

Citizens' Rights Amendments (Part II)

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 1

Common council position - amending act

Recital 39

Council common position

In order to overcome existing shortcomings in terms of consumer consultation and to appropriately address the interests of citizens, Member States should put in place an appropriate consultation mechanism. Such a mechanism could take the form of a body which would, independently of the national regulatory authority and service providers, carry out research into consumer-related issues, such as consumer behaviour and mechanisms for changing suppliers, and which would operate in a transparent manner and contribute to the existing mechanisms for stakeholder consultation. Furthermore, a mechanism could be established for the purpose of enabling appropriate cooperation on issues relating to the promotion of lawful content. Any cooperation procedures agreed pursuant to such a mechanism should, however, not allow for the systematic surveillance of internet usage.

Amendment

In order to overcome existing shortcomings in terms of consumer consultation and to appropriately address the interests of citizens, Member States should put in place an appropriate consultation mechanism. Such a mechanism could take the form of a body which would, independently of the national regulatory authority and service providers, carry out research into consumer-related issues, such as consumer behaviour and mechanisms for changing suppliers, and which would operate in a transparent manner and contribute to the existing mechanisms for stakeholder consultation.

Justification

The amendment is line with Article 32a of Directive 2002/22/EC adopted in first reading (Amendment 166). Any mechanism for the purpose of the promotion of lawful content does not fall within the scope of Directive 2002/22/EC. Any restrictions to the rights of users to access content, services, and applications should be implemented only if they are absolutely necessary and are implemented by appropriate measures, in accordance with the principles of proportionality, effectiveness and dissuasiveness. Such measures should 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.

Directive 2002/22/EC aims to protect users' right to use electronic communications services to access all content, services, and applications of their choice, and to provide the regulatory framework to facilitate such access recognised as a fundamental right by Community and national laws, including in particular Article 11 of the Charter of Fundamental Rights of the European Rights, without imposing unjustified and unnecessary restrictions to the right to such access.

Any mechanism for the purpose of the promotion of lawful content should fall solely within the scope of the relevant rules of Community and national and national substantive and procedural law, including Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, and Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), as well as rules of the Community and national law protecting public safety and

security. Such mechanism should not hinder the development of information society, in compliance with the Directive on electronic commerce, and should preserve the fundamental rights of citizens to freedom of expression and information and their right to privacy.

Amendment 2

Council common position - amending act

Article 1 - Point 22 (b) 3

Directive 2002/22/EC

Article 33§3

Council common position

Amendment

Without prejudice to national rules in conformity with Community law promoting cultural and media policy objectives, such as cultural and linguistic diversity and media pluralism, national regulatory authorities and other relevant authorities may promote cooperation between undertakings providing electronic communications networks and/or services and sectors interested in the promotion of lawful content in electronic communication networks and services. That cooperation may also include coordination of the public interest information to be provided pursuant to Article 21(4)(a) and Article 20(1). **To be deleted.**

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