

## TSM: Net neutrality provisions 4-column working document

At the 3<sup>rd</sup> trilogue on 2 June, the co-legislators invited the Commission to make compromise proposals and undertook to work on them. The 4th column is accordingly based on the Commission non-paper of 4 June on the net neutrality provisions.

EP text of 8 May	Council text of 29 May	Commission non-paper of 4 June	EP text of 18 June
<b>Recitals</b>	<b>Recitals</b>	<b>Recitals</b>	<b>Recitals</b>
	Marking for recitals: bold-italic/strikethrough shows differences with Council text of 17 April	Marking for recitals: bold-italic/strikethrough shows differences with Council text of 29 May 2015	Marking for recitals: bold-italic/strikethrough shows differences with COM non-paper of 4 June
	(1) This Regulation aims at harmonising rules on <del>safeguarding</del> access to open internet by ensuring end-users' right to access and distribute information and lawful content, run applications and use services of their choice, as well as by establishing common rules on traffic management which not only protect end-users but simultaneously guarantee the continued functioning of the Internet ecosystem as an engine of innovation. Reforms in the field of roaming should give end-users the	(1) This Regulation aims at harmonising rules on access to open internet by ensuring end-users' right to access and distribute information and lawful content, run applications and use services of their choice, as well as by establishing common rules on <i>the equal treatment of internet traffic and</i> traffic management which not only protect end-users but simultaneously guarantee the continued functioning of the Internet ecosystem as an engine of innovation. Reforms in the field of roaming should give end-users the	(1) This Regulation aims at harmonising rules on access to <del>open</del> internet by ensuring end-users' right to access and distribute information and lawful content, run applications and use services of their choice, as well as by establishing common rules on the equal <i>and non-discriminatory treatment</i> of internet traffic and traffic management which not only protect end-users but simultaneously guarantee the continued functioning of the Internet ecosystem as an engine of innovation. Reforms in the field of

	confidence to stay connected when they travel in the Union, and should become over time a driver of convergent pricing and other conditions in the Union.	confidence to stay connected when they travel in the Union, and should become over time a driver of convergent pricing and other conditions in the Union.	roaming should give end-users the confidence to stay connected when they travel in the Union, and should become over time a driver of convergent pricing and other conditions in the Union.
	(2) The measures provided in this Regulation respect the principle of technological neutrality, that is to say they neither impose nor discriminate in favour of the use of a particular type of technology.	(2) The measures provided in this Regulation respect the principle of technological neutrality, that is to say they neither impose nor discriminate in favour of the use of a particular type of technology.	(2) The measures provided in this Regulation <i>shall</i> respect the principle of technological neutrality, that is to say they neither impose nor discriminate in favour of the use of a particular type of technology.
	(3) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. However, a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require common rules at the	(3) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. However, a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require common rules at the	(3) The internet has developed over the past decades as an open platform for innovation with low access barriers for end-users, content and application providers and internet service providers. The existing regulatory framework aims at promoting the ability of end-users to access and distribute information or run applications and services of their choice. However, a significant number of end-users are affected by traffic management practices which block or slow down specific applications. These tendencies require common rules at the

	Union level to <del>maintain</del> <b>ensure</b> the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.	Union level to ensure the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.	Union level to ensure the open internet and to avoid fragmentation of the single market resulting from individual Member States' measures.
	<p><b>(10 4) In the open internet end-users should have the right to access and distribute information and content, and to use and provide applications and services without discrimination, via their internet access service. The exercise of this right is subject to Union law and national law, compliant with Union law, regarding the lawfulness of content, services or applications. However, this</b></p> <p>Regulation does not seek to regulate the lawfulness of the information, content, application or services, nor the procedures, requirements and safeguards related thereto. These matters remain thus subject to Union legislation or national legislation in compliance with Union law, including measures giving effect to such Union or national legislation (for example, court orders, administrative decisions</p>	<p>(4) In the open internet end-users should have the right to access and distribute information and content, and to use and provide applications and services without discrimination, via their internet access service. The exercise of this right is subject to Union law and national law, compliant with Union law, regarding the lawfulness of content, services or applications. However, this Regulation does not seek to regulate the lawfulness of the information, content, application or services, nor the procedures, requirements and safeguards related thereto. These matters remain thus subject to Union legislation or national legislation in compliance with Union law, including measures giving effect to such Union or national legislation (for example, court orders, administrative decisions</p>	<p>(4) In the <del>open</del> internet end-users should have the right to access and distribute information and content, and to use and provide applications and services without discrimination, via their internet access service. The exercise of this right is subject to Union law and national law, compliant with Union law, regarding the lawfulness of content, services or applications. However, this Regulation does not seek to regulate the lawfulness of the information, content, application or services, nor the procedures, requirements and safeguards related thereto. These matters remain thus subject to Union legislation or national legislation in compliance with Union law, including measures giving effect to such Union or national legislation (for example, court orders, administrative decisions</p>

