

Citizens' Rights Amendments (Part I)

Draft recommendation on Common position adopted by the Council with a view to the adoption of a Directive of the European Parliament and of the Council amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services

Amendment 1

Council common position - Amending act

Article 1 - Point 8 fb (new)

Directive 2002/21/EC

Article 8 - paragraph 4 - point fb (new)

Council common position

Amendments

(fb) applying the principle that no restriction may be imposed on the fundamental rights and freedoms of end-users without a prior ruling of the judicial authorities, notably in accordance with Article 11 of the Charter of Fundamental Rights of the European Union on freedom of expression and information, save when public security is threatened, in which case the ruling may be subsequent.

Justification

The amendment restores Article 8 paragraph 4 point (ga) of Directive 2002/21/EC adopted in first reading (Amendment 138). It intends to ensure that restrictions to the right to freedom of expression and information as provided in Article 11 of the Charter of Fundamental Rights of the European Union will not be imposed without a prior ruling of the judicial authorities [and unless it is absolutely necessary and justified by the relevant principles and rules of law]. The amendment aims to strike the right balance between the fundamental rights of end-users and others, as well as the protection of public safety and security.

Draft recommendation on the Council common position for adopting a directive of the European Parliament and of the Council amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2002/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

Amendment 2

Council common position - amending act

Article 1 - point 21b (new)

Directive 2002/22/EC

Article 32a (new)

Council common position

Amendments by Parliament

Member States shall ensure that any restrictions to the rights of users to access content, services, and applications, if such restrictions are necessary, shall be implemented by appropriate measures, in accordance with the principles of

proportionality, effectiveness and dissuasiveness. These measures shall not have the effect of hindering the development of the information society, in compliance with Directive 2000/31/EC, and shall not conflict with the fundamental rights of citizens, including the right to privacy, the right to freedom of expression and the right to due process.

Justification

The amendment restores Article 32a of Directive 2002/22/EC adopted in first reading (Amendment 166). The amendment aims to ensure that end-users of electronic communications services will be able to access content, services, and applications without being unduly restricted. It intends to strike the right balance between the right of end-users to freedom of expression, and their right to privacy and protection to personal data, and the rights and freedoms of others, including the right to the protection of intellectual property, and the protection of public safety and security.

Draft recommendation on Common position adopted by the Council with a view to the adoption of a Directive of the European Parliament and of the Council amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services

Amendment 3

Council common position - amending act

Article 1 - Point 8 fa (new)

Directive 2002/21/EC

Article 8 - paragraph 4 - point fa (new)

Council common position

Amendments

(fa) applying the principle that end-users should be able to access and distribute any content and use any applications and/or services of their choice in accordance with the relevant rules of Community law and the national substantive and procedural law;

Justification

The amendment supports the principle of a balanced approach in protecting sufficiently end-users' rights and freedoms and the rights and freedoms of others, including the right to intellectual property protection and the right to privacy, in accordance with the principle on which Article 8 paragraph 4 point (ga) of Directive 2002/21/EC adopted in first reading (Amendment 138) is based. It restores the core principles of Article 8 paragraph 4 point (g) of Directive 2002/21/EC adopted in first reading (Amendment 61), while ensuring consistency with the principle of Amendment 138, which aims to guarantee that end-users should be able to access any content, application, or service of their choice, pursuant to their fundamental right to freedom of expression and information. It also intends to ensure that those rights are exercised under the conditions and within the limits defined by the

Charter of Fundamental Rights of the European Union and by the relevant rules and principles of Community and national law.