****Recital 26***Text proposed by the Commission*

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, **public security** and 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 and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.** Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic

Amendment

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to **temporarily** restrict by law certain obligations and rights when such a restriction **is targeted at persons suspected of having committed a criminal offence and** constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, and the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should **not be obliged by Union or Member States** competent authorities **to weaken any measures that ensure the integrity and confidentiality of electronic communications.**

communications services should *provide for appropriate procedures to facilitate legitimate requests of* competent authorities, *where relevant also taking into account the role of the representative designated pursuant to Article 3(3).*

Or. en

Amendment 273

Michal Boni, Frank Engel, Tomáš Zdechovský, Viviane Reding, Carlos Coelho, Pál Csáky

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and 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 ***and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State***, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in

Amendment

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and 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, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by

accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

Or. en

Amendment 274

Brice Hortefeux, Rachida Dati

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and 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 and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such

Amendment

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and 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 and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such

interests. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

interests. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, ***for instance, when someone is suspected of a criminal offence or when there are strong reasons to believe a minor has been missing***, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

Or. en

Amendment 275

Daniel Dalton, John Procter

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including

Amendment

(26) When the processing of electronic communications data by providers of electronic communications services falls within its scope, this Regulation should provide for the possibility for the Union or Member States under specific conditions to restrict by law certain obligations and rights when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard specific public interests, including national security, defence, public security and 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 and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 3(3).

the safeguarding against and the prevention of threats to public security and other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests. Therefore, this Regulation should not affect the ability of Member States to carry out lawful interception of electronic communications or take other measures, if necessary and proportionate to safeguard the public interests mentioned above, in accordance with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the Court of Justice of the European Union and of the European Court of Human Rights. Providers of electronic communications services should provide for appropriate procedures to facilitate legitimate requests of competent authorities, where relevant also taking into account the role of the representative designated pursuant to Article 27 of *regulation (EU) 2016/679*.

Or. en

Amendment 276
Sophia in 't Veld, Angelika Mlinar

Proposal for a regulation
Recital 26 a (new)

Text proposed by the Commission

Amendment

(26 a) In order to safeguard the security and integrity of networks and services, the use of end-to-end encryption should be promoted and, where necessary, be mandatory in accordance with the principles of security and privacy by design. Member States should not impose any obligation on encryption providers,

on providers of electronic communications services or on any other organisations (at any level of the supply chain) that would result in the weakening of the security of their networks and services, such as the creation or facilitation of "backdoors".

Or. en

Amendment 277
Cornelia Ernst

Proposal for a regulation
Recital 26 a (new)

Text proposed by the Commission

Amendment

(26 a) In its judgment C-293/12 the Court of Justice held that the bulk collection of communications data, in particular when done without any differentiation, limitation or exception, constitutes a wide-ranging and particularly serious interference with the rights enshrined in Articles 7 and 8 of the Charter, without such an interference being precisely circumscribed to ensure that it is actually limited to what is strictly necessary.

Or. en

Amendment 278
Sophia in 't Veld

Proposal for a regulation
Recital 28

Text proposed by the Commission

Amendment

(28) *There is justification for overriding the elimination of calling line identification presentation in specific cases.* End-users' rights to privacy with regard to calling line identification *should* be restricted where this is necessary to trace nuisance calls and with regard to

(28) End-users' rights to privacy with regard to calling line identification *may* be restricted *only* where this is necessary to trace nuisance calls and with regard to calling line identification and location data where this is necessary to allow emergency

calling line identification and location data where this is necessary to allow emergency services, such as eCall, to carry out their tasks as effectively as possible.

services, such as eCall, to carry out their tasks as effectively as possible.

Or. en

Amendment 279
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) There is justification for overriding the elimination of calling line identification presentation in specific cases. **End-users'** rights to privacy with regard to calling line identification should be restricted where this is necessary to trace nuisance calls and with regard to calling line identification and location data where this is necessary to allow emergency services, such as eCall, to carry out their tasks as effectively as possible.

Amendment

(28) There is justification for overriding the elimination of calling line identification presentation in specific cases. **Subscribers'** rights to privacy with regard to calling line identification should be restricted where this is necessary to trace nuisance calls and with regard to calling line identification and location data where this is necessary to allow emergency services, such as eCall, to carry out their tasks as effectively as possible.

Or. en

Amendment 280
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) Technology exists that enables providers of electronic communications services to limit the reception of unwanted calls by **end-users** in different ways, including blocking silent calls and other fraudulent and nuisance calls. Providers of publicly available **number-based interpersonal** communications services should deploy this technology and protect **end-users** against nuisance calls and free

Amendment

(29) Technology exists that enables providers of **certain publicly available** electronic communications services to limit the reception of unwanted calls by **consumers** in different ways, including blocking silent calls and other fraudulent and nuisance calls. **Where technically feasible and economically viable,** providers of publicly available **voice** communications services should deploy

of charge. Providers should ensure that **end-users** are aware of the existence of such functionalities, for instance, by publicising the fact on their webpage.

this technology and protect **consumers** against nuisance calls and free of charge. Providers should ensure that **consumers** are aware of the existence of such functionalities, for instance, by publicising the fact on their webpage.

Or. en

Amendment 281

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) Technology exists that enables providers of electronic communications services to limit the reception of unwanted calls by **end-users** in different ways, including blocking silent calls and other fraudulent and nuisance calls. Providers of publicly available number-based interpersonal communications services should deploy this technology and protect **end-users** against nuisance calls and free of charge. Providers should ensure that **end-users** are aware of the existence of such functionalities, for instance, by publicising the fact on their webpage.

Amendment

(29) Technology exists that enables providers of electronic communications services to limit the reception of unwanted calls by **subscribers** in different ways, including blocking silent calls and other fraudulent and nuisance calls **or marketing calls with a specific code or prefix**. Providers of publicly available number-based interpersonal communications services should deploy this technology and protect **subscribers** against nuisance calls and free of charge. Providers should ensure that **subscribers** are aware of the existence of such functionalities, for instance, by publicising the fact on their webpage.

Or. en

Amendment 282

Sophia in 't Veld

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory

Amendment

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory

or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that end-users that are legal entities have the right to object to the data related to them being included in a directory.

or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are asked for consent before their personal data are included in a directory. ***To allow for a transition in cases where end-users' information has been included in such a directory without consent, where acquiring consent would lay an unreasonable burden on the directory or the originating service provider, consent should only be required for new subscribers from the moment of application of this Regulation.*** The legitimate interest of legal entities requires that end-users that are legal entities have the right to object to the data related to them being included in a directory.

Or. en

Amendment 283

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are ***asked for consent before their personal data are*** included in ***a*** directory. The legitimate interest of legal entities requires that end-users that are legal entities have

Amendment

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person ***acting out of their business capacity*** requires that end-users that are natural persons are ***provided, upon request, with transparent information about the data being*** included in ***the*** directory ***and the means to verify, correct, update, supplement and delete***

the right to object to the data related to them being included in a directory.

data relating to them free of charge. The legitimate interest of legal entities requires that end-users that are legal entities have the right to object to the data related to them being included in a directory.

Or. en

Amendment 284

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that end-users that are legal entities have the right to object to the data related to them being included in a directory.

Amendment

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that end-users that are legal entities have the right to object to the data related to them being included in a directory. ***The consent should be collected by the electronic communications service provider at the moment of signing the contract for such service.***

Or. en

Amendment 285

Marju Lauristin

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that ***end-users that are natural persons*** are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that end-users ***that are legal entities*** have the right to object to the data related to them being included in a directory.

Amendment

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that ***users*** are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that end-users have the right to object to the data related to them being included in a directory. ***Natural persons who act with commercial intent, such as freelancers, small traders or self-employed persons, should be equated to legal persons.***

Or. en

Amendment 286

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

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons ***are asked for consent before*** their personal data ***are*** included in a directory. The legitimate interest of legal entities requires that end-users that are legal entities have

Amendment

(30) Publicly available directories of end-users of electronic communications services are widely distributed. Publicly available directories means any directory or service containing end-users information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that end-users that are natural persons ***have the possibility of objecting to*** their personal data ***being*** included in a directory. The legitimate interest of legal entities requires that end-users that are legal entities have

the right to object to the data related to them being included in a directory.

the right to object to the data related to them being included in a directory.

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 287

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) Publicly available directories of **end-users** of electronic communications services are widely distributed. Publicly available directories means any directory or service containing **end-users** information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that **end-users** that are natural persons are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that **end-users** that are legal entities have the right to object to the data related to them being included in a directory.

Amendment

(30) Publicly available directories of **subscribers** of electronic communications services are widely distributed. Publicly available directories means any directory or service containing **subscribers** information such as phone numbers (including mobile phone numbers), email address contact details and includes inquiry services. The right to privacy and to protection of the personal data of a natural person requires that **subscribers** that are natural persons are asked for consent before their personal data are included in a directory. The legitimate interest of legal entities requires that **subscribers** that are legal entities have the right to object to the data related to them being included in a directory.

Or. en

Amendment 288

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) If end-users that are natural persons **give their consent** to their data **being included in such** directories, they should be able to determine **on a consent basis** which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories should inform the end-users of the purposes of the directory and of the search functions of the directory **before including them in that directory. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.**

Amendment

(31) If end-users that are natural persons **do not object to the inclusion of** their data **from providers of number-based interpersonal communication services and electronic communication providers in public** directories, they should be able to determine which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories should inform the end-users of the purposes of the directory and of the search functions of the directory.

Or. en

Amendment 289

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

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) If end-users that are natural persons **give their consent** to their data being included in such directories, they should be able to **determine on a consent** basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories should **inform** the end-users of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to **determine by consent** on the basis of which categories of personal data their contact details can be

Amendment

(31) If end-users that are natural persons **do not object** to their data being included in such directories, they should be able to **make an objection on** basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories should **provide accessible information to** the end-users of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to **object** on the basis of which categories of personal data their

searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.

contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.

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 290

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) If end-users that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, ***providers of publicly available directories*** should ***inform the end-users*** of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.

Amendment

(31) If end-users that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, ***upon giving their consent the end-users*** should ***be informed*** of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same. ***The providers of publicly available directories shall provide information about the search options, as well as if new options and functions of the***

directories are available in the publicly available directories.

Or. en

Amendment 291
Sophia in 't Veld

Proposal for a regulation
Recital 31

Text proposed by the Commission

(31) If end-users that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data *are* included in *the directory* (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories should inform the end-users of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.

Amendment

(31) If end-users that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which *specific directory may include their information, the* categories of personal data *to be* included in *each of the respective directories* (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories should inform the end-users of the purposes of the directory and of the search functions of the directory before including them in that directory. End-users should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the end-user's contact details can be searched should not necessarily be the same.

Or. en

Amendment 292
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 31

Text proposed by the Commission

Amendment

(31) If **end-users** that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories should inform the **end-users** of the purposes of the directory and of the search functions of the directory before including them in that directory. **End-users** should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the **end-user's** contact details can be searched should not necessarily be the same.

(31) If **subscribers** that are natural persons give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, email address, home address, user name, phone number). In addition, providers of publicly available directories **or the providers of electronic communications services** should inform the **subscribers** of the purposes of the directory and of the search functions of the directory before including them in that directory. **Subscribers** should be able to determine by consent on the basis of which categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the **subscriber's** contact details can be searched should not necessarily be the same.

Or. en

Amendment 293 **Marju Lauristin**

Proposal for a regulation **Recital 31**

Text proposed by the Commission

(31) If **end-users that are natural persons** give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, **email** address, home address, user name, phone number). In addition, providers of publicly available directories should inform the end-users of the purposes of the directory and of the search functions of the directory before including them in that directory. **End-users** should be able to determine by consent on the basis of which categories of personal data their

Amendment

(31) If **users** give their consent to their data being included in such directories, they should be able to determine on a consent basis which categories of personal data are included in the directory (for example name, **e-mail** address, home address, user name, phone number). In addition, providers of publicly available directories **or the electronic communication service providers** should inform the end-users of the purposes of the directory and of the search functions of the directory before including them in that directory. **Users** should be able to determine by consent on the basis of which

contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the *end-user's* contact details can be searched should not necessarily be the same.

categories of personal data their contact details can be searched. The categories of personal data included in the directory and the categories of personal data on the basis of which the *user's* contact details can be searched should not necessarily be the same.

Or. en

Amendment 294
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends direct marketing communications directly to one or more identified or identifiable end-users using electronic communications services. ***In addition to the offering of products and services for commercial purposes, this should also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same should apply to messages sent by other non-profit organisations to support the purposes of the organisation.***

Amendment

(32) In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends direct marketing communications directly to one or more identified or identifiable end-users using electronic communications services.

Or. en

Amendment 295
Axel Voss, Heinz K. Becker

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends direct

Amendment

(32) In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends direct

marketing communications directly to one or more identified or identifiable end-users using electronic communications services. In addition to the offering of products and services for commercial purposes, this should also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same should apply to messages sent by other non-profit organisations to support the purposes of the organisation.

marketing communications directly to one or more identified or identifiable end-users using electronic communications services. In addition to the offering of products and services for commercial purposes, this should also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same should apply to messages sent by other non-profit organisations to support the purposes of the organisation. ***It should not apply to the communication for scientific re-search purposes like market and opinion research.***

Or. en

Amendment 296
Sophia in 't Veld

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends direct marketing communications directly to one or more identified or identifiable end-users using electronic communications services. In addition to the offering of products and services for commercial purposes, this should also include messages sent by ***political parties that contact natural persons via electronic communications services in order to promote their parties.*** ***The same should apply to messages sent by other*** non-profit organisations to support the purposes of the ***organisation***.

Amendment

(32) In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends direct marketing communications directly to one or more identified or identifiable end-users using electronic communications services. In addition to the offering of products and services for commercial purposes, this should also include messages sent by non-profit organisations to support the purposes of the ***organization, including messages supporting a political campaign.***

Or. en

Amendment 297
Maria Grapini

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) În prezentul regulament, marketingul direct se referă la orice formă de publicitate prin care o persoană fizică sau juridică trimite comunicații în scopuri de marketing direct către unul sau mai mulți utilizatori finali identificați sau identificabili care utilizează servicii de comunicații electronice. În plus față de oferta de produse și servicii în scopuri comerciale, această noțiune ar trebui să cuprindă și mesajele trimise de partidele politice care contactează persoane fizice prin intermediul serviciilor de comunicații electronice cu scopul de a se promova. Același lucru ar trebui să se aplice în cazul mesajelor trimise de alte organizații nonprofit în vederea îndeplinirii obiectivelor organizației.

Amendment

(32) În prezentul regulament, marketingul direct se referă la orice formă de publicitate prin care o persoană fizică sau juridică trimite comunicații în scopuri de marketing direct către unul sau mai mulți utilizatori finali identificați sau identificabili care utilizează servicii de comunicații electronice. În plus față de oferta de produse și servicii în scopuri comerciale, această noțiune ar trebui să cuprindă și mesajele trimise de partidele politice **și persoane politice independente** care contactează persoane fizice prin intermediul serviciilor de comunicații electronice cu scopul de a se promova. Același lucru ar trebui să se aplice în cazul mesajelor trimise de alte organizații nonprofit în vederea îndeplinirii obiectivelor organizației.

Or. ro

Amendment 298
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends direct marketing communications directly to one or more identified or identifiable **end-users** using electronic communications services. In addition to the offering of products and services for commercial purposes, this should also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same should apply to messages sent by other

Amendment

(32) In this Regulation, direct marketing refers to any form of advertising by which a natural or legal person sends **or presents** direct marketing communications directly to one or more identified or identifiable **subscribers** using electronic communications services. In addition to the offering of products and services for commercial purposes, this should also include messages sent by political parties that contact natural persons via electronic communications services in order to promote their parties. The same should apply to messages sent by other non-profit

non-profit organisations to support the purposes of the organisation.

organisations to support the purposes of the organisation.

Or. en

Amendment 299

Brice Hortefeux, Rachida Dati

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) Safeguards should be provided to protect end-users against unsolicited communications for direct marketing purposes, which intrude into the private life of end-users. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications, whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS, Bluetooth, etc. It is therefore justified to require that consent of the end-user is obtained before commercial electronic communications for direct marketing purposes are sent to end-users in order to effectively protect individuals against the intrusion into their private life as well as the legitimate interest of legal persons. Legal certainty and the need to ensure that the rules protecting against unsolicited electronic communications remain future-proof justify the need to define a single set of rules that do not vary according to the technology used to convey these unsolicited communications, while at the same time guaranteeing an equivalent level of protection for all citizens throughout the Union. However, it is reasonable to allow the use of e-mail contact details within the context of an existing customer relationship for the offering of *similar* products or services. Such possibility should only apply to the same company that has obtained the electronic contact

Amendment

(33) Safeguards should be provided to protect end-users against unsolicited communications for direct marketing purposes, which intrude into the private life of end-users. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications, whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS, Bluetooth, etc. It is therefore justified to require that consent of the end-user is obtained before commercial electronic communications for direct marketing purposes are sent to end-users in order to effectively protect individuals against the intrusion into their private life as well as the legitimate interest of legal persons. Legal certainty and the need to ensure that the rules protecting against unsolicited electronic communications remain future-proof justify the need to define a single set of rules that do not vary according to the technology used to convey these unsolicited communications, while at the same time guaranteeing an equivalent level of protection for all citizens throughout the Union. However, it is reasonable to allow the use of e-mail contact details within the context of an existing customer relationship for the offering of products or services. Such possibility should only apply to the same company that has obtained the electronic contact details in

details in accordance with Regulation (EU) 2016/679.

accordance with Regulation (EU) 2016/679. ***Direct marketing shall not include any form of advertising which is displayed within content presented to an end-user as part of an information society service.***

Or. en

Amendment 300

Anna Maria Corazza Bildt

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) Safeguards should be provided to protect end-users against unsolicited communications for direct marketing purposes, which intrude into the private life of end-users. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications, whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS, Bluetooth, etc. It is therefore justified to require that consent of the end-user is obtained before commercial electronic communications for direct marketing purposes are sent to end-users in order to effectively protect individuals against the intrusion into their private life ***as well as the legitimate interest of legal persons.*** Legal certainty and the need to ensure that the rules protecting against unsolicited electronic communications remain future-proof justify the need to define a single set of rules that do not vary according to the technology used to convey these unsolicited communications, while at the same time guaranteeing an equivalent level of protection for all citizens throughout the Union. However, it is reasonable to allow the use of e-mail contact details within the context of an existing customer

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products or services. Such possibility should only apply to the same company that has obtained the electronic contact details in accordance with Regulation (EU) 2016/679.