	or other measures implementing, applying or ensuring compliance with such legislation). If those measures prohibit end-users to access unlawful content (such as, for example, child pornography), end-users should abide by those obligations by virtue of and in accordance with that Union or national law.	or other measures implementing, applying or ensuring compliance with such legislation). If those measures prohibit end-users to access unlawful content (such as, for example, child pornography), end-users should abide by those obligations by virtue of and in accordance with that Union or national law.	or other measures implementing, applying or ensuring compliance with such legislation). <del>If those measures prohibit end-users to access unlawful content (such as, for example, child pornography), end-users should abide by those obligations by virtue of and in accordance with that Union or national law.</del>
	( <del>4</del> 5) End-users should be free to choose between various types of terminal equipment (defined in Directive 2008/63/EC on competition in the markets in telecommunications terminal equipment) to access the internet. Providers of internet access service should not impose restrictions on the use of terminal equipment connecting to the network, in addition to those imposed by terminal equipment's manufacturers or distributors in compliance with Union law.	(5) End-users should be free to choose between various types of terminal equipment (defined in Directive 2008/63/EC on competition in the markets in telecommunications terminal equipment) to access the internet. Providers of internet access services should not impose restrictions on the use of terminal equipment connecting to the network, in addition to those imposed by terminal equipment's manufacturers or distributors in compliance with Union law.	(5) End-users should be free to choose between various types of terminal equipment (defined in Directive 2008/63/EC on competition in the markets in telecommunications terminal equipment) to access the internet. Providers of internet access services should not impose restrictions on the use of terminal equipment connecting to the network, in addition to those imposed by terminal equipment's manufacturers or distributors in compliance with Union law.
	( <del>§ 6</del> 6) Internet access service is <del>any</del> a <b>publicly available electronic communications</b> service that provides <del>connectivity</del> access to the internet,	(6) Internet access service is a publicly available electronic communications service that provides access to the internet, <i>and in principle</i>	(6) Internet access service is a publicly available electronic communications service that provides access to the internet, and in principle

	<p>irrespective of the network technology and terminal equipment used by end-user. However, for reasons outside the control of internet access service providers, some end points of the internet may not always be accessible, for instance due to measures taken by public authorities. Therefore, a provider is deemed to comply with its obligation related to the offering an internet access service within the meaning of this Regulation when that service provides connectivity to <del>substantially</del> <b>virtually</b> all end points of the internet. <b>Providers of internet access services should therefore not restrict connectivity to any end-points of the internet <u>which are accessible to them</u>.</b></p>	<p><i>to all its end-points</i>, irrespective of the network technology and terminal equipment used by <i>the</i> end-user. However, for reasons outside the control of internet access service providers, some end points of the internet may not always be accessible, for instance due to measures taken by public authorities. Therefore, a provider is deemed to comply with its obligation related to the offering an internet access service within the meaning of this Regulation when that service provides connectivity to virtually all end points of the internet. Providers of internet access services should therefore not restrict connectivity to any <i>accessible</i> end-points of the internet. <del>which are accessible to them.</del></p>	<p>to all its end-points, irrespective of the network technology and terminal equipment used by the end-user. <del>However, for reasons outside the control of internet access service providers, some end points of the internet may not always be accessible, for instance due to measures taken by public authorities.</del> Therefore, a provider is deemed to comply with its obligation related to the offering an internet access service within the meaning of this Regulation when that service provides connectivity to virtually all end points of the internet. Providers of internet access services should therefore not restrict connectivity to any accessible end-points of the internet.</p>
	<p>(6 7) In order to exercise their right set out in Article 3(1), end-users should be free to agree with providers of internet access services on tariffs with specific data volumes and speeds <del>or on other technical or commercial characteristics</del> of the internet access</p>	<p>(7) In order to exercise their rights set out in Article 3(1), end-users should be free to agree with providers of internet access services on tariffs with specific data volumes and speeds of the internet access service. Such agreements, as well as commercial</p>	<p>(7) In order to exercise their rights set out in Article 3(1), end-users should be free to agree with providers of internet access services on tariffs with specific data volumes and speeds of the internet access service. Such agreements, as well as commercial</p>

