

FINAL VERSION

Report: HARBOUR (A6-0318/2008) [***I]
 Electronic communications: protection of privacy and consumer
 protection



Committee: Internal Market and Consumer Protection

Subject of the amendment	Am No	Author	RCV etc.	Vote	Remarks
Amendments by the committee responsible -block vote	1-7	committee		0	-
	10				
	15-29				
	31-32				
	36-61				
	63-66				
	68-73				
	77-78				
	80				
	82-89				
	91-93				
	95				
	97-100				
	102-111				
	114-116				
118-121					
128-129					
131-133					
135-147					
149-152					
Amendments by the committee responsible - separate votes	8	committee	RCV	0	-
	14	committee	split		
			1	-	can be dangerous wrt DRM (as part 2) by allowing "other measures"
			2	--	allows DRM imposed by NRAs approved by Commission
	30	committee	split		
			1RCV	--	IP address as personal data
			2RCV	--	IP address as personal data in Community legislation
	34	committee	RCV	---	extends ePrivacy to IPR
	35	committee	separate	--	"fundamental rights" include protection of IPR

Subject of the amendment	Am No	Author	RCV etc.	Vote	Remarks
	62	<i>committee</i>	split		
			1RCV	0	no objections on this part
			2RCV	-	service providers cannot judge lawfulness without a ruling by judicial authorities
			3RCV	0	no objections on this part
			4RCV	-	service providers cannot judge lawfulness without a ruling by judicial authorities
	67	<i>committee</i>	split		
			1RCV	0	no objection on this part
			2RCV	--	opens door to 3-strikes approach
	75	<i>committee</i>	split		
			1RCV	0	no objection on this part
			2RCV	--	allows restrictions based on lawfulness
	76	<i>committee</i>	split		
			1 RCV	0	no objection on this part
			2 RCV	--	opens door to 3-strikes approach
	96	<i>committee</i>	separate	0	-
	112	<i>committee</i>	RCV	--	opens door to 3-strikes approach
	113	<i>committee</i>	separate	-	weakens interoperability clause
	117	<i>committee</i>	RCV	--	encourages out-of-courts procedures
	134	<i>committee</i>	split		
			1RCV	+	goes back to current initial version of ePrivacy directive
2RCV			--	allows standardisation of DRM for purposes of detecting, intercepting, or preventing infringements of IPR	
3RCV			+	goes back to current initial version of ePrivacy directive	
Article 21, § 3 (Directive 2002/22/EC)	165	40+ MEPs		0	-
	74	<i>committee</i>		0	-

Subject of the amendment	Am No	Author	RCV etc.	Vote	Remarks
Article 22, § 1 (Directive 2002/22/EC)	178rev	ALDE		0	-
	79	<i>committee</i>		0	-
Article 22, § 3 (Directive 2002/22/EC)	155= 172=	IND/DEM Greens/ EFA	RCV	++	rewords am193 to guarantee access as far as possible instead of restricting access
	193	EPP-ED, PES, ALDE	RCV	-	even if references to "lawfulness" have been deleted since previous amendment 81, still opens doors to standardisation of DRM
	81	<i>committee</i>	split		
			1	0	no objection on this part
			2	--	opens doors to standardisation of DRM
Article 25, § 2 (Directive 2002/22/EC)	168/rev	40+ MEPs		0	-
Article 26, § 5 (Directive 2002/22/EC)	90	<i>committee</i>		0	-
	159	EUL/NGL		0	-
After Article 27 (Directive 2002/22/EC)	188	EPP-ED, PES, ALDE		0	-
	94	<i>committee</i>		0	-
Article 28, after § 2 (Directive 2002/22/EC)	173	Greens/ EFA	RCV	++	limits restrictions to security and integrity
	101	<i>committee</i>	RCV	--	gives power to NRAs for requiring ISPs to impose restrictions
After Article 32 (Directive 2002/22/EC)	166	EUL/NGL	RCV	++	garantees access to content, services and application <i>This amendment has not been published on EP website !</i>
Article 4, after § 1 (Directive 2002/58/EC)	156	IND/DEM	RCV	++	fix am122 by defining security with "integrity, confidentiality and availability" (like preamble of Budapest Convention on Cybercrime)
	122	<i>committee</i>		--	mix lawfulness with security allowing restrictions beyond security purposes
	175	Greens/ EFA	RCV	++	fix am122 by defining security with "integrity, confidentiality and availability" (like preamble of Budapest Convention on