Or. en

Amendment 301

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) Safeguards should be provided to protect **end-users** against unsolicited communications for direct marketing purposes, **which intrude into the private life of end-users**. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications, whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS, Bluetooth, etc. It is therefore justified to require that consent of the **end-user** is obtained before commercial electronic communications for direct marketing purposes are sent to **end-users** in order to effectively protect individuals against the intrusion into their private life as well as the legitimate interest of legal persons. Legal certainty and the need to ensure that the rules protecting against unsolicited electronic communications remain future-proof justify the need to define a single set of rules that do not vary according to the technology used to convey these unsolicited communications, while at the same time guaranteeing an equivalent level of protection for all citizens throughout the Union. However, it is reasonable to allow the use of e-mail contact details within the context of an existing customer

Amendment

(33) Safeguards should be provided to protect **subscribers** against unsolicited communications, **including** for direct marketing purposes. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications, whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS, Bluetooth, etc. It is therefore justified to require that consent of the **subscriber** is obtained before commercial electronic communications for direct marketing purposes are sent to **subscribers** in order to effectively protect individuals against the intrusion into their private life as well as the legitimate interest of **subscribers that are** legal persons. Legal certainty and the need to ensure that the rules protecting against unsolicited electronic communications remain future-proof justify the need to define a single set of rules that do not vary according to the technology used to convey these unsolicited communications, while at the same time guaranteeing an equivalent level of protection for all citizens throughout the Union. However, it is reasonable to allow the use of e-mail contact details within the context of an existing customer

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relationship for the offering of similar products or services. Such possibility should only apply to the same company that has obtained the electronic contact details in accordance with Regulation (EU) 2016/679.

Or. en

Amendment 302

Cornelia Ernst

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) Safeguards should be provided to protect end-users against unsolicited communications for direct marketing purposes, ***which intrude into the private life of end-users***. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications, whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS, Bluetooth, etc. It is therefore justified to require that consent of the end-user is obtained before commercial electronic communications for direct marketing purposes are sent to end-users in order to effectively protect individuals against the intrusion into their private life as well as the legitimate interest of legal persons. Legal certainty and the need to ensure that the rules protecting against unsolicited electronic communications remain future-proof justify the need to define a single set of rules that do not vary according to the technology used to convey these unsolicited communications, while at the same time guaranteeing an equivalent level of protection for all citizens throughout the Union. However, it is reasonable to allow the use of e-mail contact details within the context of an existing customer

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products or services. Such possibility should only apply to the same company that has obtained the electronic contact details in accordance with Regulation (EU) 2016/679.

Or. en

Amendment 303

Michal Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) Safeguards should be provided to protect end-users against unsolicited communications for direct marketing purposes, which intrude into the private life of end-users. The degree of privacy intrusion and nuisance is considered relatively similar independently of the wide range of technologies and channels used to conduct these electronic communications, whether using automated calling and communication systems, instant messaging applications, emails, SMS, MMS, Bluetooth, etc. It is therefore justified to require that consent of the end-user is obtained before commercial electronic communications for direct marketing purposes are sent to end-users in order to effectively protect individuals against the intrusion into their private life as well as the legitimate interest of legal persons. Legal certainty and the need to ensure that the rules protecting against unsolicited electronic communications remain future-proof justify the need to define a single set of rules that do not vary according to the technology used to convey these unsolicited communications, while at the same time guaranteeing an equivalent level of protection for all citizens throughout the Union. However, it is reasonable to allow the use of e-mail contact details within the

Amendment

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context of an existing customer relationship for the offering of *similar* products or services. Such possibility should only apply to the same company that has obtained the electronic contact details in accordance with Regulation (EU) 2016/679.

context of an existing customer relationship for the offering of products or services. Such possibility should only apply to the same company that has obtained the electronic contact details in accordance with Regulation (EU) 2016/679.

Or. en

Amendment 304

Anna Maria Corazza Bildt, Carlos Coelho, Damiano Zoffoli, Barbara Matera, Merja Kyllönen, Hilde Vautmans, Julie Ward, Caterina Chinnici

Proposal for a regulation Recital 33 a (new)

Text proposed by the Commission

Amendment

(33 a) Regulation 2016/679 explicitly recognises the need to provide additional protection to children.

This Regulation shall provide additional protection and safeguards when end-users are children, given that they may be less aware of the risks and consequences associated with the processing of their personal data. This Regulation should also grant special attention to the protection of children's privacy. When children are required to express their consent, the information provided to express the consent should be given in a clear and age-appropriate language. Profiling and behaviourally targeted advertising techniques for children should be prohibited.

Or. en

Justification

Children are vulnerable users and need additional protection against tracking and profiling. The ePrivacy Regulation should complement what the GDPR already provides in this regard.

Amendment 305

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation
Recital 34

Text proposed by the Commission

(34) When end-users have provided their consent to receiving **unsolicited** communications for direct marketing purposes, they should still be able to withdraw their consent at any time in an easy manner. To facilitate effective enforcement of Union rules on unsolicited messages for direct marketing, it is necessary to prohibit the masking of the identity and the use of false identities, false return addresses or numbers while sending unsolicited commercial communications for direct marketing purposes. Unsolicited marketing communications should therefore be clearly recognizable as such and should indicate the identity of the legal or the natural person transmitting the communication or on behalf of whom the communication is transmitted and provide the necessary information for recipients to exercise their right to oppose to receiving further written and/or oral marketing messages.

Amendment

(34) When end-users have provided their consent to receiving communications for direct marketing purposes, they should still be able to withdraw their consent at any time in an easy manner. To facilitate effective enforcement of Union rules on unsolicited messages for direct marketing, it is necessary to prohibit the masking of the identity and the use of false identities, false return addresses or numbers while sending unsolicited commercial communications for direct marketing purposes. Unsolicited marketing communications should therefore be clearly recognizable as such and should indicate the identity of the legal or the natural person transmitting the communication or on behalf of whom the communication is transmitted and provide the necessary information for recipients to exercise their right to oppose to receiving further written and/or oral marketing messages.

Or. en

Amendment 306
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 34

Text proposed by the Commission

(34) When **end-users** have provided their consent to receiving unsolicited communications for direct marketing purposes, they should still be able to withdraw their consent at any time in an easy manner. To facilitate effective enforcement of Union rules on unsolicited messages for direct marketing, it is necessary to prohibit the masking of the

Amendment

(34) When **subscribers** have provided their consent to receiving unsolicited communications for direct marketing purposes, they should still be able to withdraw their consent at any time in an easy manner. To facilitate effective enforcement of Union rules on unsolicited messages for direct marketing, it is necessary to prohibit the masking of the

identity and the use of false identities, false return addresses or numbers while sending unsolicited commercial communications for direct marketing purposes. Unsolicited marketing communications should therefore be clearly recognizable as such and should indicate the identity of the legal or the natural person transmitting the communication or on behalf of whom the communication is transmitted and provide the necessary information for recipients to exercise their right to oppose to receiving further written and/or oral marketing messages.

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Or. en

Amendment 307

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) In order to allow easy withdrawal of consent, legal or natural persons conducting direct marketing communications by email should present a link, or a valid electronic mail address, which can be easily used by end-users to withdraw their consent. Legal or natural persons conducting direct marketing communications through voice-to-voice calls and through calls by automating calling and communication systems should display their identity line on which the company can be called *or present a specific code identifying the fact that the call is a marketing call.*

Amendment

(35) In order to allow easy withdrawal of consent, legal or natural persons conducting direct marketing communications by email should present a link, or a valid electronic mail address, which can be easily used by end-users to withdraw their consent. Legal or natural persons conducting direct marketing communications through voice-to-voice calls and through calls by automating calling and communication systems should display their identity line on which the company can be called.

Or. en

Amendment 308

Brice Hortefeux, Rachida Dati

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) In order to allow easy withdrawal of consent, legal or natural persons conducting direct marketing communications by email should present a link, or a valid electronic mail address, which can be easily used by end-users to withdraw their consent. Legal or natural persons conducting direct marketing communications through voice-to-voice calls and through calls by automating calling and communication systems should display their identity line on which the company can be called ***or present a specific code identifying the fact that the call is a marketing call.***

Amendment

(35) In order to allow easy withdrawal of consent, legal or natural persons conducting direct marketing communications by email should present a link, or a valid electronic mail address, which can be easily used by end-users to withdraw their consent. Legal or natural persons conducting direct marketing communications through voice-to-voice calls and through calls by automating calling and communication systems should display their identity line on which the company can be called.

Or. en

Amendment 309

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) In order to allow easy withdrawal of consent, legal or natural persons conducting direct marketing communications by email should present a link, or a valid electronic mail address, which can be easily used by ***end-users*** to withdraw their consent. Legal or natural persons conducting direct marketing communications through voice-to-voice calls and through calls by automating calling and communication systems should display their identity line on which the company can be called ***or*** present a specific code identifying the fact that the call is a marketing call.

Amendment

(35) In order to allow easy withdrawal of consent, legal or natural persons conducting direct marketing communications by email should present a link, or a valid electronic mail address, which can be easily used by ***subscribers*** to withdraw their consent. Legal or natural persons conducting direct marketing communications through voice-to-voice calls and through calls by automating calling and communication systems should display their identity line on which the company can be called ***and*** present a specific code identifying the fact that the call is a marketing call.

Or. en

Amendment 310
Anna Maria Corazza Bildt

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) In order to allow easy withdrawal of consent, legal or natural persons conducting direct marketing communications by email should present a link, or a valid electronic mail address, which can be easily used by **end-users** to withdraw their consent. **Legal or** natural persons conducting direct marketing communications through voice-to-voice calls and through calls by automating calling and communication systems should display their identity line on which the company can be called or present a specific code identifying the fact that the call is a marketing call.

Amendment

(35) In order to allow easy withdrawal of consent, legal or natural persons conducting direct marketing communications by email should present a link, or a valid electronic mail address, which can be easily used by **consumers** to withdraw their consent. Natural persons conducting direct marketing communications through voice-to-voice calls and through calls by automating calling and communication systems should display their identity line on which the company can be called or present a specific code identifying the fact that the call is a marketing call.

Or. en

Amendment 311
Cornelia Ernst

Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) Voice-to-voice direct marketing calls that do not involve the use of automated calling and communication systems, given that they are more costly for the sender and impose no financial costs on end-users. Member States should therefore be able to establish and or maintain national systems only allowing such calls to end-users who have not objected.

Amendment

deleted

Or. en

Amendment 312

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Recital 36

Text proposed by the Commission

Amendment

(36) Voice-to-voice direct marketing calls that do not involve the use of automated calling and communication systems, given that they are more costly for the sender and impose no financial costs on end-users. Member States should therefore be able to establish and or maintain national systems only allowing such calls to end-users who have not objected.

deleted

Or. en

Justification

This should not be left to Member States, in order to avoid fragmentation of the Digital Single Market.

Amendment 313

Sophia in 't Veld

Proposal for a regulation

Recital 36

Text proposed by the Commission

Amendment

(36) Voice-to-voice direct marketing calls that do not involve the use of automated calling and communication systems, given that they are more costly for the sender and impose no financial costs on end-users. Member States should therefore be able to establish and or maintain national systems only allowing such calls to end-users who have not objected.

(36) Voice-to-voice direct marketing calls that do not involve the use of automated calling and communication systems *should be allowed only if the end-user has not objected. To this end, Member States should ensure that an effective Do Not Call register is in place. The service providers enabling marketing calls should offer new subscribers the choice between accepting marketing calls with the designated prefix and having such calls automatically blocked by the service provider.*

Or. en

Amendment 314

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) Service providers who offer electronic communications services ***should inform end- users of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform end-users of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of*** Article 32 of Regulation (EU) 2016/679.

Amendment

(37) Service providers who offer electronic communications services ***shall comply with the security obligations prescribed in*** Article 32 of Regulation (EU) 2016/679.

Or. en

Amendment 315

Michal Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) Service providers who offer electronic ***communications*** services ***should inform end- users of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform end-users of particular security risks does not discharge a service provider***

Amendment

(37) Service providers who offer electronic ***communication*** services ***shall comply with security obligations as prescribed in Article 32 of Regulation (EU) 2016/679 and Article 40 of [European Electronic Communications Code].***

from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Or. en

Amendment 316

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) Service providers who offer electronic communications services should **inform end- users** of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform **end-users** of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Amendment

(37) Service providers who offer electronic communications services should **process electronic communications data in such a way as to prevent unauthorised processing, including access, disclosure or alteration. They should ensure that such unauthorised access, disclosure or alteration can be detected, and also ensure that electronic communications data are protected by using state-of-the-art software and encryption technologies. Service providers should also inform subscribers** of measures they can take to protect **their anonymity and** the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform **subscribers** of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

*Justification**Based on LIBE AM 36 Rapporteur***Amendment 317**
Cornelia Ernst**Proposal for a regulation**
Recital 37*Text proposed by the Commission*

(37) Service providers who offer electronic communications services should **inform end- users** of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform end-users of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Amendment

(37) Service providers who offer electronic communications services should **process electronic communications data in such a way as to prevent unauthorised processing, including access, disclosure or alteration. They should ensure that such unauthorised access, disclosure or alteration can be detected, and also ensure that electronic communications data are protected by using state of the art technologies. Service providers should also inform end-users** of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform end-users of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Amendment 318
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) Service providers who offer electronic communications services should inform end- users of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. ***The requirement to inform end-users of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge.*** Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Amendment

(37) Service providers who offer electronic communications services should inform end- users of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. Security is appraised in the light of Article 32 of Regulation (EU) 2016/679.

Or. en

Amendment 319
Maria Grapini

Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) Furnizorii de servicii care oferă servicii de comunicații electronice ar trebui să îi informeze pe utilizatorii finali cu privire la măsurile pe care le pot lua pentru protejarea securității comunicațiilor lor, de exemplu prin utilizarea unor tipuri specifice de software sau a unor tehnologii de criptare. Cerința de a informa utilizatorii finali despre un anumit risc legat de securitatea comunicațiilor nu îl scutește pe furnizorul serviciilor de obligația de a lua, pe cheltuială proprie, măsurile necesare imediate pentru a combate orice risc nou și neprevăzut și de a restabili nivelul normal de securitate al serviciilor. Informarea

Amendment

(37) Furnizorii de servicii care oferă servicii de comunicații electronice ar trebui să ***preîntâmpine distrugerea, blocarea, copierea și raspândirea datelor și să*** îi informeze pe utilizatorii finali cu privire la măsurile pe care le pot lua pentru protejarea securității comunicațiilor lor, de exemplu prin utilizarea unor tipuri specifice de software sau a unor tehnologii de criptare. Cerința de a informa utilizatorii finali despre un anumit risc legat de securitatea comunicațiilor nu îl scutește pe furnizorul serviciilor de obligația de a lua, pe cheltuială proprie, măsurile necesare imediate pentru a combate orice risc nou și

abonațiilor cu privire la riscurile legate de securitatea comunicațiilor ar trebui să fie gratuită. Securitatea este evaluată în conformitate cu articolul 32 din Regulamentul (UE) 2016/679.

neprevăzut și de a restabili nivelul normal de securitate al serviciilor. Informarea abonațiilor cu privire la riscurile legate de securitatea comunicațiilor ar trebui să fie gratuită. Securitatea este evaluată în conformitate cu articolul 32 din Regulamentul (UE) 2016/679.

Or. ro

Amendment 320
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Recital 38

Text proposed by the Commission

(38) ***To ensure full consistency with Regulation (EU) 2016/679***, the enforcement of the provisions of this Regulation should be entrusted to the same authorities responsible for the enforcement of the provisions Regulation (EU) 2016/679 and this Regulation relies on the consistency mechanism of Regulation (EU) 2016/679. Member States should be able to have more than one supervisory authority, to reflect their constitutional, organisational and administrative structure. The supervisory authorities should also be responsible for monitoring the application of this Regulation regarding electronic communications data for legal entities. Such additional tasks should not jeopardise the ability of the supervisory authority to perform its tasks regarding the protection of personal data under Regulation (EU) 2016/679 and this Regulation. Each supervisory authority should be provided with the additional financial and human resources, premises and infrastructure necessary for the effective performance of the tasks under this Regulation.

Amendment

(38) The enforcement of the provisions of this Regulation should be entrusted to the same authorities responsible for the enforcement of the provisions Regulation (EU) 2016/679, and this Regulation relies on the consistency mechanism of Regulation (EU) 2016/679. Member States should be able to have more than one supervisory authority, to reflect their constitutional, organisational and administrative structure. The supervisory authorities should also be responsible for monitoring the application of this Regulation regarding electronic communications data for legal entities. Such additional tasks should not jeopardise the ability of the supervisory authority to perform its tasks regarding the protection of personal data under Regulation (EU) 2016/679 and this Regulation. Each supervisory authority should be provided with the additional financial and human resources, premises and infrastructure necessary for the effective performance of the tasks under this Regulation.

Or. en

Justification

The GDPR and the ePrivacy Regulation are similar and closely related, but also different.

Amendment 321

Cornelia Ernst

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) ***In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union,*** the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. ***In particular, delegated acts should be adopted in respect of the information to be presented, including by means of standardised icons in order to give an easily visible and intelligible overview of the collection of information emitted by terminal equipment, its purpose, the person responsible for it and of any measure the end-user of the terminal equipment can take to minimise the collection. Delegated acts are also necessary to specify a code to identify direct marketing calls including those made through automated calling and communication systems.*** It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016²⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of

Amendment

(41) The power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016²⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. Furthermore, in order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission when provided for by this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

Commission expert groups dealing with the preparation of delegated acts. Furthermore, in order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission when provided for by this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

²⁵ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1–14).

²⁵ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1–14).

Or. en

Amendment 322

Daniel Dalton, Helga Stevens, John Procter

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. ***In particular, delegated acts should be adopted in respect of the information to be presented, including by means of standardised icons in order to give an easily visible and intelligible overview of the collection of information emitted by terminal equipment, its purpose, the person responsible for it and of any measure the end-user of the terminal equipment can take to minimise the collection. Delegated acts are also necessary to specify a code to identify direct marketing calls including***

Amendment

(41) In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to supplement this Regulation. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016²⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of

those made through automated calling and communication systems. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016²⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. Furthermore, in order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission when provided for by this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

Commission expert groups dealing with the preparation of delegated acts. Furthermore, in order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission when provided for by this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

²⁵ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1–14).