	<p>service. Such agreements, as well as commercial practices conducted by providers of internet access service, should not limit the exercise of the right set out in Article 3(1) and thus circumvent provisions of this Regulation on safeguarding internet access. <b>National regulatory authorities should be empowered to intervene against c</b>Commercial practices <b>which by reason of should not, given</b> their scale, lead to situations where end-users' choice is significantly reduced in practice. Since the right to open internet is based on end-user's choice to access preferred content and information, <b>national regulatory authorities should be required, as part of their monitoring and enforcement function, and to intervene when commercial,</b> such practices would therefore result in undermining the essence of this right.</p>	<p>practices conducted by providers of internet access service, should not limit the <b>effective</b> exercise of the right set out in Article 3(1) <del>and thus or</del> circumvent provisions of this Regulation on safeguarding internet access. National regulatory authorities should be empowered to intervene against <b>agreements or</b> commercial practices which by reason of their scale, lead to situations where end-users' choice is significantly reduced in practice. <b>To this end, the assesment of agreements and commercial practices should take into account whether they are discriminatory in nature, as well as the respective market positions of the involved providers of internet access services and of content, services and applications.</b> Since the right to open internet is based on end-users' choice to access <b>their</b> preferred content and information, national regulatory authorities should be required, as part of their monitoring and enforcement function, to <del>and</del> intervene when</p>	<p>practices conducted by providers of internet access service, should <b>be non-discriminatory and should</b> not limit the <del>effective</del> exercise of the <b>rights</b> set out in Article 3(1) or circumvent provisions of this Regulation on safeguarding internet access. National regulatory authorities should be empowered to intervene against agreements or commercial practices which by reason of their scale, lead to situations where end-users' choice is significantly reduced in practice. To this end, the assesment of agreements and commercial practices should take into account whether they are discriminatory in nature, as well as the respective market positions of the involved providers of internet access services and of content, services and applications. Since the <b>right to access the open</b> internet is based on end-users' <b>right to send and receive</b> choice to access their content and information <b>without discrimination</b>, national regulatory authorities should be required, as part of their monitoring</p>
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		<i>agreements or</i> commercial practices would result in undermining the essence of this right.	and enforcement function, to intervene when agreements or commercial practices would result in undermining the essence of this right.
		<i>(7a) In an open internet all traffic should be treated equally, without discrimination, restriction or interference, independently of its sender, recipient, content, device, service or application. The principle of equal treatment is a general principle of Union law. According to settled case-law, that principle requires that comparable situations must not be treated differently and that different situations must not be treated in the same way unless such treatment is objectively justified.</i>	(7a) In an open internet all traffic should be treated equally, without discrimination, restriction or interference, independently of its sender, recipient, content, device, service or application. The principle of equal treatment is a general principle of Union law. According to settled case-law, that principle requires that comparable situations must not be treated differently and that different situations must not be treated in the same way unless such treatment is objectively justified.
	(8) End-users should have rights to access their preferred content and information, to use and provide preferred services and applications, as well as terminal equipment. Reasonable traffic management contributes to an efficient use of network resources and <del>thus also protects</del> <i>to an optimisation of the</i>	<del>(8) End-users should have rights to access their preferred content and information, to use and provide preferred services and applications, as well as terminal equipment.</del> Reasonable traffic management contributes to an efficient use of network resources and to an optimisation of overall transmission	(8) <i>The objective of</i> reasonable traffic management <i>is to contribute</i> to an efficient use of network resources and to an optimisation of overall transmission quality responding to the <i>objectively different quality of service requirements of specific categories of traffic</i> <del>technical requirements of the content, services and applications</del>