Subject of the amendment	Am No	Author	RCV etc.	Vote	Remarks
					Cybercrime)
Article 4, § 3 (Directive 2002/58/EC)	158rev CP	ALDE		-	<i>This amendment has not been published on EP website !!!</i>
	187rev	ALDE, EPP-ED, PES	RCV	+	final revision of this amendment finally allows users to be notified about breaches of security concerning thier personal data, whatever NRAs or ISPs deem necessary
	123rev	<i>committee</i>		-	breaches of security notified to NRAs, users are notified only if NRAs and ISPs decide so
Article 4, after § 3 (Directive 2002/58/EC)	124	<i>committee</i>	separate	-	breaches of security notified to NRAs, users are notified only if NRAs and ISPs decide so
	125	<i>committee</i>	separate	-	breaches of security notified to NRAs, users are notified only if NRAs and ISPs decide so
	126	<i>committee</i>	separate	0	-
	158rev CP	ALDE		-	<i>This amendment has not being published on EP website !!!</i>
	184	ALDE, EPP-ED, PES		-	allows providers to abstain to notify users of a security breach concerning their private data
Article 4, § 4 (Directive 2002/58/EC)	158rev CP	ALDE		-	<i>This amendment has not being published on EP website !!!</i>
	127	<i>committee</i>		0	implementing measures regarding security of personal data after consulting ENISA, EDPS, Art29 WP and stakeholders
Article 6, after § 6 (Directive 2002/58/EC)	181	EPP-ED, PES, ALDE	RCV	+	narrows am130 as suggested by EDPS, but without explicit mention of actors of the processing, just "for the legitimate interest of the data controller"
	130	<i>committee</i>	RCV	--	allows processing of traffic data for broader purposes than pure security
Article 12, § 2 (Directive 2002/58/EC)	167	40+ MEPs		0	-
Article 15, § 1 (Directive 2002/58/EC)	179	EPP-ED	RCV	--	extends restrictions to the protection of the rights and freedoms of others (including

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					IPR)
Article 18, after § 1 (Directive 2002/58/EC)	186/rev	ALDE, EPP-ED, PES	RCV	++	asks Commission for a report about use of IP addresses as personal data based on an in-depth study as suggested by EDPS
Annex I, part B, after point b (Directive 2002/22/EC)	157= 163= 174=	IND/DEM EUL/NGL Greens/ EFA	RCV	++	fix am148 by replacing "control of access to unlawful content" by "prevention of access to unsuitable content" and by limiting use of traffic monitoring data to the user
	148	<i>committee</i>	split		
			1	-	still allows control of usages
			2	--	allows control of unlawful usages
After Recital 12	9	<i>committee</i>	RCV	--	fosters 3-strikes approach
	191	EPP-ED, PES, ALDE	split		
			1	0	takes into account EDPS advices so that 3-strikes approach is not fostered
			2RCV	--	still mentions relation to copyright infringement, unlawful uses and harmful content, contrary to EDPS advices
169	Greens/ EFA		++	takes into account EDPS advices so that 3-strikes approach is not fostered and go further by deleting any suspicious wording	
Recital 14	11	<i>committee</i>	RCV	--	notion of "lawful" threatens net neutrality and is out-of-scope of Telecoms Package
	170	Greens/ EFA	RCV	++	deletes "lawful" references of am11 and go further by putting first users' freedom
	160	EUL/NGL	RCV	+	deletes "lawful" references of am11
	153	IND/DEM		+	deletes "lawful" references of am11
After Recital 14	171	Greens/ EFA		++	rewords am12 to guarantee access as far as possible instead of restricting access
	154	IND/DEM		++	rewords am12 to guarantee

Subject of the amendment	Am No	Author	RCV etc.	Vote	Remarks
					access as far as possible instead of restricting access
	12	<i>committee</i>		--	allows restriction to particular types of content or applications
	177	ALDE	split		
			1RCV	--	"lawfulness" is decided by "relevant authorities of the Member States"
			2RCV	--	ISPs just cooperate
	194	EPP-ED, PES	RCV	--	"lawfulness" is decided by "relevant authorities of the Member States", ISPs are not responsible
	190	EPP-ED, PES, ALDE	split		
			1	0	no objection on this part
			2	-	reference to any "reasonable and non-discriminatory" (RAND) wording should be avoided, since such fuzzyness allows unwanted solutions
	13	<i>committee</i>		-	proposes restrictions in direct contradictions with net neutrality
After Recital 21	189	EPP-ED, PES, ALDE		0	-
Recital 24	176rev	ALDE		0	-
Recital 25	192	EPP-ED, PES, ALDE	split		
			1	0	no objection on this part
			2	---	allows systematic and proactive surveillance of Internet usage, using deceptive wording by preventing against "systematic surveillance of individual internet usage", this is contrary to EDPS opinion
			3RCV	---	allows systematic and proactive surveillance of Internet usage, using deceptive wording by preventing against "systematic surveillance of individual internet usage", this is contrary to EDPS opinion
After Recital 26	180	EPP-ED, PES, ALDE		+	illustrates the covered types of processing of personal data as