²⁵ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1–14).

Or. en

Amendment 323

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) ***In order to fulfil the objectives of this Regulation, namely to protect the fundamental rights and freedoms of natural persons and in particular their right to the protection of personal data and to ensure the free movement of personal data within the Union, the power to adopt acts in accordance with Article***

Amendment

(41) ***Implementing powers should be conferred on the Commission to specify a code to identify direct marketing calls including those made through automated calling and communication systems. Furthermore, implementing powers should be conferred on the Commission with regard to the establishment of***

290 of the Treaty should be delegated to the Commission to supplement this Regulation. In particular, delegated acts should be adopted in respect of the information to be presented, including by means of standardised icons in order to give an easily visible and intelligible overview of the collection of information emitted by terminal equipment, its purpose, the person responsible for it and of any measure the end-user of the terminal equipment can take to minimise the collection. Delegated acts are also necessary to specify a code to identify direct marketing calls including those made through automated calling and communication systems. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016²⁵. In particular, to ensure equal participation in the preparation of *delegated acts*, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Furthermore, in order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission when provided for by this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

²⁵ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1–14).

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 subscribers request the tracing of malicious or nuisance calls. Those powers should be exercised in accordance with Regulation (EU) No 182/2011. It is of particular importance that the Commission carries out appropriate consultations and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of *implementing measures*, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Justification

Editing mistake in the COM proposal - this is done by an implementing measure in Article 16(7).

Amendment 324

Heinz K. Becker

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) Da das Ziel dieser Verordnung, nämlich die Gewährleistung eines gleichwertigen Datenschutzniveaus für natürliche **und juristische** Personen und des freien Verkehrs elektronischer Kommunikationsdaten in der Union, von den Mitgliedstaaten nicht ausreichend verwirklicht werden kann, sondern vielmehr wegen des Umfangs oder der Wirkungen der Maßnahme auf Unionsebene besser zu verwirklichen ist, kann die Union im Einklang mit dem in Artikel 5 des Vertrags über die Europäische Union verankerten Subsidiaritätsprinzip tätig werden. Entsprechend dem in demselben Artikel genannten Grundsatz der Verhältnismäßigkeit geht diese Verordnung nicht über das für die Verwirklichung dieses Ziels erforderliche Maß hinaus.

Amendment

(42) Da das Ziel dieser Verordnung, nämlich die Gewährleistung eines gleichwertigen Datenschutzniveaus für natürliche Personen und des freien Verkehrs elektronischer Kommunikationsdaten in der Union, von den Mitgliedstaaten nicht ausreichend verwirklicht werden kann, sondern vielmehr wegen des Umfangs oder der Wirkungen der Maßnahme auf Unionsebene besser zu verwirklichen ist, kann die Union im Einklang mit dem in Artikel 5 des Vertrags über die Europäische Union verankerten Subsidiaritätsprinzip tätig werden. Entsprechend dem in demselben Artikel genannten Grundsatz der Verhältnismäßigkeit geht diese Verordnung nicht über das für die Verwirklichung dieses Ziels erforderliche Maß hinaus.

Or. de

Amendment 325

Daniel Dalton, John Procter

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down rules regarding the protection of fundamental

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 private life and communications and the protection of natural persons with regard to the processing of personal data.

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 326

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi, Anna Maria Corazza Bildt

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. en

Justification

The deletion is necessary in order to synchronise this regulation with Regulation (EU) No 2016/679, which the legislature 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 lex specialis. Moreover, it has also not been clearly established who is to give consent on behalf of legal persons.

Amendment 327

Daniel Dalton, John Procter

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 328

Anna Maria Corazza Bildt

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.

Or. en

Amendment 329

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 1 – paragraph 3

Text proposed by the Commission

3. The provisions of this Regulation particularise and complement Regulation

Amendment

deleted

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

Or. en

Justification

Article 1(3) stipulates that this regulation particularises and complements Regulation (EU) No 2016/679 by laying down specific rules. This turns this regulation into 'lex specialis' in relation to the GDPR. This regulation should not be used to correct Regulation (EU) No 2016/679.

Amendment 330

Daniel Dalton, Helga Stevens, John Procter

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**

Or. en

Amendment 331

Brice Hortefeux, Rachida Dati

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.

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

Or. en



2017/0003(COD)

14.7.2017

AMENDMENTS

332 - 705

Draft report
Marju Lauristin
(PE606.011v01-00)

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))

AM_Com_LegReport

Amendment 332
Jan Philipp Albrecht, Judith Sargentini

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

Justification

Moved substantial elements here from Art. 3(1), as they is not about the territorial scope.

Amendment 333
Monica Macovei, Tomáš Zdechovský, Barbara Spinelli

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 the terminal equipment of end-users *regardless of whether a payment is required by the user.*

Or. en

Amendment 334
Daniel Dalton, John Procter

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 335

Axel Voss, Heinz K. Becker

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

Justification

Article 1(3) stipulates that this regulation particularises and complements Regulation (EU) No 2016/679 by laying down specific rules. This turns this regulation into 'lex specialis' in relation to the GDPR. This regulation should not be used to correct Regulation (EU) No 2016/679.

Amendment 336

Jan Philipp Albrecht, Judith Sargentini

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 is required;

Or. en

Amendment 337
Jan Philipp Albrecht, Judith Sargentini

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 338
Jan Philipp Albrecht, Judith Sargentini

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 users and subscribers, including the retrieval and presentation of information on the Internet;

Or. en

Amendment 339
Jan Philipp Albrecht, Judith Sargentini

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 subscribers of electronic communication;

Or. en

Amendment 340

Jan Philipp Albrecht, Judith Sargentini

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 341

Daniel Dalton, Helga Stevens, John Procter

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;

(c) electronic communications services 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 342

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

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;

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

Or. en

Justification

The household exemption introduced by Article 2(2)(c) of Regulation (EU) No 2016/679 should also apply to this regulation.

Amendment 343

Cornelia Ernst

Proposal for a regulation

Article 2 – paragraph 3

Text proposed by the Commission

Amendment

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].

3. The processing of ***personal*** data by the Union institutions, bodies, offices and agencies is governed by Regulation (EU) 00/0000 [new Regulation replacing Regulation 45/2001]. ***This Regulation complements and particularizes Regulation (EU) 00/0000 [new Regulation replacing Regulation 45/2001] with regard to the confidentiality of electronic communication services.***

Or. en

Amendment 344

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 2 – paragraph 3

Text proposed by the Commission

Amendment

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

3. The processing of electronic communications data by the Union institutions, bodies, offices and agencies ***insofar as they are not publicly available***

[new Regulation replacing Regulation 45/2001].

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 345
Jan Philipp Albrecht, Judith Sargentini

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 subscriber is in the Union, where the communications services, hardware, software, directories, or direct marketing commercial electronic communications are provided from the territory of the Union, or where the the processing of information related to or processed by the terminal equipment of users or subscribers takes place in the Union.*

Or. en

Amendment 346
Jan Philipp Albrecht, Judith Sargentini

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

deleted

Or. en

Amendment 347
Daniel Dalton, John Procter

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 communications services to end-users in the Union, irrespective of whether a payment of the end-user is required;

Or. en

Amendment 348
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 communications services to end-users in the Union, irrespective of whether a payment of the end-user is required;

Or. en

Amendment 349
Cornelia Ernst

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 provision of electronic communications services to end-users in the Union, irrespective of whether **the provider is located inside the EU, and irrespective of whether** a payment of the end-user is required;

Or. en

Amendment 350
Jan Philipp Albrecht, Judith Sargentini

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

Text proposed by the Commission

Amendment

(b) the use of such services; **deleted**

Or. en

Amendment 351
Jan Philipp Albrecht, Judith Sargentini

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

Amendment 352
Cornelia Ernst

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 located in the Union.

Or. en

Amendment 353
Daniel Dalton, John Procter

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 354
Monica Macovei, Tomáš Zdechovský

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 355
Sophia in 't Veld

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, ***publicly available directory, software provider permitting electronic communications, or person sending commercial direct marketing communications or collecting information related to or stored in end-users' terminal equipment, whenever their activities are targeted to users in the EU,*** is not established in the Union it shall designate in writing a representative in the Union.

Or. en

Amendment 356

Jan Philipp Albrecht, Judith Sargentini

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, ***of publicly available directories, of hardware of software permitting electronic communications, or the person sending direct marketing commercial communications, or the person processing information related to or processed by the terminal equipment of users or subscribers*** is not established in the Union, it shall designate in writing a representative in the Union.

Or. en

Amendment 357

Daniel Dalton, John Procter

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 ***the party identified pursuant to Article 27 of Regulation (EU) No 2016/679 shall act as its*** representative in the Union.

Or. en

Amendment 358

Axel Voss, Heinz K. Becker, Rachida Dati, Elissavet Vozemberg-Vrionidi, Anna Maria Corazza Bildt, Brice Hortefeux

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. en

Justification

Article 27 of Regulation (EU) No 2016/679 stipulates how representatives of controllers or processors not established in the Union are to be treated. The more specific provisions in this proposal extend Article 27 of Regulation (EU) No 2016/679.

Amendment 359

Daniel Dalton, John Procter

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

3. ***The representative shall be established in one of the Member States where the end-users of such electronic communications services are located.***

Amendment

deleted

Or. en

Amendment 360

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

3. The representative shall be established in one of the Member States where the ***end-users*** of such electronic communications services are located.

Amendment

3. The representative shall be established in one of the Member States where the ***users or subscribers*** of such electronic communications services are located.

Or. en

Amendment 361
Jan Philipp Albrecht, Judith Sargentini

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, **users, and subscribers**, on all issues related to **the activities referred to in Article 2** for the purposes of ensuring compliance with this Regulation.

Or. en

Amendment 362
Jan Philipp Albrecht, Judith Sargentini

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 363
Monica Macovei, Tomáš Zdechovský

Proposal for a regulation
Article 3 a (new)

Article 3 a

Applicable law in the online environment

1. To the extent that Regulation (EU) 2016/679 or this Regulation allows Member States to regulate the processing of personal data or electronic communications data, in their domestic laws, the relevant national law provisions shall apply to:

(a) the processing of personal data or electronic communications data in the context of the activities of an establishment of a controller, processor or a provider of an electronic communications service or network established in the Member State in question; or

(b) the processing of personal data or electronic communications data by a controller, processor or a provider of an electronic communications service or network not established in the Union, offering goods or services in that Member State or monitoring the behaviour of data subjects in that Member State;

2. The relevant national law provisions as set out in point 1 of this Article do not apply to the processing of personal data or electronic communications data in the context of the activities of an establishment of a controller, processor or a provider of an electronic communications service or network established in another Member State, who shall instead only be subject to the relevant national law provisions of that other Member State.

Or. en

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 365

Jan Philipp Albrecht, Judith Sargentini

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 366

Daniel Dalton, John Procter

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 367

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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 368

Cornelia Ernst

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* **deleted**

ancillary feature that is intrinsically linked to another service.

Or. en

Amendment 369
Jan Philipp Albrecht, Judith Sargentini

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 370
Cornelia Ernst

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

Text proposed by the Commission

Amendment

(-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 371
Cornelia Ernst

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

Text proposed by the Commission

Amendment

(-a a) '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;

Or. en

Amendment 372
Cornelia Ernst

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

Text proposed by the Commission

Amendment

(-a b) '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); it includes services enabling interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service;

Or. en

Amendment 373
Cornelia Ernst

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

Text proposed by the Commission

Amendment

(-a c) '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 374
Cornelia Ernst

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

Text proposed by the Commission

Amendment

(-a d) '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 375
Cornelia Ernst

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

Text proposed by the Commission

Amendment

(-a e) 'end-user' means a legal entity or a natural person using or requesting a publicly available electronic communications service;

Or. en

Amendment 376
Cornelia Ernst

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

Text proposed by the Commission

Amendment

(-a f) '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 377
Jan Philipp Albrecht, Judith Sargentini

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

Text proposed by the Commission

Amendment

(a a) (-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;

(-aa) '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;

(-ab) '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);

(-ac) '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;

(-ad) '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;

(-ae) 'subscriber' means a legal entity or a natural person using or requesting a publicly available electronic communications service;

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

(this should be before point (a))

Or. en

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, 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

Justification

See explanatory recital (14a) on the separation and encapsulation of protocol layers.

Amendment 379
Daniel Dalton, John Procter

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 380
Anna Maria Corazza Bildt

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** by means of **publicly available** electronic communications services, such as text, voice, videos, images, and sound;

Or. en

Amendment 381
Jan Philipp Albrecht, Judith Sargentini

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, **electronic identifiers and any other data broadcasted or emitted by the 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

Justification

With the clarification on "data broadcasted or emitted" in the definition of "metadata", Article 8(2) can be deleted, as it is covered by Art.6(2).

Last sentence: See explanatory recital (14a) on the separation and encapsulation of protocol layers.

Amendment 382
Cornelia Ernst

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, ***electronic identifiers and any other data broadcasted or emitted by the 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 383
Sophia in 't Veld

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

Amendment

(c) ‘electronic communications metadata’ means ***all*** data processed for the ***purpose*** 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;

services, and the date, time, duration and the type of communication;

Or. en

Amendment 384

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 4 – paragraph 3 – point d

Text proposed by the Commission

(d) ‘publicly available directory’ means a directory of **end-users** of electronic communications services, whether in printed or electronic form, which is published or made available to the public or to a section of the public, including by means of a directory enquiry service;

Amendment

(d) ‘publicly available directory’ means a directory of **subscribers** of electronic communications services, whether in printed or electronic form, which is published or made available to the public or to a section of the public, including by means of a directory enquiry service;

Or. en

Amendment 385

Axel Voss, Heinz K. Becker

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 **communication for the purpose of promoting products and services**, whether written or oral, sent **directly to an** identified or identifiable end-users of **an interpersonal communications service**, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, etc. **For the purposes of this regulation an interpersonal communications service shall also include a service that is not provided for remuneration;**

Or. en

Amendment 386

Jan Philipp Albrecht, Judith Sargentini

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 *subscribers* of electronic communications services, including the use of automated calling and communication systems with or without human interaction, electronic mail, SMS, *fax*, etc.;

Or. en

Amendment 387

Sophia in 't Veld

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 written or oral, sent, *directed 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, *fax machines*, etc.;

Or. en

Amendment 388

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 4 – paragraph 3 – point g

Text proposed by the Commission

(g) ‘direct marketing voice-to-voice calls’ means live calls, which do not entail the use of automated calling systems and communication systems;

Amendment

(g) ‘direct marketing voice-to-voice calls’ means live calls, which do not entail the use of automated calling systems and communication systems, ***including calls made using automated calling and communication systems which connect the called person to an individual;***

Or. en

Justification

Moved last part here from (h) in order to avoid a circular definition in (h).

Amendment 389

Peter Kouroumbashev, Filiz Hyusmenova

Proposal for a regulation

Article 4 – paragraph 3 – point g

Text proposed by the Commission

(g) ‘direct marketing voice-to-voice calls’ means live calls, which do not entail the use of automated calling systems and communication systems;

Amendment

(g) ‘direct marketing voice-to-voice calls’ means live calls, which do not entail the use of automated calling systems and communication systems; ***this shall not include calls and text messages linked to Amber Alert;***

Or. en

Amendment 390

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 4 – paragraph 3 – point h

Text proposed by the Commission

(h) ‘automated calling and communication systems’ means systems capable of automatically initiating calls to one or more recipients in accordance with instructions set for that system, and

Amendment

(h) ‘automated calling and communication systems’ means systems capable of automatically initiating calls to one or more recipients in accordance with instructions set for that system, and

transmitting sounds which are not live speech, ***including calls made using automated calling and communication systems which connect the called person to an individual.***

transmitting sounds which are not live speech.

Or. en

Justification

Moved last part to (g). WP 29 points out that (h) as proposed contains a reference to the term “automated calling and communications systems” itself, which would lead to a circular definition.

Amendment 391
Cornelia Ernst

Proposal for a regulation
Chapter 2 – title

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 392
Sophia in 't Veld

Proposal for a regulation
Chapter 2 – title

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 393
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Chapter 2 – title

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 394
Heinz K. Becker

Proposal for a regulation
Chapter 2 – title

Text proposed by the Commission

SCHUTZ DER ELEKTRONISCHEN
KOMMUNIKATION NATÜRLICHER
UND JURISTISCHER PERSONEN UND
DER IN IHREN ENDEINRICHTUNGEN
GESPEICHERTEN INFORMATIONEN

Amendment

SCHUTZ DER ELEKTRONISCHEN
KOMMUNIKATION NATÜRLICHER
PERSONEN UND DER IN IHREN
ENDEINRICHTUNGEN
GESPEICHERTEN INFORMATIONEN

Or. de

Amendment 395
Axel Voss, Heinz K. Becker, Rachida Dati, Brice Hortefeux

Proposal for a regulation
Article 5 – title

Text proposed by the Commission

Confidentiality of electronic
communications **data**

Amendment

Confidentiality of electronic
communications **content**

Or. en

Amendment 396
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 5 – title

Text proposed by the Commission

Confidentiality of electronic communications *data*

Amendment

Confidentiality of electronic communications

Or. en

Amendment 397
Anna Maria Corazza Bildt

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 *unauthorised* listening, tapping, storing, scanning 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.*

Or. en

Amendment 398
Brice Hortefeux, Rachida Dati

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 **unauthorized** listening, tapping, storing, monitoring, scanning 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 this Regulation. **The processing of electronic communications data following conveyance to the intended recipients or their service provider shall be subject to Regulation (EU) 2016/679.**

Or. en

Amendment 399

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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

1. 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

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

Last part as recommended by the EDPS, in order to make it future-proof for cloud-based services.

Amendment 400

Cornelia Ernst

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

Amendment 401

Monica Macovei, Marian-Jean Marinescu, Barbara Spinelli

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 **regardless of whether this data is in transit or stored**, such as by listening, tapping, storing, monitoring, scanning or other kinds of interception, surveillance or **any** processing of electronic communications data, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Amendment 402

Axel Voss, Heinz K. Becker, Rachida Dati, Elissavet Vozemberg-Vrionidi, Brice Hortefeux

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.

Justification

It is justifiable for electronic communication content to be protected against interference by third parties, with special requirements for the processing of content pursuant to Article 6(3) of the proposal. This does not apply to the processing of electronic communication metadata to which the principle of confidentiality is not relevant. Personal metadata may reveal personal information, but their processing is governed by Regulation (EU) No 2016/679.