	<p>freedom of internet access service providers to conduct a business. Innovation by <b><i>overall transmission quality responding to the technical requirements of the</i></b> content, services and applications providers should be fostered. In order to be considered <b><i>transmitted. Moreover,</i></b> reasonable, traffic management measures applied by providers of internet access services should be transparent, proportionate, non-discriminatory and should not constitute anti-competitive behaviour. The requirement for traffic management measures to be non-discriminatory does not preclude providers of internet access services to implement, <b><i>in order to optimise the overall transmission quality,</i></b> traffic management measures which take into account objectively <b><i>which differentiate between different categories of traffic, service or applications.</i></b> Any such differentiation should be permitted only on the basis of objective technical quality of service requirements of certain traffic</p>	<p>quality responding to the technical requirements of the content, services and applications transmitted. Moreover, reasonable traffic management measures applied by providers of internet access services should be transparent, proportionate, non-discriminatory and should not <b><i>be based on unjustified commercial considerations constitute anti-competitive behaviour such as preferring or disadvantaging competing content, services or applications.</i></b> The requirement for traffic management measures to be non-discriminatory does not preclude providers of internet access services to implement, in order to optimise the overall transmission quality, traffic management measures which differentiate between different categories of traffic services or applications. Any such differentiation <b><i>in order to optimise overall quality and user experience</i></b> should be permitted only on the basis of objective technical quality of service</p>	<p><del>transmitted.</del> Reasonable traffic management measures applied by providers of internet access services should be transparent, proportionate, non-discriminatory and should not <b><i>constitute anti-competitive behaviour be based on unjustified commercial considerations</i></b> such as preferring or disadvantaging competing content, services or applications. The requirement for traffic management measures to be non-discriminatory does not preclude providers of internet access services to implement, in order to optimise the overall transmission quality, traffic management measures which differentiate between different categories of traffic. Any such differentiation should, in order to optimise overall quality and user experience, be permitted only on the basis of objective technical quality of service requirements (for example, in terms of latency, jitter, packet loss, and bandwidth) of the different categories of traffic, <del>which cannot be considered to be</del> <b><i>but not on the basis of</i></b></p>
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	<p>(for example, <i>in terms of</i> latency, <del>or high jitter, packet loss, and</del> bandwidth). <del>Blocking</del>, <i>of the different categories of traffic, but not on the basis of commercial considerations. Such differentiating traffic management measures should be proportionate in relation to the purpose of overall quality optimisation and should treat equivalent traffic equally.</i></p>	<p>requirements (for example, in terms of latency, jitter, packet loss, and bandwidth) of the different categories of traffic, <i>which cannot be considered to be</i> <del>but not on the basis of</del> commercial considerations. Such differentiating traffic management measures should be proportionate in relation to the purpose of overall quality optimisation and should treat equivalent traffic equally.</p>	<p>commercial considerations. Such differentiating traffic management measures should be proportionate in relation to the purpose of overall quality optimisation and should treat equivalent traffic equally <i>in line with the principle of non-discrimination. The traffic management measures should not be maintained longer than necessary.</i></p>
	<p><i>Any traffic management practice which goes beyond such reasonable measures, including reasonable differentiation, by blocking, slowing down, altering, degrading or discriminating against between specific content, applications or services should be prohibited, subject to justified and defined exceptions laid down in this Regulation. Content, services and applications should be protected because of the negative impact of blocking or other restrictive measures on end-user choice and innovation.</i></p>	<p><i>8(a) Any More intrusive traffic management practices which goes beyond such reasonable measures, including reasonable differentiation, namely by blocking, slowing down, restricting, interfering with, altering, degrading or discriminating between specific content, applications or services, or specific categories of content, applications or services, should be prohibited, subject to justified and defined exceptions laid down in this Regulation. These exceptions are subject to strict</i></p>	<p><i>(8a) Any Any traffic management practices which go beyond such reasonable measures by blocking, slowing down, restricting, interfering with, altering, degrading or discriminating between specific content, applications or services, or specific categories of content, applications or services, should be prohibited, subject to justified and defined exceptions laid down in this Regulation. These exceptions are subject to strict interpretation and proportionality requirements.</i></p>

	<p>Rules against altering content, services or applications refer to a modification of the content of the communication, but do not ban non-discriminatory data compression techniques which reduce the size of a data file without any modification of the content. Such compression enables a more efficient use of scarce resources and serves the end-users' interest in reducing data volumes, increasing speed and enhancing the experience of using the content, services or applications in question.</p>	<p><b><i>interpretation and proportionality requirements. Individual Content</i></b> content, services and applications should be protected, <b><i>as well as categories thereof</i></b> because of the negative impact of <b><i>unjustified</i></b> blocking or other restrictive measures on end-user choice and innovation <b><i>would be even greater if applied to entire categories</i></b>. Rules against altering content, services or applications refer to a modification of the content of the communication, but do not ban non-discriminatory data compression techniques which reduce the size of a data file without any modification of the content. Such compression enables a more efficient use of scarce resources and serves the end-users' interest in reducing data volumes, increasing speed and enhancing the experience of using the content, services or applications in question.</p>	<p><del>Individual Content</del>, services and applications should be protected, as well as categories thereof because <b><i>of</i></b> the negative impact of <del>unjustified</del> blocking or other restrictive measures on end-user choice and innovation <del>would be even greater if applied to entire categories</del>. Rules against altering content, services or applications refer to a modification of the content of the communication, but do not ban non-discriminatory data compression techniques which reduce the size of a data file without any modification of the content. Such compression enables a more efficient use of scarce resources and serves the end-users' interest in reducing data volumes, increasing speed and enhancing the experience of using the content, services or applications in question.</p>
		<p><b><i>(8b) Technical information on specific quality of service requirements of traffic is usually</i></b></p>	<p>(8b) Technical information on specific quality of service requirements of traffic is usually contained in the</p>

