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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.7.2009
COM(2009) 421 final

2007/0248 (COD)

OPINION OF THE COMMISSION

pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's Common Position regarding the Proposal for

a Directive of the European Parliament and of the Council amending Directives 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

AMENDING THE PROPOSAL OF THE COMMISSION pursuant to Article 250 (2) of the EC Treaty

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1. BACKGROUND

Procedure

The Commission adopted its proposal for a Directive COM(2007) 698 – 2007/0248 (COD) ('Citizens' Rights Directive') on 13 November 2007 and submitted it to the European Parliament and to the Council on 15 November 2007 for adoption by co-decision procedure as laid down in Article 251 of the EC Treaty.

The Economic and Social Committee gave its opinion on 29 May 2008. The Committee of the Regions adopted its opinion on 19 June 2008.

On 6 November 2008 the Commission adopted, in accordance with Article 250 of the EC Treaty, its amended proposal¹ incorporating in whole or in part many of the amendments voted by the European Parliament in its first reading on 24 September 2008.

The Council, in accordance with Article 251 of the EC Treaty, adopted its common position on the proposal on 16 February 2009².

The Commission adopted its Communication on the common position of the Council on 17 February 2009³.

The European Parliament adopted its position in second reading on 6 May 2009.

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The aim of the Commission's proposal is to adjust the regulatory framework for e-communications, as regards the Universal Service Directive⁴ and the Directive on privacy

¹ COM(2008)723 final.

² OJ C 103E, 5.5.2009, p. 40.

³ COM(2009) 78 final.

and electronic communications⁵, to strengthen certain consumer and user rights and to ensure that electronic communications are trustworthy, secure and reliable and that in providing them a high level of protection for individuals' privacy and personal data is ensured.

3. COMMISSION COMMENTS

3.1. General

At its Plenary Session of 6 May 2009, the European Parliament adopted a number of amendments negotiated with the Council to the Council's common position with a view to securing adoption in second reading. These amendments concern essentially:

- Adaptation of universal service to market and technological developments, including allowing Member States to upgrade universal service obligations to broadband services;
- Strengthened access to e-communications for disabled people, in particular via the inclusion of terminal equipment in the scope of the Directive; increased access to and choice of services for the disabled, strengthened right to emergency services in the EU;
- Improved contract conditions and greater information to consumers on services, including increased comparability of prices and greater power to the NRAs on tariff information for consumers.
- Information to users on the most common uses of e-communications services to engage in unlawful activities or to disseminate harmful content;
- Strengthened provisions on access to emergency services, including *inter alia* a stronger obligation to pass caller location information to the emergency authorities, improved citizens awareness of '112' number; and introduction of comitology powers for the Commission on access to '112' services;
- Facilitating citizens' access to 116 services, and comitology powers for the Commission to ensure the effective implementation of 116 numbering ranges;
- Facilitation of change of provider, including a time limit for number activation after porting; reinforcement of NRAs' powers to monitor and enforce porting; creation of comitology powers for the modernisation of porting obligations;
- Strengthened obligation for Member States to review 'must carry' obligations;
- Modernisation and updating of legislation to technology and market developments, streamlining of the provisions of the Directive (eg deletion of outdated obligations, etc.).
- Measures to be taken by providers in order to safeguard the security of their services;

⁴ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (OJ L 108, 24.4.2002, p. 51).

⁵ 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 (OJ L 201, 31.7.2002, p. 37).

- Obligation for providers of electronic communications services to notify security breaches affecting personal data to authorities and (in some cases) to subscribers or individuals concerned and introduction of comitology powers for the Commission on the modalities of breach notifications;
- Strengthened provisions on protection against spyware and placing of cookies on users' devices.

The Commission accepts the European Parliament's amendments as being in line with the overall purpose and the general characteristics of the proposal.

3.2. Amended Proposals

Pursuant to Article 250(2) of the EC Treaty, the Commission amends its Proposal in line with the amendments voted by the European Parliament at its plenary session on 6 May 2009.