Amendment 403

Emilian Pavel

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

Amendment

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

than the end-users, shall be prohibited, except when permitted by this Regulation.

prohibited, except when permitted by this Regulation.

Or. en

Amendment 404

Daniel Dalton, John Procter

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 405

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky

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 ***or surveillance*** of electronic communications data, by persons other than the end-users, shall be prohibited, except when permitted by this Regulation.

Or. en

Amendment 406

Monica Macovei, Tomáš Zdechovský, Barbara Spinelli

Proposal for a regulation

Article 5 – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Neither providers of electronic communication services, nor any third parties, shall process electronic communications data collected on the basis of consent or any other legal ground under this Regulation on any other legal basis not specifically provided for in this Regulation

Or. en

Amendment 407

Axel Voss, Heinz K. Becker, Rachida Dati, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

For the implementation of the previous paragraph, providers of electronic communications networks and services shall take technical and organisational measures as defined in Article 32 of Regulation (EU) 2016/679. Additionally, to protect the integrity of terminal equipment and the safety, security and privacy of users, providers of electronic communications networks and services shall take appropriate measures based on the risk and on the state of the art reasonably to prevent the distribution through their networks or services of malicious software is referred to in Article 7 Sub-Paragraph (a) of Directive 2013/40/EU.

Or. en

Amendment 408
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 409
Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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

Text proposed by the Commission

Amendment

2. 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 410
Sophia in 't Veld

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

Amendment 411
Monica Macovei, Tomáš Zdechovský, Barbara Spinelli

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

Or. en

Amendment 412
Anna Maria Corazza Bildt

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:

Or. en

Amendment 413
Heinz K. Becker

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

Text proposed by the Commission

(1) *Betreiber elektronischer Kommunikationsnetze und -dienste* dürfen *elektronische Kommunikationsdaten verarbeiten*, wenn

Amendment

(1) *Elektronische Kommunikationsdaten* dürfen *verarbeitet werden*, wenn

Or. de

Amendment 414
Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Elissavet Vozemberg-Vrionidi, Pál Csáky

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 if *it is necessary to achieve the transmission of the communication, for the duration necessary for that purpose.*

Or. en

Amendment 415
Jan Philipp Albrecht, Judith Sargentini

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. *Notwithstanding Article 6 of Regulation (EU) 2016/679*, providers of electronic communications networks and services may process electronic communications data *only* if:

Or. en

(See also the clarification in Recital 15.)

Amendment 416

Cornelia Ernst

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 417

Sophia in 't Veld

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 418

Axel Voss, Heinz K. Becker

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

deleted

Or. en

Amendment 419

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Elissavet Vozemberg-Vrionidi, Pál Csáky

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 420

Anna Maria Corazza Bildt

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

(a) it is necessary to achieve the transmission of the communication, for the duration necessary for that purpose; or *it is necessary for providing an electronic communications service requested by the consumer.*

Or. en

Amendment 421

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 422

Monica Macovei, Barbara Spinelli

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 **strictly** necessary to achieve the transmission of the communication, for the duration necessary for that purpose **only**; or

Or. en

Amendment 423

Sophia in 't Veld

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 **strictly** necessary to achieve the transmission of the communication, for the duration necessary for that purpose; or

Or. en

Amendment 424

Anna Maria Corazza Bildt

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 425

Michal Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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.

deleted

Or. en

Amendment 426

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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 *network or service, 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 427

Cornelia Ernst

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 ***network or service, 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 428
Monica Macovei, Barbara Spinelli

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 ***strictly*** 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 ***only and only to the extent that the purpose concerned could not be fulfilled by processing information that is made anonymous;***

Or. en

Amendment 429
Sophia in 't Veld

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 ***strictly*** 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 430

Peter Kouroumbashev, Maria Grapini

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, ***restore and protect*** the security, ***constancy, confidentiality, availability and authenticity*** 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; ***providers of electronic communications networks and services are encouraged to ensure through proportionate means the impediment of distribution of malicious software in line with Article 7(a) of Directive 2013/40/EU.***

Amendment 431

Brice Hortefeux, Rachida Dati

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 ***or the security of or availability for third parties connected to the network***, for the duration necessary for that purpose.

Amendment 432
Emilian Pavel

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, ***as well as the security of third parties connected to the networks***, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Or. en

Amendment 433
Anna Maria Corazza Bildt

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 434
Daniel Dalton, John Procter

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

Amendment

(b) it is necessary to maintain or restore the security ***or availability*** of electronic

networks and services, or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

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 435

Axel Voss, Heinz K. Becker

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. en

Amendment 436

Heinz K. Becker

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

b) dies zur Aufrechterhaltung oder Wiederherstellung der Sicherheit elektronischer Kommunikationsnetze und -dienste oder zur Erkennung von technischen Defekten und Fehlern bei der Übermittlung der elektronischen Kommunikation nötig ist, für die dazu erforderliche Dauer.

Amendment

b) dies zur Aufrechterhaltung oder Wiederherstellung der Sicherheit **oder Verfügbarkeit** elektronischer Kommunikationsnetze und -dienste oder zur Erkennung von technischen Defekten und Fehlern bei der Übermittlung der elektronischen Kommunikation nötig ist, für die dazu erforderliche Dauer.

Or. de

Amendment 437

Jan Philipp Albrecht, Judith Sargentini

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 438
Cornelia Ernst

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 439
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Article 6 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) it is necessary for compliance with a legal obligation to which the provider of electronic communication networks or services is subject, including but not limited to where it is necessary in order to comply with a legal obligation arising out of Article 11 of this Regulation;

Or. en

Amendment 440
Monica Macovei

Proposal for a regulation
Article 6 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) Where processing of electronic communications data in accordance with point(b) of Article 6 (1) is likely to result in a high risk to the rights and freedoms of natural persons, Articles 35 and 36 of Regulation (EU) 2016/679 shall apply.

Or. en

Amendment 441
Anna Maria Corazza Bildt

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 442
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Article 6 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(b b) it is necessary for the provision of emergency services; or

Or. en

Amendment 443
Axel Voss, Heinz K. Becker

Proposal for a regulation
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Providers of electronic communications networks and services, users and any third party who can demonstrate a legitimate interest may process electronic communications data to the extent strictly necessary and proportionate for the purpose of ensuring network and information security, notably in order to:

(a) protect the confidentiality, integrity, availability, authenticity of electronic communications or of terminal equipment;

(b) protect the privacy and safety of users or of third parties;

(c) maintain or restore the confidentiality, integrity, availability, authenticity of

electronic communications networks and services;

(d) detect technical faults and/or errors in the transmission of electronic communications.

Or. en

Amendment 444

Michal Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Providers of electronic communication networks and services and third parties may process electronic communication data to the extent strictly necessary for the purpose of ensuring security of network and information if it is necessary to protect, maintain or restore the confidentiality, integrity, availability, authenticity of electronic communications, protect the privacy and safety of end-users or of third parties or detect technical faults and/or errors in the transmission of electronic communications, for the duration necessary for that purpose.

Or. en

Amendment 445

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. 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

Amendment 446
Cornelia Ernst

Proposal for a regulation
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. 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

Amendment 447
Axel Voss, Heinz K. Becker

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:
(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
(b) it is necessary for billing, calculating interconnection payments, detecting or stopping fraudulent, or abusive use of, or

deleted

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. 1–18).*

Or. en

Justification

Under Regulation (EU) No 2016/679, metadata are defined as personal data which explicitly do not fall into the special category of personal data referred to in Article 9 of Regulation (EU) No 2016/679. No comparable need for protection was therefore recognised in Regulation (EU) No 2016/679 for metadata, nor should provision for it be reintroduced by means of sector-specific legislation.

Amendment 448

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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:

Or. en

Amendment 449
Sophia in 't Veld

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:

Or. en

Amendment 450
Monica Macovei

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:

Or. en

Amendment 451
Jan Philipp Albrecht, Judith Sargentini

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

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 452
Cornelia Ernst

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

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 453
Heinz K. Becker

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

Text proposed by the Commission

Amendment

(2) **Betreiber elektronischer Kommunikationsdienste** dürfen **elektronische Kommunikationsmetadaten verarbeiten**, wenn

(2) **Elektronische Kommunikationsmetadaten** dürfen **nur verarbeitet werden**, wenn

Or. de

Amendment 454
Anna Maria Corazza Bildt

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) *for quality service purposes, including network management and* 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 455

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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

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).

communications networks within the Union (OJ L 310, 26.11.2015, p. 1–18).

Or. en

Amendment 456
Sophia in 't Veld

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 **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 457
Peter Kouroumbashev, Filiz Hyusmenova

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

Text proposed by the Commission

Amendment

(a a) even in the denial or absence of consent of an end-user for the processing of metadata in order to locate an individual in cases of calls to emergency

services exclusively for Amber Alert and the European emergency phone number (112).

Or. en

Amendment 458
Heinz K. Becker

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

Text proposed by the Commission

b) dies zur Rechnungstellung, zur Berechnung von Zusammenschaltungszahlungen, zur Erkennung oder Beendigung betrügerischer oder missbräuchlicher Nutzungen elektronischer Kommunikationsdienste oder der diesbezüglichen Verträge nötig ist, oder

Amendment

b) dies zur Rechnungstellung, zur Berechnung von Zusammenschaltungszahlungen, zur Erkennung oder Beendigung betrügerischer oder missbräuchlicher Nutzungen elektronischer Kommunikationsdienste, **zur Planung und Optimierung des Netzwerks** oder der diesbezüglichen Verträge nötig ist, oder

Or. de

Amendment 459
Monica Macovei

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, **unlawful** or abusive use of, or subscription to, electronic communications services; or

Or. en

Amendment 460
Sophia in 't Veld

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, or **unlawful** use of, or subscription to, electronic communications services; or

Or. en

Amendment 461
Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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 462
Brice Hortefeux, Rachida Dati

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, interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or

Or. en

Amendment 463
Emilian Pavel

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, interconnection payments, detecting or stopping fraudulent, or abusive use of, or subscription to, electronic communications services; or

Or. en

Amendment 464
Monica Macovei, Barbara Spinelli

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) **after receiving all relevant information about the intended processing in a clear and easily understandable language, provided separately from the terms and conditions of the provider,** 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 **all** end-users, **or which are provided in order to deliver a specific functionality to the end-user concerned,** provided that the purpose or purposes concerned could not be fulfilled by processing information that is made anonymous. **Consent may be provided to the provider of the communication service or to the provider of the specific service, but if it is provided to the latter, the latter must be able to prove to the provider of the communication service that such consent has been given.**

Or. en

Amendment 465
Cornelia Ernst

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 *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.*

Or. en

Amendment 466
Jan Philipp Albrecht, Judith Sargentini

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 *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.*

Or. en

Amendment 467
Emilian Pavel

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 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;

Or. en

Amendment 468
Michal Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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 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; ***or***

Or. en

Amendment 469
Brice Hortefeux, Rachida Dati

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 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, ***or***

Or. en

Amendment 470
Sophia in 't Veld

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 end-user ***or end-users*** concerned ***have*** 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.

Or. en

Amendment 471
Heinz K. Becker

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

Text proposed by the Commission

c) ***der betreffende Endnutzer seine Einwilligung zur Verarbeitung seiner Kommunikationsmetadaten für einen oder mehrere bestimmte Zwecke gegeben***

Amendment

c) ***ein Rechtmäßigkeitsgrund nach Artikel 6 der Verordnung (EU) 2016/679 des Europäischen Parlaments und des Rates vom 27. April 2016 zum Schutz***

hat, so auch für die Bereitstellung bestimmter Dienste für diese Endnutzer, sofern die betreffenden Zwecke durch eine Verarbeitung anonymisierter Informationen nicht erreicht werden können.

natürlicher Personen bei der Verarbeitung personenbezogener Daten, zum freien Datenverkehr und zur Aufhebung der Richtlinie 95/46/EG (Datenschutz-Grundverordnung) zur Anwendung kommt.

Or. de

Amendment 472

Michal Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(c a) the processing of these data for another specified purpose is compatible with the purpose for which the data were initially collected and is subject to specific safeguards, especially pseudonymisation, as set forth in Article 6(4) of Regulation (EU) 2016/679; or

Or. en

Amendment 473

Brice Hortefeux, Rachida Dati

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(c a) the processing of electronic communications metadata for one or more specified purposes is compatible with the purposes for which the data were initially collected, as set forth under point (4) of Article 6 of Regulation (EU) 2016/679.

Or. en

Amendment 474
Emilian Pavel

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

Text proposed by the Commission

Amendment

(c a) the further processing of electronic communications metadata is compatible with the purposes for which the data were initially collected, as set forth under point (4) of Art. 6 of Regulation (EU)2016/679.

Or. en

Amendment 475
Daniel Dalton, Helga Stevens, John Procter

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

Text proposed by the Commission

Amendment

(c a) processing is allowed pursuant to Articles 6(1) or 6(4) of Regulation (EU) 2016/679.

Or. en

Amendment 476
Michal Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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

Text proposed by the Commission

Amendment

(c b) it is necessary, in accordance with Article 6(1)(f) of Regulation (EU) 2016/679, for the purposes of the legitimate interests pursued by the service provider or by a third party, except where such interests are overridden by the interests or fundamental rights and

freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Or. en

Amendment 477

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. For the purpose of point (cb) of paragraph 2, data protection impact assessment shall be carried out as prescribed in Article 35 of Regulation (EU) 2016/679.

Or. en

Amendment 478

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

Article 6 of Regulation (EU) No 2016/679 already regulates the lawfulness of processing, and should therefore apply here.

Amendment 479

Anna Maria Corazza Bildt

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

Text proposed by the Commission

Amendment

2 a. Art.6 of Regulation (EU) 2016/679 shall apply;

Or. en

Amendment 480
Anna Maria Corazza Bildt

Proposal for a regulation
Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 481
Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

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

3. ***Without prejudice to points (1) and (1a) of Article 6,*** providers of the electronic communications services may process electronic communications content **only**:

Or. en

Amendment 482
Heinz K. Becker

Proposal for a regulation
Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

(3) *Betreiber elektronischer Kommunikationsdienste* dürfen *elektronische Kommunikationsinhalte* nur verarbeiten:

Amendment

(3) *Elektronische Kommunikationsinhalte* dürfen *nur* verarbeitet werden wenn:

Or. de

Amendment 483
Jan Philipp Albrecht, Judith Sargentini

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 484
Anna Maria Corazza Bildt

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*

Amendment

deleted

fulfilled without the processing of such content; or

Or. en

Amendment 485
Cornelia Ernst

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) *the user concerned has given his or her consent to the processing of his or her electronic communications content for the sole purpose of the provision of a specific service explicitly requested by the 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 486
Jan Philipp Albrecht, Judith Sargentini

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) *the user concerned has given his or her consent to the processing of his or her electronic communications content for the sole purpose of the provision of a specific service explicitly requested by the 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*

Amendment 487

Daniel Dalton, John Procter

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 to an end-user, if the **service provider's end-user** concerned **has** 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 488

Heinz K. Becker

Proposal for a regulation

Article 6 – paragraph 3 – point a

Text proposed by the Commission

a) zum alleinigen Zweck der Bereitstellung eines bestimmten Dienstes für einen Endnutzer, wenn der bzw. die betreffenden Endnutzer ihre Einwilligung zur Verarbeitung ihrer elektronischen Kommunikationsinhalte gegeben haben **und** die Dienstleistung ohne Verarbeitung dieser Inhalte nicht erbracht werden kann, oder

Amendment

a) zum alleinigen Zweck der Bereitstellung eines bestimmten Dienstes für einen Endnutzer, wenn der bzw. die betreffenden Endnutzer ihre Einwilligung zur Verarbeitung ihrer elektronischen Kommunikationsinhalte gegeben haben **oder** die Dienstleistung ohne Verarbeitung dieser Inhalte nicht erbracht werden kann, oder

Amendment 489

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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 to an end-user, if the end-user concerned *has* given *his or her* 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

Or. en

Amendment 490
Anna Maria Corazza Bildt

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 *service providers'* end-users *have consented* to the processing of their electronic communications *pursuant to Regulation (EU) 2016/679.*

Or. en

Amendment 491
Daniel Dalton, Helga Stevens, John Procter

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

Or. en

Amendment 492

Jan Philipp Albrecht, Judith Sargentini

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 493

Sophia in 't Veld

Proposal for a regulation

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

Text proposed by the Commission

(b a) For the provision of a service explicitly requested by a user of an electronic communications service for

Amendment

their purely individual or individual work-related usage, the provider of the electronic communications service may process electronic communications data solely for the provision of the explicitly requested service and without the consent of all users only where such requested processing produces effects solely in relation to the user who requested the service and does not adversely affect the fundamental rights of another user or users. Such a specific consent by the user shall preclude the provider from processing these data for any other purpose.

Or. en

Justification

This is a household exemption for services such as search or keyword indexing, virtual assistants, text-to-speech engines and translation services.

Amendment 494

Anna Maria Corazza Bildt, Caterina Chinnici, Carlos Coelho, Damiano Zoffoli, Barbara Matera, Merja Kyllönen, Hilde Vautmans, Julie Ward

Proposal for a regulation

Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 495

Marju Lauristin

Proposal for a regulation

Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. *Without prejudice to paragraphs 1, 2 and 3, neither providers of the electronic communications services, nor any other party, shall process electronic communications data collected on the basis of this Regulation, for further processing.*

Or. en

Amendment 496

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. *In so far as providers of electronic communications services are processing and receiving communications content to and by the end-user, the provisions of this regulation shall not apply but regulation (EU) 2016/679.*

Or. en

Amendment 497

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 6 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. *(a) The service provider may collect and use the personal data of a recipient of a service only to the extent necessary to enable and invoice the use of services (data on usage). Data on usage are in particular characteristics to identify the recipient of the service, details of the beginning and end of the scope of the respective usage, and details of the*

services used by the recipient of the service.

(b) The service provider may collate a recipient's usage data regarding the use of different services to the extent necessary for invoicing the recipient of the service.

(c) For the purposes of advertising, market research or in order to design the services in a needs-based manner, the service provider may produce profiles of usage based on pseudonyms to the extent that the recipient of the service does not object to this. The service provider must refer the recipient of the service to his right of refusal. These profiles of usage must not be collated with data on the bearer of the pseudonym without his consent (opt-in).

Or. en

Amendment 498
Daniel Dalton, John Procter

Proposal for a regulation
Article 7

Text proposed by the Commission

Amendment

Article 7

deleted

Storage and erasure of electronic communications data

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.