		<p><i>contained in the data packet header. Reasonable traffic management does therefore not require techniques which enable to monitor the content or payload of data packets, such as deep packet inspection. By contrast, legal obligations or the preservation of network security may exceptionally require monitoring of the content of data packets, subject to concrete suspicious facts and strict proportionality. These exceptions do not justify systematic monitoring of the content of data packets.</i></p>	<p>data packet header. Reasonable traffic management does therefore not require techniques which enable to monitor the content or payload of data packets, such as deep packet inspection. By contrast, legal obligations or the preservation of network security may <b><i>in exceptional circumstances</i></b> exceptionally require monitoring of the content of data packets, subject to <del>concrete suspicious facts and</del> strict proportionality. These exceptions do not justify systematic monitoring of the content of data packets.</p>
	<p>(9) Providers of internet access service may be subject to legal obligations requiring, for example, blocking of specific content, applications or services. Those legal obligations should be laid down in Union or national legislation (for example, Union or national legislation related to the lawfulness of information, content, applications or services, or legislation related to public safety), in compliance with Union law, or they should be established in</p>	<p>(9) Providers of internet access service may be subject to <del>legal obligations requiring, for example, blocking of specific content, applications or services. Those legal obligations should be laid down in</del> Union or national legislation (for example, Union or national legislation related to the lawfulness of <del>information,</del> content, applications or services, or legislation related to public safety), in compliance with Union law, <b><i>including criminal law, requiring, for</i></b></p>	<p>(9) Providers of internet access service may be subject to Union or national legislation (for <del>example,</del> Union or national legislation related to the lawfulness of content, applications or services, or legislation related to public safety), in compliance with Union law, including criminal law, requiring, for example, blocking of specific content, applications or services or to measures implementing or applying such legislation, in compliance with Union law, such as national measures of</p>

	<p>measures implementing or applying such legislation, such as national measures of general application, courts orders, decisions of public authorities vested with relevant powers, or other measures ensuring compliance with such legislation (for example, obligations to comply with court orders or orders by public authorities requiring to block unlawful content). The requirement to comply with Union law relates, among others, to the compliance with the requirements of the Charter of Fundamental rights of the European Union in relation to limitations of fundamental rights and freedoms. Reasonable traffic management should also allow actions to protect the integrity of the network, for instance in preventing cyber-attacks through the spread of malicious software or end-users' identity theft through spyware. In the operation of their networks, providers of internet access services should be allowed to implement reasonable traffic management measures to avoid</p>	<p><i>example, blocking of specific content, applications or services</i> or <del>they should be established in</del> to measures implementing or applying such legislation, <i>in compliance with Union law</i>, such as national measures of general application, court orders, decisions of public authorities vested with relevant powers, or other measures ensuring compliance with such legislation (for example, obligations to comply with court orders or orders by public authorities requiring to block unlawful content). The requirement to comply with Union law relates, among others, to the compliance with the requirements of the Charter of Fundamental rights of the European Union in relation to limitations of fundamental rights and freedoms. <del>Reasonable</del> <i>Restrictive traffic management measures, including blocking, should also allow actions</i> <del>should also allow actions</del> <i>should also be considered to be justified when employed</i> to protect the integrity <i>and security</i> of the network, for instance in preventing cyber-</p>	<p>general application, court orders, decisions of public authorities vested with relevant powers, or other measures ensuring compliance with such legislation (for example, obligations to comply with court orders or orders by public authorities requiring to block unlawful content). The requirement to comply with Union law relates, among others, to the compliance with the requirements of the Charter of Fundamental rights of the European Union in relation to limitations of fundamental rights and freedoms. <i>As stated in Directive 2009/140/EC any limitations of fundamental rights or freedoms may only be imposed if they are appropriate, proportionate and necessary within a democratic society, and their implementation shall be subject to adequate procedural safeguards in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms including effective judicial protection and due</i></p>
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	congestion of the network.	attacks through the spread of malicious software or end-users' identity theft through spyware. <del>In the operation of their networks, providers of internet access services should be allowed to implement reasonable traffic management measures to avoid congestion of the network.</del>	<i>process. Accordingly, these limitations may only be taken with due respect for the principle of the presumption of innocence and the right to privacy. A prior, fair and impartial procedure shall be guaranteed, including the right to be heard of the person or persons concerned, subject to the need for appropriate conditions and procedural arrangements in duly substantiated cases of urgency in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms The right to effective and timely judicial review shall be guaranteed.'</i> Restrictive—traffic management—measures,—including blocking, should also be considered to be justified when employed to protect the integrity and security of the network, for instance in preventing cyber attacks through the spread of malicious—software—or—end-users' identity theft through spyware.
	Exceptionally, more restrictive traffic management measures affecting	<b><i>(9a) The derogations, subject to strict interpretation, should also</i></b>	(9a) The derogations, subject to strict interpretation, should also include