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					suggested by EDPS, but without explicit mention of actors of the processing, just "for the legitimate interest of the data controller"
After Recital 27	185	ALDE, EPP-ED, PES		0	asks Commission for a study about use of IP addresses as personal data, but EDPS advice was more coercive
Recital 28	182	ALDE, EPP-ED, PES		--	instead of focusing on safeguards of right to privacy and data protection as in Commission initial proposal, extends the safeguard to all fundamental rights, therefore including protection of IPR
Recital 29	183	ALDE, EPP-ED, PES		-	NRAs or "other competent national authority" have still to decide seriousness of breaches of security before alerting users
	33	<i>committee</i>	RCV	-	breaches of security notified to NRAs, users are notified only if NRAs and ISPs decide so
<i>vote: amended proposal</i>			RCV	0	Subject to adoption or rejection of amendments following this voting list, specially rejection of 34 & 192
<i>vote: legislative resolution</i>			RCV	0	Subject to adoption or rejection of amendments following this voting list, specially rejection of 34 & 192

=identical amendments

cp = corresponding part

Amendments 161, 162 and 164 have been cancelled

Amendment 165 was tabled by MEP TICAU ao

Amendments 168, 167 were tabled by MEP VLASTO ao

Requests for roll-call votes

EUL/NGL: ams 8, 9, 11, 67, 76, 112, 160, 163 and 166

PES ams 30, 34, 130, 134, 179, 181, 187, 194, amended proposal, final vote

IND/DEM ams 155, 156, 157, 175, final vote

EPP-ED final vote

Greens/ EFA ams 11, 30 [first part], 33, 34, 62, 67 [second part], 75, 76, 101, 112, 117, 130, 134 [second part], 156, 157, 170, 172, 173, 175, 177, 179, 186, 191 [second part], 192 [second part], 193, 194

Requests for separate votes

ALDE ams 134, 30, 34
EPP-ED ams 124, 125, 126
Greens/ EFA ams 35, 96, 113

Requests for split votes

EUL/NGL:

am 62

1st part: "services provided ... territory"
2nd part: "information on ... and services"
3rd part: "the service quality ... initial connection"
4th part: "and any ... provider"

am 75

1st part: Text as a whole excluding the words "inform subscribers ... of their choice" [sub c]
2nd part: these words ***ROLL-CALL VOTE***

am 76

1st part: Text as a whole excluding the words "the common uses ... their consequences; and" [point a]
2nd part: these words

am 81

1st part: Text as a whole excluding the word "lawful" (twice)
2nd part: this word [twice]

am 134

1st part: "in implementing ... technical features"
2nd part: "including ... rights by users"
3rd part: "are imposed ... Member States"

am 148

1st part: "Member States shall ensure ... vulnerable people"
2nd part: "to unlawful or dangerous content"

PES:

am 192

1st part: Text as a whole excluding the word "individual"
2nd part: this word

IND/DEM:

am 62

1st part: Everything except indents 2 and 6
2nd part: indents 2 and 6 ***BY ROLL-CALL VOTE***

am 75

1st part: Text as a whole excluding the words "inform subscribers ... of their choice" [sub c]
2nd part: these words ***BY ROLL-CALL VOTE***

am 134

1st part: Text as a whole excluding the words "including, without ... by users"
2nd part: these words

Greens/EFA:

am 14

1st part: "Since inconsistent ... across the Community"

2nd part: "and, if necessary ... Community"

am 30

1st part: "For the purpose ... with other data" **BY ROLL-CALL VOTE**

2nd part: "within two years ... supervisors"

am 67

1st part: "The contract shall ... networks and services"

2nd part: "to engage ... provided" **BY ROLL-CALL VOTE**

am 134

1st part: Text as a whole excluding the words "including without ... rights by users"

2nd part: these words **BY ROLL-CALL VOTE**

am 177

1st part: Text as a whole excluding the words "providers of electronic ... such decision"

2nd part: these words

am 190

1st part: Text as a whole excluding the words "reasonable and"

2nd part: these words

am 191

1st part: Text as a whole excluding the words "this information ... personal data"

2nd part: these words **BY ROLL-CALL VOTE**

am 192

1st part: Text as a whole excluding the words "Furthermore, a mechanism ... internet usage"

2nd part: these words **BY ROLL-CALL VOTE**

Voting order of am 192

1st part: Text as a whole excluding the words "Individual" and "furthermore, ... internet usage"

2nd part: "individual"

3rd part: "furthermore, ... internet usage" **BY ROLL-CALL VOTE**

Voting order of am 134

1st part: "in implementing ... technical features"

2nd part: "including ... rights by users"

3rd part: "are imposed ... Member States"