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.

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.

Or. en

Amendment 499

Jan Philipp Albrecht, Judith Sargentini

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 points (a) and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content after receipt by the intended recipient or 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 subscriber** to record, store or otherwise process such data. **The subscriber may further process the data** in accordance with Regulation (EU) 2016/679, **if applicable**.

Or. en

Justification

WP 29 notes that the definition of "third parties" in the GDPR doesn't include the controllers. Therefore this expression should be avoided in the context of this Regulation. See related amendments to Articles 10 and 14.

Amendment 500

Cornelia Ernst

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 points (a) and (b) of Article 6(3), the provider of the electronic communications service shall erase electronic communications content after receipt by the intended recipient or 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 subscriber** to record, store or otherwise process such data. **The subscriber may further process the data** in accordance with Regulation (EU) 2016/679, **if applicable**.

Or. en

Amendment 501

Axel Voss, Heinz K. Becker, Rachida Dati, Brice Hortefeux

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

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 **when it is no longer necessary for the operation of such services**. Such data may be recorded or

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.

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 502

Michal Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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 Article **6(1a)** 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.

Or. en

Amendment 503

Axel Voss, Heinz K. Becker

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

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*.

longer needed for the *operation of such services*.

Or. en

Justification

Due to the deletion of Article 6(2), the reference here must likewise be deleted in order to maintain coherence.

Amendment 504

Brice Hortefeux, Rachida Dati

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 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

Amendment 505

Michał Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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 Article *6(1a)* and points (a), *(c), (ca) and (cb)* 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 506

Jan Philipp Albrecht, Judith Sargentini

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) **and** (c) of Article 6(1) and **point** (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 507

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 7 – paragraph 3

Text proposed by the Commission

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.***

Amendment

deleted

Or. en

Justification

Due to the deletion of Article 6(2), the reference here must likewise be deleted in order to maintain coherence.

Amendment 508

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 7 – paragraph 3

Text proposed by the Commission

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.

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), ***only the metadata that is strictly necessary for this purpose*** may be kept ***at the request of the subscriber*** 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

Justification

Based on recommendation from WP29. This is current practice in Germany.

Amendment 509

Sophia in 't Veld

Proposal for a regulation

Article 7 – paragraph 3

Text proposed by the Commission

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.

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 ***strictly necessary*** 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.

Or. en

Amendment 510

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 8 – title

Text proposed by the Commission

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

Amendment

Protection of information *transmitted to*, stored in and *collected from terminal equipment*

Or. en

Amendment 511

Sophia in 't Veld

Proposal for a regulation

Article 8 – title

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 512

Cornelia Ernst

Proposal for a regulation

Article 8 – title

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 513
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 8 – title

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 514
Anna Maria Corazza Bildt

Proposal for a regulation
Article 8 – title

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 515
Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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:

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 516**Cornelia Ernst****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:

Amendment 517**Monica Macovei, Barbara Spinelli****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 collection of information from end-users' terminal equipment, including about its software and hardware, **and any other electronic communications data identifying end-users,** other than by the end-user concerned shall be prohibited, except on the following grounds:

Amendment 518
Heinz K. Becker

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

Text proposed by the Commission

(1) Jede vom betreffenden Endnutzer nicht selbst vorgenommene Nutzung der Verarbeitungs- und Speicherfunktionen von Endeinrichtungen und jede Erhebung von Informationen aus Endeinrichtungen der Endnutzer, auch über deren Software und Hardware, ist **untersagt, außer sie erfolgt aus** folgenden **Gründen**:

Amendment

(1) Jede vom betreffenden Endnutzer nicht selbst vorgenommene Nutzung der Verarbeitungs- und Speicherfunktionen von Endeinrichtungen und jede Erhebung von Informationen aus Endeinrichtungen der Endnutzer, auch über deren Software und Hardware, ist **zulässig, wenn einer der** folgenden **Gründe zutrifft**:

Amendment 519
Anna Maria Corazza Bildt

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

Amendment 520
Axel Voss, Heinz K. Becker

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 collection of information from terminal equipment, including about its software and hardware, other than by the end-user concerned shall be prohibited, except on the following grounds:

Or. en

Amendment 521

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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 522

Sophia in 't Veld

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* necessary for the sole purpose of carrying out the transmission of an electronic communication over an electronic communications network; or

Or. en

Amendment 523

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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 or use a terminal equipment, for the duration strictly technically necessary for that purpose**; or

Or. en

Amendment 524
Cornelia Ernst

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 or use a terminal equipment, for the duration strictly technically necessary for that purpose**; or

Or. en

Amendment 525
Heinz K. Becker

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

Text proposed by the Commission

b) der Endnutzer hat seine Einwilligung gegeben oder

Amendment

b) der Endnutzer hat seine Einwilligung gegeben oder **es liegt ein sonstiger Rechtmäßigkeitsgrund im Sinne des Artikels 6 der VO (EU) 2016/679 vor** oder

Or. de

Amendment 526

Anna Maria Corazza Bildt

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 Art. 6 of Regulation (EU) 2016/679*; or

Or. en

Amendment 527

Peter Kouroumbashev, Filiz Hyusmenova

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(b a) for emergency services acting on calls to the European emergency phone number (112) or Amber Alert

Or. en

Amendment 528

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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 529
Heinz K. Becker

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

Text proposed by the Commission

c) sie ist für die Bereitstellung eines vom Endnutzer gewünschten Dienstes der Informationsgesellschaft nötig oder

Amendment

c) sie ist für die Bereitstellung eines vom Endnutzer gewünschten Dienstes der Informationsgesellschaft nötig, **insbesondere für die Sicherstellung der Integrität, des Zugangs oder die Gewährleistung der Sicherheit des Dienstes der Informationsgesellschaft, zur Verbesserung des Angebots oder für Maßnahmen zum Schutz vor unberechtigter Nutzung des Dienstes gemäß den Nutzungsbedingungen über die Zurverfügungstellung der Dienste an den Endnutzer** oder

Or. de

Amendment 530
Pál Csáky

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 531

Anna Maria Corazza Bildt

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 unauthorised 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 532

Miltiadis Kyrkos

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

Or. en

Amendment 533

Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, Louis Michel, 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 534
Axel Voss

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 in order to 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. en

Amendment 535
Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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 *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 information by the provider*; or

Or. en

Amendment 536
Daniel Dalton, John Procter

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 an information society service requested by the end-user; *particularly to preserve or restore the security of the information society service and of the users, or to detect technical faults*; or

Or. en

Amendment 537
Axel Voss, Heinz K. Becker

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

Text proposed by the Commission

Amendment

(c a) it is necessary for protecting the confidentiality, integrity, availability, authenticity of the terminal equipment or of the electronic communications network or service, or for protecting the privacy, security or safety of the user; or

Or. en

Amendment 538
Axel Voss, Heinz K. Becker

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

Text proposed by the Commission

Amendment

(c b) it is necessary for scientific research purposes, provided that the controller plans appropriate technical and organisational measures to safeguard the rights and freedoms of the user and the processed personal data will be anonymised as soon as possible according to the research purpose.

Or. en

Amendment 539
Jan Philipp Albrecht, Judith Sargentini

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 2002/58/EC and should therefore be maintained, in order to not lower the level of protection. Point (c) continues to allow for function cookies, whereas tracking cookies should remain under opt-in.

Amendment 540
Cornelia Ernst

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

Amendment 541

Michal Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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 to obtain information about technical quality or effectiveness of an information society service that has been delivered, to understand and optimize web usage or about terminal equipment functionality, and it has no or little impact on the privacy of the end-user concerned; or

Or. en

Amendment 542

Marju Lauristin

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 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 organization acting in the public interest or for statistical or 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 543
Daniel Dalton, John Procter

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**

Or. en

Amendment 544
Pál Csáky

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 **measurement for an information society service requested by the end-user, including where** such measurement **takes place for the purposes of calculating royalties for collective rights management or other remuneration or payment systems, or**

Or. en

Amendment 545
Miltiadis Kyrkos

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 measurement, for an information society service requested by the end-user, including where** such measurement **takes place for the purposes of calculating royalties for collective rights management or other remuneration or payment systems.**

Or. en

Amendment 546
Heinz K. Becker

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

Text proposed by the Commission

d) sie ist für die **Messung des Webpublikums** nötig, **sofern der Betreiber des vom Endnutzer gewünschten Dienstes der Informationsgesellschaft diese Messung durchführt.**

Amendment

d) sie ist für die **Reichweitenmessung des vom Endnutzer gewünschten Dienstes der Informationsgesellschaft** nötig, **einschließlich der Messungen, um Lizenzgebühren für eine kollektive Rechtswahrnehmung oder andere Vergütungs- oder Bezahlssysteme zu berechnen, oder**

Or. de

Amendment 547
Brice Hortefeux, Rachida Dati

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 ***authorized*** by the provider of the information society service requested by the end-user, ***including measurement for the purposes of calculating remuneration or a payment due.***

Or. en

Amendment 548

Axel Voss

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 ***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. en

Amendment 549

Anna Maria Corazza Bildt

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 550

Sophia in 't Veld

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 **controlled** by the provider of the information society service requested by the end-user.

Or. en

Amendment 551
Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, Pavel Telička

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 **measurement, 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 552
Heinz K. Becker

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

Text proposed by the Commission

Amendment

d a) es wird in hervorgehobener Weise ein deutlicher Hinweis angezeigt, der zumindest Auskunft gibt über die Modalitäten der Erhebung, ihren Zweck, die dafür verantwortliche Person und die

anderen nach Artikel 13 der VO (EU) 2016/679 verlangten Informationen, soweit personenbezogene Daten erfasst werden, sowie darüber, was der Endnutzer der Endeinrichtung tun kann, um die Erhebung zu beenden oder auf ein Minimum zu beschränken.

Voraussetzung für die Erhebung solcher Informationen ist die Anwendung geeigneter technischer und organisatorischer Maßnahmen, die die Erhebung und Verarbeitung auf die hierfür notwendigen Zwecke beschränken und ein dem Risiko angemessenes Schutzniveau nach Artikel 32 der VO (EU) 2016/679 gewährleisten, zum Beispiel durch Pseudonymisierung erhobener Informationen gemäß Artikel 4 Nummer 5 der VO (EU) 2016/679.

Or. de

Amendment 553
Jan Philipp Albrecht, Judith Sargentini

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 554
Sophia in 't Veld

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

Text proposed by the Commission

Amendment

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

(i) security updates are strictly necessary and do not in any way change the privacy settings chosen by the user;

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

(iii) the user has the possibility to turn off the automatic installation of these updates;

Or. en

Amendment 555
Monica Macovei, Marian-Jean Marinescu, Barbara Spinelli

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

Text proposed by the Commission

Amendment

(d a) The end-user shall not be denied access to an information society service or electronic communications service (whether these services are remunerated or not) on grounds that the end-user does not provide consent under point (b) of Article 8(1) or point (b) of Article 8(2) for processing any data that is not strictly necessary for the provision of that service.

Or. en

Amendment 556
Anna Maria Corazza Bildt, Carlos Coelho, Damiano Zoffoli, Barbara Matera, Merja Kyllönen, Hilde Vautmans, Caterina Chinnici

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(d 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

Justification

Introducing specific limitations to protect children against profiling and online tracking

Amendment 557

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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 558

Brice Hortefeux, Rachida Dati

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(d a) it is necessary for scientific and statistical research purposes authorized by

the provider of the information society service requested by the end-user; or

Or. en

Amendment 559

Daniel Dalton, John Procter

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 560

Axel Voss, Heinz K. Becker

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 561

Pál Csáky

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(d a) under the conditions as set out in point (b) of paragraph 2 and paragraph 3.

Amendment 562

Jan Philipp Albrecht, Judith Sargentini

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 subscriber of the terminal equipment;

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

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

Amendment 563

Monica Macovei, Marian-Jean Marinescu, Barbara Spinelli

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(d b) The end-user shall not be denied any functionality of the terminal equipment on grounds that the end-user does not provide consent as set out in point (b) of Article 8(1) or point (b) of Article 8(2) for processing any data that is not strictly necessary for the functionality requested by the end-user.

Amendment 564

Brice Hortefeux, Rachida Dati

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

Text proposed by the Commission

Amendment

(d b) 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) 2015/21/2011 for the duration necessary for that purpose; or

Or. en

Amendment 565

Michał Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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

Text proposed by the Commission

Amendment

(d b) the processing of these data and information for another specified purpose is compatible with the purpose for which the data were initially collected and is subject to specific safeguards, especially pseudonymisation, as set forth in Article 6(4) of Regulation (EU) 2016/679; or

Or. en

Amendment 566
Daniel Dalton, John Procter

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

Or. en

Amendment 567

Axel Voss, Heinz K. Becker

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

Or. en

Amendment 568

Michał Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(d c) it is necessary, in accordance with Article 6(1)(f) of Regulation (EU) 2016/679 for the purposes of the legitimate interests pursued by the service provider or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Or. en

Amendment 569
Brice Hortefeux, Rachida Dati

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 of fundamental rights and freedoms of the end-user.; or

Or. en

Amendment 570
Axel Voss, Heinz K. Becker

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

Text proposed by the Commission

Amendment

(d c) 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. en

Amendment 571
Daniel Dalton, John Procter

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 572
Brice Hortefeux, Rachida Dati

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

Text proposed by the Commission

Amendment

(d d) 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. en

Amendment 573
Daniel Dalton, John Procter

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

Or. en

Amendment 574
Daniel Dalton, John Procter, Helga Stevens

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

Text proposed by the Commission

Amendment

(d e) it is necessary for compliance with a legal obligation.

Or. en

Amendment 575
Sophia in 't Veld

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

Text proposed by the Commission

Amendment

1 a. No one shall be denied access to any information society services or to the functionality of interconnected equipment, regardless of the service concerned being 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 data that is not necessary for the provision of those services; and/ or,

- on grounds that he or she has installed software or applications to protect their information and terminal equipment.

Processing of data for purposes of providing targeted advertisements cannot be considered as necessary for the performance of a service.

Or. en

Amendment 576
Daniel Dalton, John Procter, Helga Stevens

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

Text proposed by the Commission

Amendment

1 a. Wherever a clearly formulated declaration of consent is presented before use of a service or access to online

content, and if absence of consent for processing prevents a provider from collecting remuneration through their usual means, the provider shall not be obliged to provide the full access to the service or content.

Or. en

Amendment 577
Anna Maria Corazza Bildt

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

Text proposed by the Commission

Amendment

1 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 578
Peter Kouroumbashev, Cătălin Sorin Ivan

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

Text proposed by the Commission

Amendment

1 a. It is necessary to safeguard the security and privacy of the end-user, as well as to guarantee the incorruptibility, accessibility, confidentiality, and authenticity of terminal equipment or the electronic communication network or services.

Or. en

Amendment 579

Michal Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. For the purpose of points (ba), (db) and (dc) of paragraph 1, data protection impact assessment shall be carried out as prescribed in Article 35 of Regulation (EU) 2016/679

Or. en

Amendment 580

Anna Maria Corazza Bildt

Proposal for a regulation

Article 8 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1 b. 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.

Amendment 581

Michał Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 8 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1 b. For the purpose of points (db) and (dc) of paragraph 1, in order to demonstrate the compliance with the Regulation, the adherence to the data protection certification mechanisms and of data protection seals and marks, as defined in Article 42 of Regulation (EU) 2016/679, especially on the Union level, shall be encouraged by the Member States, the supervisory authorities, the Board and the Commission.

Amendment 582

Anna Maria Corazza Bildt

Proposal for a regulation

Article 8 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1 c. 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

Amendment 583

Jan Philipp Albrecht, Judith Sargentini

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

See related amendment to Article 4: Since these data emissions are included in the definition of “metadata”, Article 8(2) can be deleted, as it is now covered by Article 6(2).

Amendment 584
Cornelia Ernst

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

Amendment 585
Monica Macovei

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

Text proposed by the Commission

Amendment

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

(a) it is done exclusively in order to, for the time necessary for, and for the purpose of establishing a connection; ***which all end-users have authorized;*** or

Or. en

Amendment 586

Michał Boni, Frank Engel, Tomáš Zdechovský, Viviane Reding, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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

Or. en

Amendment 587

Daniel Dalton, John Procter

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 their consent; or

Or. en

Amendment 588

Monica Macovei

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) all relevant information about the intended processing is provided in clear and easily understandable language, provided separately from the terms and conditions of the provider, and if the end-user concerned has given his or her consent to the processing of the data for one or more specified purposes, including for the provision of specific services, provided that the purpose or purposes concerned could not be fulfilled by processing information that is made anonymous; 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 and supplemented with a mandatory data protection impact assessment, have been applied.*

Or. en

Amendment 589

Michal Boni, Frank Engel, Tomáš Zdechovský, Viviane Reding, Carlos Coelho, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(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.

Amendment

(b) *the information collected is or is rendered pseudonymous or anonymous and the data protection impact assessment and, if necessary, a prior consultation with the supervisory authority were carried out, as prescribed respectively in Article 35 and 36 of Regulation (EU) 2016/679, and* 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.

Or. en

Amendment 590

Sophia in 't Veld

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 user has been informed according to Article 13 of Regulation (EU) 2016/679 and has given consent to the collection for a specific purpose.*

Or. en

Amendment 591
Sophia in 't Veld

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

Text proposed by the Commission

Amendment

(b a) (a) the purpose of the data collection from the terminal equipment is restricted to mere statistical counting; and
(b) the tracking is limited in time and space to the extent strictly necessary for this purpose; and
(c) the data will be deleted or anonymised immediately after the purpose is fulfilled; and
(d) the users are informed and given effective opt-out possibilities.

Or. en

Amendment 592
Axel Voss, Heinz K. Becker

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

Text proposed by the Commission

Amendment

(b a) it is necessary for protecting the confidentiality, integrity, availability, authenticity of the terminal equipment or

of the electronic communications network or service, or for protecting the privacy, security or safety of the user.

Or. en

Amendment 593

Brice Hortefeux, Rachida Dati

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 ensure *that the collection and processing of information is limited to the purposes of processing as required therefor and to ensure* a level of security appropriate to the risks, as set out in Article 32 of Regulation (EU) 2016/679. *Those measures may include pseudonymisation of the information collected as set out in Article 4 (5) of Regulation (EU) 2016/679.*

Or. en

Amendment 594

Axel Voss

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. en

Amendment 595

Heinz K. Becker

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Voraussetzung für die Erhebung solcher Informationen ist die Anwendung geeigneter technischer und organisatorischer Maßnahmen, die ein dem Risiko angemessenes Schutzniveau nach Artikel 32 der Verordnung (EU) 2016/679 gewährleisten.