	<p>certain categories of content, applications or services may be necessary for the purpose of preventing network congestion, i.e. situations where congestion is <del>pending</del> <b>about to materialise, and in the mitigation of</b> <del>Moreover, minimising the effects of actual network congestion, should be considered reasonable</del> provided that <del>network</del> <b>such</b> congestion occurs only temporarily or in exceptional circumstances. <b><i>The principle of proportionality requires that traffic management measures based on this exception treat equivalent categories of traffic equally. Temporary congestion refers to specific, non-recurring situations during short periods of time. Exceptional circumstances are infrequent</i></b> This includes situations, especially in mobile access networks, where despite operators' efforts to ensure the most efficient use of the resources available and thus prevent congestion, demand occasionally exceeds the available capacity of the network, for example in</p>	<p><b><i>include</i></b> more restrictive traffic management measures affecting certain categories of content, applications or services <b><i>which</i></b> may be necessary for the purpose of preventing <b><i>impending</i></b> network congestion, i.e. situations where congestion is about to materialise, and in the mitigation of the effects of network congestion, provided that such congestion occurs only temporarily or in exceptional circumstances. The principle of proportionality requires that traffic management measures based on this exception treat equivalent categories of traffic equally <b><i>and are only applied as long as necessary</i></b>. Temporary congestion <b><i>should be understood as referring</i></b> <del>refers</del> to specific <b><i>situations of short duration, where a sudden increase in the number of users in addition to the regular users, or a sudden increase in demand for a particular content or service, may overflow the transmission capacity of some elements of the network and make the rest of the network less</i></b></p>	<p>more restrictive traffic management measures affecting certain categories of content, applications or services which may be necessary for the purpose of preventing impending network congestion, i.e. situations where congestion is about to materialise, and in the mitigation of the effects of network congestion, provided that such congestion occurs only temporarily or in exceptional circumstances. The principle of proportionality requires that traffic management measures based on this exception treat equivalent categories of traffic equally and are only applied as long as necessary. Temporary congestion should be understood as referring to specific situations of short duration, where a sudden increase in the number of users in addition to the regular users, or a sudden increase in demand for a particular content or service, may overflow the transmission capacity of some elements of the network and make the rest of the network less reactive. Temporary</p>
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	<p>large sport events, public demonstrations <i>concerts or festivals</i> and other situations where a <i>much larger number than usual</i> of users is trying to make use of the network at the same time.</p>	<p><i>reactive. Temporary congestion may occur especially in mobile networks, which are subject to more variable conditions, such as physical obstructions, lower indoor coverage, or a variable number of active users with changing location. It may be predictable that such temporary congestion will occur from time to time at certain points in the network – such that it cannot be regarded as exceptional -, without it recurring often or for such extensive periods that a capacity expansion would be economically justified. Exceptional congestion should be understood as referring to unpredictable and unavoidable situations of congestion, both in mobile and fixed networks. These situations may be caused e.g. by a technical failure such as a service outage due to broken cables or other infrastructure elements, unexpected changes in routing of traffic or large increases in network traffic due to emergency or other situations beyond the control of the</i></p>	<p>congestion may occur especially in mobile networks, which are subject to more variable conditions, such as physical obstructions, lower indoor coverage, or a variable number of active users with changing location. It may be predictable that such temporary congestion will occur from time to time at certain points in the network – such that it cannot be regarded as exceptional -, without it recurring often or for such extensive periods that a capacity expansion would be economically justified. Exceptional congestion should be understood as referring to unpredictable and unavoidable situations of congestion, both in mobile and fixed networks. These situations may be caused e.g. by a technical failure such as a service outage due to broken cables or other infrastructure elements, unexpected changes in routing of traffic or large increases in network traffic due to emergency or other situations beyond the control of the internet access service provider. Such congestion</p>
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		<p><i>internet access service provider. Such congestion problems are likely to be infrequent but may be severe, and are not necessarily of short duration.</i></p> <p><del>non-recurring situations during short periods of time. Exceptional circumstances are infrequent situations, especially in mobile access networks, where despite operators' efforts to ensure the most efficient use of the resources available and thus prevent congestion, demand occasionally exceeds the available capacity of the network, for example in large sport events, concerts or festivals and other situations where a much larger number than usual of users is trying to make use of the network at the same time. The need to apply</del></p> <p><i>intrusive traffic management measures to prevent or mitigate the effects of temporary or exceptional network congestion should not give operators the possibility to circumvent the general prohibition of blocking, slowing down, altering, degrading or discriminating between specific</i></p>	<p>problems are likely to be infrequent but may be severe, and are not necessarily of short duration. The need to apply <del>intrusive</del> traffic management measures to prevent or mitigate the effects of temporary or exceptional network congestion should not give operators the possibility to circumvent the general prohibition of blocking, slowing down, altering, degrading or discriminating between specific content, applications or services, or specific categories of traffic. Recurrent and more long-lasting network congestion which is neither exceptional nor temporary should not benefit from such a derogation and should rather be tackled through expansion of network capacity.</p>
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		<p><i>content, applications or services, or specific categories of traffic. Recurrent and more long-lasting network congestion which is neither exceptional nor temporary should not benefit from such a derogation and should rather be tackled through expansion of network capacity.</i></p>	
	<p>(9a 10) For the purposes of this Regulation, prior explicit consent should mean any freely given specific, distinct and informed indication of end-user's wishes by which the end-user signifies his unambiguous agreement to allow the provider of internet access services to prevent the transmission of unsolicited communication or to implement parental control measures. <del>In addition, it is also important to recall that according to Article 20 of the Universal Service Directive<sup>4</sup>, contracts for services providing connection to a public communications network and/or publicly available electronic communications services should</del></p>	<p>(10) For the purposes of this Regulation, prior explicit consent should mean any freely given specific, distinct and informed indication of end-user's wishes by which the end-user signifies his unambiguous agreement to allow the provider of internet access services to prevent the transmission of unsolicited communication or to implement parental control measures. For the purposes of giving effect to the provision requiring a prior explicit consent of the end-user for the implementation of parental control measures by the provider of the internet access services, this Regulation should be applied in</p>	<p>(10) For the purposes of this Regulation, prior explicit consent should mean any freely given specific, distinct and informed indication of end-user's wishes by which the end-user signifies his unambiguous agreement to allow the provider of internet access services to prevent the transmission of unsolicited communication or to implement parental control measures. For the purposes of giving effect to the provision requiring a prior explicit consent of the end-user for the implementation of parental control measures by the provider of the internet access services, this Regulation should be applied in</p>

	<p><del>inform consumers and other end-users so requesting about, inter alia, any conditions which limit access to and/or use of services and applications.</del></p> <p>Finally, and f For the purposes of giving effect to the provision requiring a prior explicit consent of the end-user for the implementation of parental control measures by the provider of the internet access services, this Regulation should be applied in accordance with national rules. Therefore, this Regulation does not affect national rules which define, for example, parental rights and obligations. In this respect, and by way of an example, the aim of parental control measures could be to prevent the access of minors to content, applications and services, such as those involving pornography or gratuitous violence, which might seriously impair minors' physical, mental or moral development. <b><i>Parental control measures should be applied in a manner that ensures that the end-user decides which categories of content</i></b></p>	<p>accordance with national rules. Therefore, this Regulation does not affect national rules which define, for example, parental rights and obligations. In this respect, and by way of an example, the aim of parental control measures could be to prevent the access of minors to content, applications and services, such as those involving pornography or gratuitous violence, which might seriously impair minors' physical, mental or moral development. Parental control measures should be applied in a manner that ensures that the end-user decides which categories of content should be filtered, blocked or controlled. They should also include a clear alert to the end-user that such measures have been used to filter, block or control content or categories of content when the end-user attempts to access such content. The measures should also include a clear and transparent mechanism by which the end-user who has consented to the use of these measures may withdraw this</p>	<p>accordance with national rules. Therefore, this Regulation does not affect national rules which define, for example, parental rights and obligations. In this respect, and by way of an example, the aim of parental control measures could be to prevent the access of minors to content, applications and services, such as those involving pornography or gratuitous violence, which might seriously impair minors' physical, mental or moral development. Parental control measures should be applied in a manner that ensures that the end-user decides which categories of content should be filtered, blocked or controlled. They should also include a clear alert to the end-user that such measures have been used to filter, block or control content or categories of content when the end-user attempts to access such content. The measures should also include a clear and transparent mechanism by which the end-user who has consented to the use of these measures may withdraw this</p>
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	<p><i>should be filtered, blocked or controlled. They should also include a clear alert to the end-user that such measures have been used to filter, block or control content or categories of content when the end-user attempts to access such content. The measures should also include a clear and transparent mechanism by which the end-user who has consented to the use of these measures may withdraw this consent at any time.</i></p>	<p>consent at any time.</p>	<p>consent at any time.</p>
	<p><del>(7-11)</del> There is demand on the part of content, applications and services providers, as well as on the part of end-users, for the provision of electronic communication services other than internet access services, based on specific quality of service levels. Agreements in this respect could also play an important role in the provision of services with a public interest as well as in the development of new services such as machine-to-machine communications. At the same time, such agreements should allow providers of electronic</p>	<p>(11) There is demand on the part of content, applications and services providers <b>to be able to provide</b>, as well as on the part of end-users; for the provision of, electronic communication services other than internet access services, <del>based on</del> <b>which require</b> specific quality of service levels. <del>Agreements in this respect could also</del> <b>Such specific quality levels are, for instance, required by some services</b> play an important role in the provision of services with <b>responding to</b> a public interest (<i>e.g. e-health</i>) or as well as in the development <b>by some of</b></p>	<p>(11) There is demand on the part of content, applications and services providers to be able to provide, <del>as well as on the part of end users, for the provision of,</del> electronic communications services other than internet access services, <b>for</b> which <del>require</del> specific quality of service levels <b>are indispensable</b>. Such specific quality levels are, for instance, required by <del>some services responding to a public interest (e.g. e health) or by</del> some new machine-to-machine communications services. Providers of electronic communications to the</p>