Amendment

Voraussetzung für die Erhebung solcher Informationen ist die Anwendung geeigneter technischer und organisatorischer Maßnahmen, die **die Erhebung und Verarbeitung auf die hierfür notwendigen Zwecke beschränken und die** ein dem Risiko angemessenes Schutzniveau nach Artikel 32 der Verordnung (EU)2016/679 gewährleisten, **zum Beispiel durch Pseudonymisierung erhobener Informationen gemäß Artikel 4 Nummer 5 der Verordnung (EU) 2016/679.**

Or. de

Amendment 596

Daniel Dalton, John Procter, Helga Stevens

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 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.**

Amendment 597

Jan Philipp Albrecht, Judith Sargentini

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 598

Monica Macovei, Barbara Spinelli

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 599

Cornelia Ernst

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

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.*

Amendment

deleted

Or. en

Amendment 600
Sophia in 't Veld

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

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.

Amendment

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

Or. en

Amendment 601
Pál Csáky

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The information to be provided pursuant to point (e) of paragraph 1 and point (b) of paragraph 2 may be provided in combination with standardized icons in order to give a meaningful overview of the

visible, intelligible and clearly legible manner.

collection in an easily visible, intelligible and clearly legible manner.

Or. en

Amendment 602

Heinz K. Becker

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

(3) Die nach Absatz 2 Buchstabe b zu gebenden Informationen können in Kombination mit standardisierten Bildsymbolen bereitgestellt werden, um in leicht wahrnehmbarer, verständlicher und klar nachvollziehbarer Form einen aussagekräftigen Überblick über die Erhebung zu vermitteln.

Amendment

(3) Die nach Absatz **1 Buchstabe e und Absatz 2** Buchstabe b zu gebenden Informationen können in Kombination mit standardisierten Bildsymbolen bereitgestellt werden, um in leicht wahrnehmbarer, verständlicher und klar nachvollziehbarer Form einen aussagekräftigen Überblick über die Erhebung zu vermitteln.

Or. de

Amendment 603

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

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.

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. ***Such information may be provided by means of a transparency certification and labelling scheme for terminal equipment, indicating the equipment's quality, security and assurance properties.***

Or. en

Amendment 604

Peter Kouroumbashev, Maria Grapini

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

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.

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; ***in order to provide this information a labelling scheme can be used for software and terminal equipment specifying the security and quality characteristics.***

Or. en

Amendment 605

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 8 – paragraph 4

Text proposed by the Commission

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.***

Amendment

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 606
Cornelia Ernst

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 607
Daniel Dalton, Helga Stevens, John Procter

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 608
Axel Voss, Heinz K. Becker

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

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 25 determining the information to be presented by the standardized icon and the procedures for

standardized icon and the procedures for providing standardized icons.

providing standardized icons, *as well as establishing the transparency certification and labelling scheme referred to in paragraph 3.*

Or. en

Amendment 609
Miltiadis Kyrkos

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 of Regulation (EU) 2016/679/EU shall apply. *The application of Art. 7(4) of Regulation (EU) 2016/679/EU must not oblige providers of information society services to offer a service without data processing which the service provider means to provide together with the service like e.g. data processing for the purpose of advertising.*

Or. en

Amendment 610
Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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 *in Regulation (EU) 2016/679/EU, including, inter alia, in its Articles 4(11), 7 and 8,* shall apply.

Or. en

Amendment 611

Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, 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 612
Heinz K. Becker

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

(1) Für die Einwilligung gelten die **Begriffsbestimmung** und die Voraussetzungen, die in Artikel 4 Nummer 11 und Artikel 7 **der Verordnung** (EU) 2016/679 festgelegt sind.

Amendment

(1) Für die Einwilligung gelten die **Begriffsbestimmungen** und die Voraussetzungen, die in Artikel 4 Nummer 11 und Artikel 7 **(1), (2) und (3) der VO** (EU) 2016/679 festgelegt sind.

Or. de

Amendment 613
Daniel Dalton, John Procter

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/EU shall apply.

Amendment 614

Axel Voss, Heinz K. Becker

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/EU shall apply.

Justification

The reference here to the conditions for consent laid down by Article 7 of Regulation (EU) No 2016/679/EU must at all events be limited to Article 7(1) to (3). The non-applicability of Article 7(4) of Regulation (EU) No 2016/679 to consent pursuant to Article 9 of the proposal for a regulation is necessary because, unlike in Regulation (EU) No 2016/679, data processing based on the general clause concerning justified interests is not provided for in this proposal.

Amendment 615

Cornelia Ernst

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), **7 and 8** of Regulation (EU) 2016/679/EU shall apply.

Amendment 616

Pál Csáky

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

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.

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

Or. en

Amendment 617

Daniel Dalton, John Procter, Helga Stevens

**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 618

Brice Hortefeux, Rachida Dati

**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 619

Axel Voss, Heinz K. Becker

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

deleted

Or. en

Justification

Articles 4(11) and 7 of Regulation (EU) No 2016/679 define the conditions for consent and are perfectly sufficient here. The proposal goes beyond these definitions and thus creates a dual regime for consent and renders the situation less clear. Article 9(2) should therefore be deleted.

Amendment 620

Jan Philipp Albrecht, Judith Sargentini

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 feasible, for the purposes of point (b) of Article 8(1), consent may be expressed **and withdrawn** by using the appropriate technical **specifications for electronic communications services or information society services which allow for specific consent for specific purposes and with regard to specific service providers actively selected by the user in each case, pursuant to paragraph 1. When such technical specifications are used by the user's terminal equipment or the software running on it, they may signal the user's preferences based on previous active selections by him or her.**

These signals shall be binding on, and enforceable against, any other party.

Or. en

Justification

The GDPR carefully avoids automated consent in Recital 32, as it cannot be informed, specific and active. Recital 32 GDPR only refers to individual information society services. Therefore, consent should be given actively by the user in each case, and the software should only remember this for later visits.

**Amendment 621
Cornelia Ernst**

**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 feasible, for the purposes of point (b) of Article 8(1), consent may be expressed ***and withdrawn*** by using the appropriate technical ***specifications for electronic communications services or information society services which allow for specific consent for specific purposes and with regard to specific service providers selected by the user. 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 622
Monica Macovei**

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

Text proposed by the Commission

2. ***Without prejudice to paragraph 1, where technically possible and feasible,***

Amendment

2. ***End-users who have consented to the processing of electronic***

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.

communications data as set out in point (c) of Article 6(2) points (a) and (b) 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 623
Miltiadis Kyrkos

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, ***in particular*** 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, ***or by continuing the use of an information society service, having been provided with clear and comprehensive information that this action by the end-user signifies consent***

Or. en

Amendment 624
Pál Csáky

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

Amendment

2. Where technically possible and feasible, ***in particular*** for the purposes of point (b) of Article 8(1), consent may be expressed by using the appropriate

appropriate technical settings of a software application enabling access to the internet.

technical settings of a software application enabling access to the internet *or by continuing the use of an information society service, having been provided with clear and comprehensive information that this action by the end-user signifies consent.*

Or. en

Amendment 625

Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, 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 626

Axel Voss, Heinz K. Becker

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***

Amendment

deleted

(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.

Or. en

Justification

Articles 4(11) and 7 of Regulation (EU) 2016/679 define the conditions for consent and are perfectly sufficient here. The proposal goes beyond these definitions and thus creates a dual regime for consent and renders the situation less clear. Article 9(3) should therefore be deleted.

Amendment 627

Monica Macovei, Barbara Spinelli

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. *In order to lower the burden on end-users, requests for consent as well as consent withdrawals shall where possible conform to technical standards applicable to such request or withdrawals and be machine-readable, in order to allow for end-users to benefit from privacy enhancing technologies.*

Or. en

Amendment 628

Sophia in 't Veld

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) 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. ***End-users shall be given the possibility to disable the periodic reminder.***

Or. en

Amendment 629

Daniel Dalton, John Procter, Helga Stevens

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) 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.

Or. en

Amendment 630

Emilian Pavel

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) 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.

Or. en

Amendment 631

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Elissavet Vozemberg-Vrionidi

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) 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.

Or. en

Amendment 632

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 9 – paragraph 3

Text proposed by the Commission

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) 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.***

3. ***Without prejudice to paragraph 2, users who have given their consent pursuant to Article 6 or Article 8 shall have the right to withdraw their consent at any time as set forth under Article 7(3) of Regulation (EU) 2016/679 and shall be reminded of this possibility by the providers at periodic intervals of 6 months, as long as the processing continues.***

Or. en

Justification

aligned with Art. 7(3) GDPR

Amendment 633

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Without prejudice to Article 7(4) of Regulation (EU) 2016/679, 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 related to or processed by 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)

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

Or. en

Justification

based on LIBE AM 83 rapporteur, moved to the Article on consent where it belongs. This is complementary to 7(4) GDPR. 7(4) GDPR is about invalidity of forced consent, this here is about not forcing consent as a condition for access (“consent wall”).

Amendment 634

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Article 9 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. Any processing based on consent must not adversely affect the rights and freedoms of individuals whose personal data are related to or transmitted by the communication, in particular their rights to privacy and the protection of personal data.

Or. en

Justification

Based on suggestion from EDPS in order to clarify that persons other than the user have to be protected as well.

Amendment 635

Axel Voss, Heinz K. Becker, 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

Justification

Article 25 of Regulation (EU) 2016/679 governs data protection by design and by default. Article 10 of the proposal for a regulation only undermines Article 25 of Regulation (EU) 2016/679 and would hamper most business models.

Amendment 636

Brice Hortefeux, Rachida Dati

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 637

Daniel Dalton, John Procter, Helga Stevens

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 638

Jan Philipp Albrecht, Judith Sargentini

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 639

Jan Philipp Albrecht, Judith Sargentini

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

Or. en

Justification

WP 29 notes that the definition of “third parties” in the GDPR doesn’t include the controllers. Therefore this expression should be avoided in the context of this Regulation. See related amendments to Articles 7 and 14.

Rest of the text aligned with Article 8(1). The Commission proposal and also AMs 94-98 LIBE rapporteur only refer to cookies, which is not future proof and already outdated with browser fingerprinting etc.

Amendment 640

Cornelia Ernst

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 that enable the access to and use of*** electronic communications ***services or the access to, and use of***, information ***society services*** shall ***be able*** to prevent ***other*** parties from ***using input, output, processing and storage capabilities of*** terminal equipment ***and the processing of information related to, or processed by, a user's terminal equipment, or making*** information ***available through the terminal*** equipment, ***including information about, and processed by, its software and hardware.***

Or. en

Amendment 641

Sophia in 't Veld

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

Amendment

1. ***The default setting of*** software placed on the market permitting electronic communications, including the retrieval and presentation of information on the internet, shall ***not allow the storing of*** information on the terminal equipment of

equipment of an end-user *or* processing information already stored on that equipment.

an end-user, *the* processing *of* information already stored on that equipment, *or* ***sharing of personal data.***

Such software setting options shall allow end-users to provide or withdraw consent for each distinct category of purposes.

Or. en

Amendment 642
Marju Lauristin

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:

Or. en

Amendment 643
Anna Maria Corazza Bildt

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 ***appropriate technical settings referred to in Art.9 (2) for end- users to express consent.***

Amendment 644

Michał Boni, Frank Engel, Tomáš Zdechovský, Csaba Sógor, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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 ***appropriate technical settings referred to in Article 9 (2) for end-user to express consent.***

Amendment 645

Marju Lauristin

Proposal for a regulation

Article 10 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(a) by default, offer privacy protective settings to prevent other parties from storing information on the terminal equipment of a user and from processing information already stored on that equipment, except for the purposes laid down by Article 8 paragraph (1), points (a), (c) and (d);

Amendment 646

Marju Lauristin

Proposal for a regulation
Article 10 – paragraph 1 – point b (new)

Text proposed by the Commission

Amendment

(b) offer the option to prevent other parties from processing information already stored on the terminal equipment for the purposes laid down by Article 8, paragraph (1), points (a), (c) and (d).

Or. en

Amendment 647
Marju Lauristin

Proposal for a regulation
Article 10 – paragraph 1 – point c (new)

Text proposed by the Commission

Amendment

(c) upon installation, inform and offer the user the possibility to change or confirm the privacy settings options defined in point (a) by requiring the user's consent to a setting;

Or. en

Amendment 648
Marju Lauristin

Proposal for a regulation
Article 10 – paragraph 1 – point d (new)

Text proposed by the Commission

Amendment

(d) make the setting defined in points (a) and (c) easily accessible during the use of the software; and

Or. en

Amendment 649
Marju Lauristin

Proposal for a regulation
Article 10 – paragraph 1 – point e (new)

Text proposed by the Commission

Amendment

(e) offer the user the possibility to express specific consent through the settings after the installation of the software.

Or. en

Amendment 650
Marju Lauristin

Proposal for a regulation
Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. For the purpose of point (e) of paragraph 1, the settings shall include a signal which is sent to the other parties to inform them about the user's privacy settings. These settings shall be binding on, and enforceable against, any other party.

Or. en

Amendment 651
Marju Lauristin

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

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.

deleted

Or. en

Amendment 652

Anna Maria Corazza Bildt

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. ***The technical settings shall consist of multiple options for end-user to choose from, including an option to prevent other parties from storing information on the terminal equipment of an end-user and from processing information already stored on that equipment. These settings shall be easily accessible during the use of software and presented in a manner that gives the end-user possibility to an informed decision. The software enabling end-user to access individual websites, shall offer end-users to customise their privacy settings according to the website visited.***

Or. en

Amendment 653

Pál Csáky

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.

Or. en

Amendment 654

Michal Boni, Frank Engel, Tomáš Zdechovský, Csaba Sógor, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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. *The technical settings shall consist of multiple options for end-user to chose from, including an option to prevent other parties from storing information on the terminal equipment of a n end-user and from processing information already stored on that equipment. These settings should be easily accessible during the use of the software.*

Or. en

Amendment 655

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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.*

Amendment 656

Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, Louis Michel, Pavel Telička

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. ***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.***

Amendment 657

Cornelia Ernst

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 be set to prevent other parties from exercising the activities referred to in paragraph 1.***

Amendment 658

Sophia in 't Veld

Proposal for a regulation

Article 10 – paragraph 2

Text proposed by the Commission

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.***

2. ***Before the first use of the software***, the software shall inform the end-user about the privacy settings ***and the available granular setting options.***

Or. en

Amendment 659
Jan Philipp Albrecht, Judith Sargentini

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

Text proposed by the Commission

Amendment

2 a. For the purposes of
(a) giving or withdrawing 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

Justification

Some body must have the authority to decide which technical standards are good enough and meet the requirements of this Regulation and the GDPR.

Amendment 660

Michał Boni, Frank Engel, Tomáš Zdechovský, Viviane Reding, Csaba Sógor, Carlos Coelho, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The software permitting the end-user to access individual websites shall enable the end-user to customise his or her privacy settings according to the website visited.

Or. en

Amendment 661

Pál Csáky

Proposal for a regulation

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The software shall not block data processing which is legally allowed according to Art. 8 (1) a), c) or d) or (2) a), irrespective of the browser settings.

Or. en

Amendment 662

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

Proposal for a regulation

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The software shall not block data processing which is legally allowed to Art. 8 (1) a), c) or d) or (2) a), irrespective of the browser settings.

Or. en

Amendment 663

Michal Boni, Frank Engel, Tomáš Zdechovský, Csaba Sógor, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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 664

Cornelia Ernst

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 665

Jan Philipp Albrecht, Judith Sargentini

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

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.

first update of the software, but no later than 25 August 2018.

Or. en

Amendment 666
Peter Kouroumbashev, Cătălin Sorin Ivan

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

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*.

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 *May 2019*.

Or. en

Amendment 667
Daniel Dalton, John Procter, Helga Stevens

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 668
Axel Voss, Heinz K. Becker, Rachida Dati, Brice Hortefeux

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

Justification

Article 25 of Regulation (EU) 2016/679 governs data protection by design and by default. Article 10 of the proposal for a regulation on ePrivacy only undermines Article 25 of Regulation (EU) 2016/679 and would hamper most business models.

Amendment 669
Cornelia Ernst

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

Amendment 670
Jan Philipp Albrecht, Judith Sargentini

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

Following the LIBE rapporteur: Art. 11a for restrictions of user rights, Art. 11b for restrictions of confidentiality, added Art. 11c on documentation and reporting.

Amendment 671

Sophia in 't Veld, Kaja Kallas

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 ***fully respects*** fundamental rights and freedoms and is a necessary, appropriate and proportionate measure in a democratic society to safeguard ***national security, defence, public security, and the prevention, investigation, detection and prosecution of criminal offences or of unauthorised use of the electronic communications system.***

Or. en

Justification

This amendment stays as close to the status quo as possible.

Amendment 672

Michał Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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

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.

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 **(d)** of Regulation (EU) 2016/679 or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.

Or. en

Amendment 673

Daniel Dalton, John Procter

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 one or more of the general public interests referred to in Article **23(1)** of Regulation (EU) 2016/679 or a monitoring, inspection or regulatory function connected to the exercise of official authority for such interests.

Or. en

Amendment 674

Sophia in 't Veld, Angelika Mlinar, Kaja Kallas

Proposal for a regulation

Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The Union or 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 675
Sophia in 't Veld, Kaja Kallas

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. Providers of electronic communications services shall **publish** information about the number of requests received, the legal justification invoked and their response.

Or. en

Justification

Mandatory Transparency Reports.

Amendment 676
Emilian Pavel

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. Providers of electronic communications services shall establish internal procedures for responding to requests for access to end-users' electronic

Amendment

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.

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. ***The requests coming from a Member State where the service provider is not established, must respect cross-border mechanisms under mutual legal assistance conventions.***

Or. en

Amendment 677
Brice Hortefeux, Rachida Dati

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. Providers of electronic communications services shall establish ***appropriate*** internal procedures for responding to requests for access to end-users' electronic communications data based on a legislative measure adopted pursuant to paragraph 1 ***and therefore to facilitate the handling of these requests.*** 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

Amendment 678
Jan Philipp Albrecht, Judith Sargentini

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 subscriber

1. Union or Member State law to which the provider is subject may temporarily 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;

(c) defence;

(d) 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 679
Cornelia Ernst**

**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 subscriber

1. Union or Member State law to which the provider is subject may temporarily 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 680
Cornelia Ernst**

**Proposal for a regulation
Article 11 b (new)**

Text proposed by the Commission

Amendment

Article 11 b

Restrictions of the confidentiality of communications

1. Union or Member State law to which the provider is subject may temporarily 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. It shall also require prior judicial authorisation for any access to content or metadata.

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 681
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 11 b (new)

Text proposed by the Commission

Amendment

Article 11 b

Restrictions of the confidentiality of communications

1. Union or Member State law to which the provider is subject may temporarily 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. It shall also require prior judicial authorisation for any access to content or metadata.

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.

Amendment 682
Cornelia Ernst

Proposal for a regulation
Article 11 c (new)

Text proposed by the Commission

Amendment

Article 11 c

**Documentation and reporting of
restrictions**

1. Providers of electronic communications services shall keep documentation about requests made by competent authorities to access communications content or metadata pursuant to Article 11b(2). This documentation shall include for each request:

(a) the in-house staff member who handled the request;

(b) the identity of the body making the request;

(c) the purpose for which the information was sought;

(d) the date and time of the request;

(e) the legal basis and authority for the request, including the identity and status or function of the official submitting the request;

(f) the judicial authorisation of the request;

(g) the number of subscribers to whose data the request related;

(h) the data provided to the requesting authority; and

(i) the period covered by the data.

The documentation shall be made available to the competent supervisory authority upon request.

2. Providers of electronic communications services shall publish once per year a report with statistical information about data access requests by law enforcement

authorities pursuant to Articles 11a and 11b. The report shall include, at least

- (a) the number of requests;*
- (b) the categories of purposes for the request;*
- (b) the categories of data requested;*
- (c) the legal basis and authority for the request;*
- (d) the number of subscribers to whose data the request related;*
- (e) the period covered by the data;*
- (f) the number of negative and positive responses to those requests.*

3. Member States' competent authorities shall publish once per year a report with statistical information per month about data access requests pursuant to Articles 11a and 11b, including requests that were not authorised by a judge, including, but not limited to, the following points:

- (a) the number of requests;*
- (b) the categories of purposes for the request;*
- (b) the categories of data requested;*
- (c) the legal basis and authority for the request;*
- (d) the number of subscribers to whose data the request related;*
- (e) the period covered by the data;*
- (f) the number of negative and positive responses to those requests.*

The reports shall also contain statistical information per month about any other restrictions pursuant to Articles 11a and 11b.

Or. en

Amendment 683
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 11 c (new)

Text proposed by the Commission

Amendment

Article 11 c

Documentation and reporting of restrictions

1. Providers of electronic communications services shall keep documentation about requests made by competent authorities to access communications content or metadata pursuant to Article 11b(2). This documentation shall include for each request:

(a) the in-house staff member who handled the request;

(b) the identity of the body making the request;

(c) the purpose for which the information was sought;

(d) the date and time of the request;

(e) the legal basis and authority for the request, including the identity and status or function of the official submitting the request;

(f) the judicial authorisation of the request;

(g) the number of subscribers to whose data the request related;

(h) the data provided to the requesting authority; and

(i) the period covered by the data.

The documentation shall be made available to the competent supervisory authority upon request.

2. Member States' competent authorities shall publish once per year a report with statistical information per month about data access requests pursuant to Article 11b(2), including requests that were not authorised by a judge, including, but not limited to, the following points:

(a) the number of requests;

(b) the categories of purposes for the request;

(b) the categories of data requested;

(c) the legal basis and authority for the request;

(d) the number of subscribers to whose data the request related;

(e) the period covered by the data;

The reports shall also contain statistical information per month about any other restrictions pursuant to Articles 11a and 11b.

Or. en

Justification

Reports by Member States' authorities are more comprehensive, as they consolidate all requests to all communications service providers. This also avoids additional burdens for providers.

Amendment 684

Heinz K. Becker

Proposal for a regulation

Chapter 3 – title

Text proposed by the Commission

**RECHTE NATÜRLICHER *UND*
JURISTISCHER PERSONEN IN BEZUG
AUF DIE KONTROLLE ÜBER IHRE
ELEKTRONISCHE KOMMUNIKATION**

Amendment

**RECHTE NATÜRLICHER PERSONEN
IN BEZUG AUF DIE KONTROLLE
ÜBER IHRE ELEKTRONISCHE
KOMMUNIKATION**

Or. de

Amendment 685

Anna Maria Corazza Bildt

Proposal for a regulation

Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

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:

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 686
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 12 – paragraph 1 – point a

Text proposed by the Commission

(a) the calling ***end-user*** with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis;

Amendment

(a) the calling ***user or subscriber*** with the possibility of preventing the presentation of the calling line identification on a per call, per connection or permanent basis;

Or. en

Amendment 687
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 12 – paragraph 1 – point b

Text proposed by the Commission

(b) the called ***end-user*** with the possibility of preventing the presentation of the calling line identification of incoming calls;

Amendment

(b) the called ***user or subscriber*** with the possibility of preventing the presentation of the calling line identification of incoming calls;

Or. en

Amendment 688

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 12 – paragraph 1 – point c

Text proposed by the Commission

(c) the called **end-user** with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling **end-user**;

Amendment

(c) the called **user or subscriber** with the possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling **user or subscriber**;

Or. en

Amendment 689

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 12 – paragraph 1 – point d

Text proposed by the Commission

(d) the called **end-user** with the possibility of preventing the presentation of the connected line identification to the calling **end-user**.

Amendment

(d) the called **user or subscriber** with the possibility of preventing the presentation of the connected line identification to the calling **user or subscriber**.

Or. en

Amendment 690

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 12 – paragraph 2

Text proposed by the Commission

2. The possibilities referred to in points (a), (b), (c) and (d) of paragraph 1 shall be provided to **end-users** by simple means and free of charge.

Amendment

2. The possibilities referred to in points (a), (b), (c) and (d) of paragraph 1 shall be provided to **users or subscribers** by simple means and free of charge.

Or. en

Amendment 691

Peter Kouroumbashev, Filiz Hysmenova

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 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, 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 692

Jan Philipp Albrecht, Judith Sargentini

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 subscriber*** 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.

Amendment 693

Jan Philipp Albrecht, Judith Sargentini

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 subscribers** request the tracing of malicious or nuisance calls.

Justification

We should avoid fragmenting the Digital Single Market.

Amendment 694

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 14 – paragraph 1 – introductory part

Text proposed by the Commission

Providers of publicly available number-based interpersonal communications services shall **deploy state of the art measures to limit the reception of unwanted calls by end-users and shall also** provide the called end-user with the following possibilities, free of charge:

Amendment

Providers of publicly available number-based interpersonal communications services shall provide the called end-user with the following possibilities, free of charge:

Justification

Unclear what it would mean on top of points (a) and (b). Algorithmic filtering? Artificial intelligence that guesses which calls the user doesn't want to receive?

Amendment 695

Jan Philipp Albrecht, Judith Sargentini

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 696

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 14 – paragraph 1 – point b

Text proposed by the Commission

(b) to stop automatic call forwarding by a ***third*** party to the ***end-user's*** terminal equipment.

Amendment

(b) to stop automatic call forwarding by a party to the ***subscriber's*** terminal equipment.

Or. en

Justification

WP 29 notes that the definition of “third parties” in the GDPR doesn't include the controllers. Therefore this expression should be avoided in the context of this Regulation. See related amendments to Articles 7 and 10.

Amendment 697

Marju Lauristin

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 publicly available directories ***or the electronic communication services providers*** shall obtain the consent of ***users*** to include their personal data in the directory and, consequently, shall obtain consent from these ***users*** for inclusion of data per category of personal data, to the extent that such data are relevant for the purpose of the directory. ***Electronic communication service providers shall give users the means to verify, correct, update, complete and delete such data. When electronic communication service providers obtain consent of users, they shall make users' data available for public directory providers in an immediate, non-discriminatory and fair manner.***

Or. en

Amendment 698

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Elissavet Vozemberg-Vrionidi

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 communication services*** shall obtain the consent of end-users who are natural persons to ***share*** their personal data ***with the providers of publicly available directories to include them*** in the directory and, consequently, shall ***provide end-users who are natural persons with information about*** 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 699

Jan Philipp Albrecht, Judith Sargentini

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 publicly available directories **or the electronic communication service providers** shall obtain the consent of **subscribers** who are natural persons to include their personal data in the directory and, consequently, shall obtain consent from these **subscribers** for inclusion of data per category of personal data, to the extent that such data are **necessary** for the purpose of the directory. **Without prejudice to Articles 12 to 22 of Regulation (EU) 2016/679**, providers shall give **subscribers** who are natural persons the means to verify, correct and delete such data.

Justification

Last part: Clarification that this does not affect the data subject rights under the GDPR, but is about giving the means to exercise them.

Amendment 700

Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, 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

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

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.

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 701

Pál Csáky

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 information, communication and telecommunication services collect the data** of end-users who are natural persons to include their personal data in **publicly available directories. They grant** end-users **who are natural persons the right to object against the inclusion of their related data in directories. The operators** shall give end-users who are natural persons the **option** to verify, correct and delete such data.

Or. en

Amendment 702

Brice Hortefeux, Rachida Dati

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 communications services** shall **be responsible for collecting the data** of end-users who are natural persons **in order** to include their personal data in **publicly available directories. The providers grant end users who are natural persons the right to object against the inclusion of their related data in directories.** The providers shall give end-users who are natural persons the means to verify, correct and delete such data.

Or. en

Amendment 703

Axel Voss, Heinz K. Becker

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. They shall give end-users that are natural persons the right to object to data related 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. en

Amendment 704

Daniel Dalton, Helga Stevens, John Procter

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 705
Sophia in 't Veld

Proposal for a regulation
Article 15 – paragraph 1 a (new)

Text proposed by the Commission

1 a. Electronic communications service providers may, on behalf of a specific public directory, ask for the consent of a subscriber to have his personal data included in that public directory.

Amendment

Or. en



2017/0003(COD)

14.7.2017

AMENDMENTS

706 - 827

Draft report
Marju Lauristin
(PE606.011v01-00)

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))

AM_Com_LegReport

Amendment 706
Daniel Dalton, Helga Stevens, John Procter

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 **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 707
Axel Voss, Heinz K. Becker

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, communication and telecommunication services shall inform end-users when new search functions are made available.**

Or. en

Amendment 708
Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, 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 709

Brice Hortefeux, Rachida Dati

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 and **shall inform end-users if new** search functions **are made available**.

Or. en

Amendment 710

Pál Csáky

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. **In publicly available directories** the providers of **these directories** shall inform end-users who are natural persons whose personal data are in the directory of the available search functions of the directory. **The operators shall inform end-users if new search functions are enabled**.

Or. en

Amendment 711
Marju Lauristin

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 **directories** shall inform **users** whose personal data are in the directory of the available search functions of the directory. **The electronic communication service providers shall inform users if new search functions are enabled**.

Or. en

Amendment 712
Jan Philipp Albrecht, Judith Sargentini

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

Amendment

2. The providers of a publicly available directory shall inform **subscribers** who are natural persons whose personal data are in the directory of the available search functions of the directory and obtain **subscribers'** consent before

end-users' consent before enabling such search functions related to their own data.

enabling such search functions related to their own data.

Or. en

Amendment 713

Axel Voss, Heinz K. Becker

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, communication and telecommunication 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. en

Amendment 714

G rard Deprez, Morten L kkegaard, Jean-Marie Cavada, Petr Je ek, Louis Michel, Pavel Teli ka

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 715

Pál Csáky

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 information, communication and telecommunication services* shall provide end-users that are legal persons with the possibility to object to data related to them being included in the *directories*. *The operators* shall give such end-users that are legal persons the *option* to verify, correct and delete such data. *Natural persons who act with commercial intent, such as freelancers, small traders or self-employed persons, are equated to legal persons.*

Or. en

Amendment 716

Miltiadis Kyrkos

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

Amendment

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.

3. The *operators of electronic information, communication and telecommunication services* shall provide end-users that are legal persons with the possibility to object to data related to them being included in *directories*. *The operators* shall give such end-users that are legal persons the *option* to verify, correct and delete such data. *Natural persons who act with commercial intent, such as freelancers, small traders or self-employed persons, are equated to legal persons.*

Or. en

Amendment 717
Brice Hortefeux, Rachida Dati

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 communications 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 and delete such data. *Natural persons who act with commercial intent, such as freelancers, small traders or self-employed persons, are equated to legal persons.*

Or. en

Amendment 718
Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

Amendment

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.

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 719
Marju Lauristin

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 ***electronic communication service providers*** shall provide end-users that are legal persons with the possibility to object to data related to them being included in the directory. ***Electronic communication service*** Providers shall give such end-users that are legal persons the means to verify, correct and delete such data. ***Users who act with commercial intent shall be equated to legal persons.***

Or. en

Amendment 720
Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Brice Hortefeux, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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

Amendment

3. The providers of ***electronic communication services or providers of publicly available directories*** shall provide end-users that are legal persons with the

the directory. Providers shall give such end-users that are legal persons the means to verify, correct and delete such data.

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.

Or. en

Amendment 721

Jan Philipp Albrecht, Judith Sargentini

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

Or. en

Amendment 722

Michał Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Viviane Reding, Carlos Coelho, Elissavet Vozemberg-Vrionidi

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 by the party that collected the consent or directly from the provider of publicly available directory.**

Or. en

Amendment 723

Jan Philipp Albrecht, Judith Sargentini

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. ***Without prejudice to Article 12(5) of Regulation (EU) 2016/679, the information to the subscribers and*** the possibility for **subscribers** 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.

Or. en

Justification

GDPR Art. 12(5) already provides that exercising one's rights shall be free of charge. e-Privacy however also applies to legal persons.

Amendment 724

Sophia in 't Veld

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 725

Daniel Dalton, John Procter, Helga Stevens

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 726

Axel Voss, Heinz K. Becker

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 727

Sophia in 't Veld

Proposal for a regulation

Article 15 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. Where the personal data of end-users who are natural persons have been included in a publicly available directory before this Regulation enters into force, and where acquiring consent would lay an unreasonable burden on the directory or originating service provider, the personal data of such end-users may remain included in a publicly available directory, including versions with search functions, unless the end-users have

expressed their manifest objection against their data being included in the directory or against available search functions related to their data.

Or. en

Justification

Transitional provision.

Amendment 728
Marju Lauristin

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

Text proposed by the Commission

Amendment

4 a. Where the personal data of the users of number- based interpersonal communications services have been included in a publicly available directory before this Regulation enters into force, the personal data of such users may remain included in a publicly available directory, including versions with search functions, unless the users have expressed their objection against their data being included in the directory or against available search functions related to their data.

Or. en

Amendment 729
Daniel Dalton, John Procter

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 730

Axel Voss, Heinz K. Becker

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 731

Pál Csáky

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 information published in other publicly accessible sources, nor to data which are provided by end-users themselves.

Or. en

Amendment 732

Axel Voss, Heinz K. Becker

Proposal for a regulation

Article 15 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4 b. Any undertaking which provides publicly accessible information, communication or telecommunication 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 the participants' 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. en

Amendment 733

Axel Voss, Heinz K. Becker

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.

Justification

Article 16 of the proposal for a regulation deals with direct marketing aspects without making any direct link to communications data or end-user terminal equipment. This provision is concerned with the law on advertising and consumer protection, matters which should be governed by a substantively appropriate EU legal instrument. Directive 2005/29/EC (Directive on unfair business practices) would be a more appropriate legal instrument here.

Amendment 734

Marju Lauristin

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. **The use by** natural or legal persons **of electronic communications services, including automated calling, communications systems, semi-automated systems that 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 end-users, **shall be allowed only in respect of end-users who** have given their **prior** consent.

Amendment 735

Monica Macovei, Barbara Spinelli

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. **The use by** natural or legal persons **of** electronic communications **networks** for the purposes of sending, **directing or presenting** direct marketing communications to end-users who are natural persons **may be allowed only in**

respect of end- users who have given their *prior* consent.

Or. en

Amendment 736
Jan Philipp Albrecht, Judith Sargentini

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 *subscribers* who are natural persons *only if these* 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 737
Cornelia Ernst

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 *subscribers* who are natural persons *only if these* have given their *explicit* consent.

Or. en

Amendment 738

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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 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

Amendment 739

Monica Macovei, Barbara Spinelli

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

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 ***for a period of no more than 12 months*** only if customers are clearly and distinctly given the opportunity to object, free of charge and in an easy

shall be given at the time of collection and each time a message is sent.

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 740

Daniel Dalton, Helga Stevens, John Procter

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 *or phone number* 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 741

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*

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

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.

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 742

Michał Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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 743

Michał Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation Article 16 – paragraph 3 – introductory part

Text proposed by the Commission

3. Without prejudice to paragraphs 1 and 2, natural or legal persons using electronic communications services for the

Amendment

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:

purposes of placing direct marketing calls shall ***present the identity of a line on which they can be contacted; or present a specific code/or prefix identifying the fact that the call is a marketing call.***

Or. en

Amendment 744

Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation

Article 16 – paragraph 3 – introductory part

Text proposed by the Commission

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:

Amendment

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 ***present the identity of a line on which the can be contacted.***

Or. en

Amendment 745

Daniel Dalton, Helga Stevens, John Procter

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

deleted

Or. en

Amendment 746

Michał Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 16 – paragraph 3 – point a

Text proposed by the Commission

Amendment

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

Or. en

Amendment 747

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 16 – paragraph 3 – point a

Text proposed by the Commission

Amendment

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

Or. en

Amendment 748

Sophia in 't Veld

Proposal for a regulation

Article 16 – paragraph 3 – point a

Text proposed by the Commission

Amendment

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

Or. en

Amendment 749

Michał Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 16 – paragraph 3 – point b

Text proposed by the Commission

Amendment

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

Or. en

Amendment 750

Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation

Article 16 – paragraph 3 – point b

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 751

Sophia in 't Veld

Proposal for a regulation

Article 16 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The masking of the identity and the use of false identities, false return addresses or numbers while sending unsolicited communications for direct marketing purposes is prohibited.

Or. en

Amendment 752

Cornelia Ernst

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

deleted

have not expressed their objection to receiving those communications.

Or. en

Amendment 753

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

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. See also paragraph 5, where parts of this paragraph were moved for legal persons.

Amendment 754

Monica Macovei, Marian-Jean Marinescu, Barbara Spinelli

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.

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.

Member States availing of this exception

shall establish a national "Do Not Call" register and provide by law that end-users who are natural persons can object to all future direct marketing voice-to-voice calls by registering in the national "Do Not Call" register.

Or. en

Amendment 755
Marju Lauristin

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 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. ***Member States shall provide that users can object to receiving the direct marketing voice-to-voice calls via a national Do Not Call Register, thereby also ensuring that the user needs to opt- out only once.***

Or. en

Amendment 756
Sophia in 't Veld

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

Amendment

4. Notwithstanding paragraph 1, 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

have not expressed their objection to receiving those communications.

expressed their objection to receiving those communications.

Or. en

Amendment 757
Sophia in 't Veld

Proposal for a regulation
Article 16 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. Service providers of electronic communications services enabling marketing calls referred to in Article 16(3) shall provide new subscribers with the choice to either accept marketing calls with the designated prefix or to automatically block such calls.

Or. en

Amendment 758
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 16 – paragraph 5

Text proposed by the Commission

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 by means set forth under paragraph 1 are sufficiently protected.

5. Member States shall ensure, in the framework of Union law and applicable national law, that the legitimate interest of **subscribers** 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 subscribers who are legal persons shall only be allowed in respect of subscribers who have not expressed their objection or have consented to receiving those communications. Member States shall provide that subscribers 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

Moved parts of the provisions in paragraph 4 here, where it is limited to subscribers that are legal persons. Here, the Member States can have a certain leeway.

Amendment 759

Monica Macovei, Marian-Jean Marinescu, Barbara Spinelli

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, in an easy manner ***and free of charge***, to receiving further marketing communications. ***Any use of masked sender identities, false contact information or false return addresses or numbers for direct marketing purposes shall be prohibited.***

Or. en

Amendment 760

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 16 – paragraph 6

Text proposed by the Commission

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.

6. Any natural or legal person using electronic communications services to transmit direct marketing communications shall **clearly and visibly** inform **subscribers** of the marketing nature of the communication and the identity of the legal or natural person **transmitting the communication and** on behalf of whom the communication is transmitted and shall provide the necessary information **and means** for recipients to exercise their right to withdraw their consent **or to object**, in an easy manner, to receiving further marketing communications.

Or. en

Justification

Incorporates LIBE AM 110 Rapporteur (new paragraph 3a) here in order to avoid duplication.

Amendment 761 **Sophia in 't Veld**

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, in an easy manner **and free of charge**, to receiving further marketing communications.

Or. en

Amendment 762 **Brice Hortefeux, Rachida Dati**

Proposal for a regulation
Article 16 – paragraph 7

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 763
Daniel Dalton, John Procter, Helga Stevens

Proposal for a regulation
Article 16 – paragraph 7

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 764
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 16 – paragraph 7

Text proposed by the Commission

Amendment

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.

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.

Amendment 765

Axel Voss, Heinz K. Becker, Brice Hortefeux

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.

Justification

Article 34 of Regulation (EU) No 2016/679, Article 40 of the European Electronic Communications Code (COM(2016) 590 final) and the Directive concerning measures for a high common level of security of network and information systems across the Union (EU 2016/1148) are adequate legal instruments containing information about recognised security risks.

Amendment 766

Brice Hortefeux, Rachida Dati

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

Amendment 767
Jan Philipp Albrecht, Judith Sargentini

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 768
Daniel Dalton, John Procter

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Information about *detected* security risks

Amendment

Information about security risks *and personal data breaches*

Or. en

Amendment 769
Michał Boni, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Article 17 – title

Text proposed by the Commission

Amendment

Information about detected security risks

Security *obligations*

Or. en

Amendment 770

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 17 – paragraph 1

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 771

Cornelia Ernst

Proposal for a regulation

Article 17 – paragraph 1

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 772
Emilian Pavel

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 773

Michal Boni, Frank Engel, Tomáš Zdechovský, Rachida Dati, Brice Hortefeux, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission

Amendment

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.

Provider of electronic *communication services* shall *comply with the security obligations as prescribed Regulation (EU) 2016/679 and [European Electronic Communications Code]*.

Or. en

Amendment 774

Daniel Dalton, John Procter

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 particular risk that may compromise the security of networks and electronic communications services ***or of a personal data breach, Article 40 of [Electronic Communications Code] and Article 34 of Regulation (EU) 2016/679 shall apply.***

Or. en

Amendment 775 Sophia in 't Veld

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 particular risk that may compromise the security of networks, electronic communications services, ***information society services, hardware or software, the relevant provider or manufacturer*** shall inform ***all*** 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 ***subscribers*** of any possible remedies.

Or. en

Amendment 776 Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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 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 or on hardware or software manufacturers that would result in the weakening of the confidentiality and integrity of their networks and services of the terminal equipment, including the encryption methods used.

Or. en

Justification

Based on LIBE rapporteur AM 116.

Amendment 777
Cornelia Ernst

Proposal for a regulation
Article 17 – paragraph 1 a (new)

Text proposed by the Commission

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 that the confidentiality and safety of the transmission are also guaranteed by the nature of the means of transmission used or by state-of-the-art end-to-end encryption of the electronic communications data. Furthermore, when encryption of electronic communications

data is used, decryption, reverse engineering or monitoring of such communications shall be prohibited. Member States shall not impose any obligations on electronic communications service providers that would result in the weakening of the security and encryption of their networks and services.

Or. en

Amendment 778
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 17 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Providers of electronic communications services, providers of information society services, and manufacturers of hardware and software permitting the retrieval and presentation of information on the internet shall not use any means, no matter if technical, operational, or by terms of use or by contracts, that could prevent users and subscribers 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 subscribers shall be prohibited.

Or. en

Justification

The users should always be able to protect their own security by any means available to them.

Amendment 779
Cornelia Ernst

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 and electronic communications services, the relevant provider of an electronic communications service 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.

Or. en

Amendment 780

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 17 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

In the case of a particular risk that may compromise the security of networks, electronic communications services, information society services, hardware or software, the relevant provider or manufacturer shall inform all subscribers of such a risk and, where the risk lies outside the scope of the measures to be taken by the service provider, inform subscribers of any possible remedies. It shall also inform the relevant manufacturer and service provider.

Or. en

Justification

Based on LIBE AM 117 rapporteur, added manufacturer.

Amendment 781

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 17 – paragraph 1 d (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 782

Jan Philipp Albrecht, Judith Sargentini, Viviane Reding

Proposal for a regulation

Article 17 – paragraph 1 e (new)

Text proposed by the Commission

Amendment

This Article shall be without prejudice to the obligations provided for in Articles 32 to 34 of Regulation (EU) 2016/679 and the obligations provided for in Directive (EU) 2016/1148.

Or. en

Justification

Security obligations and breach notifications under the GDPR and the general obligations under the NIS Directive of course shall remain applicable.

Amendment 783

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

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

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**.

Regulation (EU) 2016/679 shall apply *mutatis mutandis*. **Where Regulation (EU) 2016/679 refers to data subjects**, the tasks and powers of the supervisory authorities shall be exercised with regard to **users and subscribers under this Regulation**. **Where Regulation (EU) 2016/679 refers to data controllers**, the tasks and powers of the supervisory authorities shall be exercised with regard to **providers of electronic communications services and information society services, and manufacturers of hardware and software under this Regulation**.

Or. en

Justification

Clarification about which entities in this Regulation relate to which entities under the GDPR.

Amendment 784

Elissavet Vozemberg-Vrionidi, Kostas Chrysogonos, Miltiadis Kyrkos

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 provide for one or more independent public authorities to be responsible for monitoring the application of this Regulation.***

Or. en

Justification

The present wording of Article 18(1) does not take into consideration the constitutional identity of all Member States. It is indicative that the Hellenic Constitution (HC) pursuant to its Article 19 par 2 calls for the establishment of an independent authority with the mission to ensure the confidentiality of mail and all other forms of free correspondence or communication. This provision has been implemented with the establishment of the Hellenic

Authority for Communication Security and Privacy (ADAE). On the other hand Article 9A HC calls for the establishment of the Hellenic Data Protection Authority, which has the task to protect personal data. As a result, the present wording of Article 18(1) would lead to a repeal of Article 19 HC. This is why the present wording of Article 18(1) shall be modified.

Amendment 785

Gérard Deprez, Morten Løkkegaard, Jean-Marie Cavada, Petr Ježek, Louis Michel, 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 786

Jan Philipp Albrecht, Judith Sargentini

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. 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 vice versa.***

Or. en

Amendment 787

Elissavet Vozemberg-Vrionidi, Kostas Chrysogonos, Miltiadis Kyrkos

Proposal for a regulation

Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Where more than one supervisory authority is established in a Member State, each authority is represented to the European Data Protection Board to the extent of its respective competence, and the Member State shall set out the mechanism to ensure compliance by the other authorities with the rules relating to the consistency mechanism.

Or. en

Justification

With regard to recital 38 of the Preamble of the proposed Regulation, and in order to ensure the more effective protection and confidentiality, Member States should be able to have more than one supervisory authority for the implementation of the present Regulation, in accordance with their constitutional and administrative structure, and to extent of each authority's respective competence. This is in line with the provisions of the proposed Regulation, which, inter alia, lays down the rules relating to the protection of electronic communications data conveyed through publicly available communications channels, which, as it is recognized in recital 4 of the Preamble, do not necessarily include personal data.. Hence, Member States should be able to set out the mechanism to ensure compliance by the other authorities with the rules relating to the consistency mechanism.

Amendment 788

Jan Philipp Albrecht, Judith Sargentini

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 789
Jan Philipp Albrecht, Judith Sargentini

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 790
Jan Philipp Albrecht, Judith Sargentini

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 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 to ensure confidentiality and integrity of the communication pursuant to Article 17(1).

Or. en

Amendment 791
Jan Philipp Albrecht, Judith Sargentini

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 subscriber** 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

Aligned with the GDPR

Amendment 792
Sophia in 't Veld

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 **and, where applicable, every body, organization or association**, shall have the same remedies provided for in Articles 77, 78, **79 and 80** of Regulation (EU) 2016/679.

Or. en

Amendment 793

Axel Voss, Heinz K. Becker

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. en

Justification

Articles 77, 78 and 79 of Regulation (EU) No 2016/679 regulate the right to lodge a complaint with a supervisory authority, the right to an effective judicial remedy against a supervisory authority and the right to an effective judicial remedy against a controller or processor, and therefore provide sufficiently for complaints.

Amendment 794

Jan Philipp Albrecht, Judith Sargentini

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 or subscribers** 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 795
Sophia in 't Veld

Proposal for a regulation
Article 21 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. End-users shall have the right to mandate a not-for-profit body, organisation or association to lodge the complaint on their behalf, to exercise the right referred to in paragraphs 1, 1a and 1b of this Article on their behalf, and to exercise the right to receive compensation referred to in Article 22 on their behalf. Such bodies, organisations or associations shall be properly constituted in accordance with the law of the Member State concerned, have statutory objectives which are in the public interest, and be active in the field of the protection of data subjects' rights and freedoms with regard to the protection of their personal data and the protection of privacy.

Or. en

Amendment 796
Sophia in 't Veld

Proposal for a regulation
Article 21 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. Independently of an end-user's mandate, a body, organisation or association has the right to lodge a complaint with the supervisory authority which is competent pursuant to paragraph 1 and to exercise the rights referred to in

paragraphs 1a and 1b if it considers that the rights of the end-user under this Regulation have been infringed.

Or. en

Amendment 797

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

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.

Amendment

Article 82 of Regulation (EU) 2016/679 *shall apply.*

Or. en

Justification

*Article 82 of Regulation (EU) No 2016/679 already regulates the issue of liability and the right to compensation. The article inserted in Article 22 of the proposal for a regulation extends and specifies Article 82 of Regulation (EU) No 2016/679 and makes this proposal *lex specialis*.*

Amendment 798

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

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

Amendment

Any *user or subscriber* 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.

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. Article 82 of Regulation (EU) 2016/679 *shall apply mutatis mutandis also for subscribers which are legal persons.*

Or. en

Justification

Needed to clarify that the damages provisions of the GDPR also apply for legal persons under the e-Privacy Regulation.

Amendment 799

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 23

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

Article 83 of Regulation (EU) No 2016/679 regulates the general preconditions for the imposition of fines. The specification here amends Article 83 of Regulation (EU) No 2016/679 and creates a dual regime. This dual structure would hamper the correct application of the law by supervisory authorities and courts and lead to unfair treatment.

Amendment 800

Cornelia Ernst

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 801

Jan Philipp Albrecht, Judith Sargentini

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

Justification

moved to paragraph 3

Amendment 802

Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation

Article 23 – paragraph 2 – point a (new)

Text proposed by the Commission

Amendment

(a a) the obligations of the providers of electronic communications services for documentation, pursuant to Article 11c(1);

Or. en

Amendment 803

Cornelia Ernst

Proposal for a regulation

Article 23 – paragraph 2 – point a (new)

Text proposed by the Commission

Amendment

*(a a) the obligations of providers
pursuant to Article 11c;*

Or. en

Amendment 804
Cornelia Ernst

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;* *deleted*

Or. en

Amendment 805
Jan Philipp Albrecht, Judith Sargentini

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;* *deleted*

Or. en

Justification

moved to paragraph 3

Amendment 806
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 23 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(d a) the obligations of the providers of publicly available number-based interpersonal communication services pursuant to Article 12, 13 and 14.

Or. en

Amendment 807
Cornelia Ernst

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 ***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:

Or. en

Amendment 808
Jan Philipp Albrecht, Judith Sargentini

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

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:

worldwide annual turnover of the preceding financial year, whichever is higher.

Or. en

Amendment 809
Cornelia Ernst

Proposal for a regulation
Article 23 – paragraph 3 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

- (a) the principle of confidentiality of communications pursuant to Article 5;*
- (b) the permitted processing of electronic communications data, pursuant to Article 6,*
- (c) the time limits for erasure and the confidentiality obligations pursuant to Article 7;*
- (d) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;*
- (e) the requirements for consent pursuant to Article 9;*
- (f) the obligations of the provider of software or hardware enabling electronic communications, pursuant to Article 10;*
- (g) the obligations of the providers of electronic communications services, of the providers of information society services, or of the manufacturers of hardware and software permitting the retrieval and presentation of information on the internet pursuant to Article 17.*

Or. en

Amendment 810
Jan Philipp Albrecht, Judith Sargentini

Proposal for a regulation
Article 23 – paragraph 3 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

(a) the principle of confidentiality of communications pursuant to Article 5;

(b) the permitted processing of electronic communications data, pursuant to Article 6,

(c) the time limits for erasure and the confidentiality obligations pursuant to Article 7;

(d) the obligations of any legal or natural person who process electronic communications data pursuant to Article 8;

(e) the requirements for consent pursuant to Article 9;

(f) the obligations of the provider of software enabling electronic communications, pursuant to Article 10;

(g) the obligations of the providers of electronic communications services, of the providers of information society services, or of the manufacturers of hardware and software permitting the retrieval and presentation of information on the internet pursuant to Article 17.

Or. en

Amendment 811
Jan Philipp Albrecht, Judith Sargentini

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

Justification

Based on recommendations by EDPS and WP29. Covered by introduction of the references in this Article to ensure full harmonisation.

Amendment 812

Cornelia Ernst

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 813

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23 a

Article 83 of Regulation (EU) No 2016/679 shall apply.

Or. en

Justification

Article 83 of Regulation (EU) No 2016/679 regulates the general preconditions for the imposition of fines. The specification here amends Article 83 of Regulation (EU) No 2016/679 and creates a dual regime. This dual structure would hamper the correct application of the law by supervisory authorities and courts and lead to unfair treatment.

Amendment 814

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

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. en

Justification

Article 84 of Regulation (EU) No 2016/679 regulates penalties. The specification here amends Article 84 of Regulation (EU) No 2016/679 and creates a dual regime. This dual structure would hamper the correct application of the law by supervisory authorities and courts and lead to unfair treatment.

Amendment 815

Axel Voss, Heinz K. Becker, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24 a

Article 84 of Regulation (EU) No 2016/679 shall apply.

Or. en

Justification

Article 84 of Regulation (EU) No 2016/679 regulates penalties. The specification here amends Article 84 of Regulation (EU) No 2016/679 and creates a dual regime. This dual structure would hamper the correct application of the law by supervisory authorities and courts and lead to unfair treatment.

Amendment 816

Jan Philipp Albrecht, Judith Sargentini

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

Justification

The only delegated act is on privacy icons in Art. 8(4) of this proposal, which is already in the GDPR and therefore not needed.

Amendment 817

Jan Philipp Albrecht, Judith Sargentini

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

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).

implementing powers (OJ L 55, 28.2.2011, p. 13–18).

Or. en

Amendment 818

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

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 **[1 year after entering into force of this Regulation]**.

Or. en

Amendment 819

Jan Philipp Albrecht, Judith Sargentini

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

As breach notifications are now fully covered by the GDPR, the Commission Regulation on breach notifications, which is based on the old e-Privacy Directive, should also be repealed.

Amendment 820

Peter Kouroumbashev, Maria Grapini

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 25 **November** 2018.

Or. en

Amendment 821

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 822

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 28 – paragraph 1

Text proposed by the Commission

By **1 January 2018** at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation.

Amendment

By **[the date of entry into force of this Regulation]** at the latest, the Commission shall establish a detailed programme for monitoring the effectiveness of this Regulation.

Or. en

Amendment 823

Brice Hortefeux, Rachida Dati

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

It shall apply from **25 May 2018**.

It shall apply from *[one year from the date of entry into force of this regulation]*.

Or. en

Amendment 824

Michal Boni, Roberta Metsola, Frank Engel, Tomáš Zdechovský, Carlos Coelho, Pál Csáky, Elissavet Vozemberg-Vrionidi

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

It shall apply from **25 May 2018**.

It shall apply from *[1 year after entering into force of this Regulation]*.

Or. en

Amendment 825

Anna Maria Corazza Bildt

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

It shall apply *from* **25 May 2018**.

It shall apply **18 months following the entry into forces**.

Or. en

Amendment 826

Peter Kouroumbashev, Maria Grapini

Proposal for a regulation

Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

It shall apply from **25 May 2018**.

It shall apply from **25 November 2018**.

Or. en

Amendment 827

Axel Voss, Heinz K. Becker

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. en

Justification

The regulation ought to apply from 25 May 2019 at the earliest, and, at the latest, from one year after the entry into force of the European Electronic Communications Code (COM(2016)590 final). This proposal and Regulation (EU) No 2016/679 ought indeed to enter into force in parallel, but businesses must be given a realistic time frame for adjustment, and the definition must be aligned with the European Electronic Communications Code.