	<p>communications to the public to better balance traffic and prevent network congestion. End-users <del>including providers of content, applications and services</del>, should therefore remain free to conclude agreements with providers of electronic communications to the <b>public and providers of content applications and services</b>, which require specific levels of quality of service. Such services should not be offered as a replacement for internet access services, and their provision should not impair in a material manner the availability and quality of internet access services for other end-users. National regulatory authorities should ensure that providers of electronic communications to the public comply with this requirement, as set out in Article 4. In this respect, national regulatory authorities should assess whether the negative impact on the availability and quality of internet access services is material by analysing, inter alia, quality parameters such as timing and reliability</p>	<p><del>new services such as machine-to-machine communications services. At the same time, such agreements should allow providers of electronic communications to the public to better balance traffic and prevent network congestion.</del> <b>Providers of electronic communications to the public, including providers of internet access services, and providers of content, applications and services</b> End-users should therefore <del>remain</del> <b>be</b> free to <del>conclude agreements with providers of electronic communications to the public and providers of content applications and offer services</del> <b>which are not internet access services and which are optimised to meet the specific quality requirements for of specific content, applications or services, or a combination thereof</b> <del>which require specific levels of quality of service.</del></p>	<p>public, including providers of internet access services, and providers of content, applications and services should therefore be free to offer services which are not internet access services and which are optimised to meet the specific <b>indispensable</b> quality requirements of specific content, applications or services, or a combination thereof.</p>
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	<p>parameters (latency, jitter, packet loss), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with services other than internet access services, and quality as perceived by end-users.</p>		
		<p><b><i>(11a) In order to avoid a negative impact of the provision of such services on the availability or quality of internet access services for end-users other than those having subscribed to the specific service, sufficient capacity needs to be ensured. Providers of electronic communications to the public, including providers of internet access services, should, therefore, offer such other services, or conclude corresponding agreements with providers of content, services or applications facilitating such services, only if the network capacity is sufficient to provide them in addition to any internet access services provided. The open internet provisions of Article 3 should not be</i></b></p>	<p>(11a) In order to avoid a negative impact of the provision of such services on the availability or quality of internet access services <del>for end-users other than those having subscribed to the specific service,</del> sufficient capacity needs to be ensured. Providers of electronic communications to the public, including providers of internet access services, should, therefore, offer such other services, or conclude corresponding agreements with providers of content, services or applications facilitating such services, only if the network capacity is sufficient to provide them in addition to any internet access services provided. The open internet provisions of Article 3 should not be</p>

		<p><i>circumvented by other services usable or offered as a replacement for internet access services. However, the mere fact that corporate services such as virtual private networks may also give access to the internet should not be considered as a replacement of the internet access service provided that such access to the internet is compliant with Article 3(1) to (4) of this Regulation and thus cannot be considered a circumvention of those rules.</i> Such services should not be offered as a replacement for internet access services, and <del>their</del> <i>provision of these services</i> should not impair <del>in a material manner</del> the availability and <i>general</i> quality of internet access services for <del>other</del> end-users <i>other than those having subscribed to the specific service</i>. National regulatory authorities should ensure that providers of electronic communications to the public comply with this requirement, as set out in Article 4. In this respect, national regulatory authorities should assess whether the negative impact on</p>	<p>circumvented by other services usable or offered as a replacement for internet access services. However, the mere fact that corporate services such as virtual private networks may also give access to the internet should not be considered as a replacement of the internet access service provided that such access to the internet is compliant with Article 3(1) to (4) of this Regulation and thus cannot be considered a circumvention of those rules.</p> <p>The provision of these services should not impair the availability and <del>general</del> quality of internet access services <del>for end-users other than those having subscribed to the specific service</del>.</p> <p>National regulatory authorities should ensure that providers of electronic communications to the public comply with this requirement, as set out in Article 4. In this respect, national regulatory authorities should assess the impact on the availability and general quality of internet access services by</p>
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		<p>the availability and <b>general</b> quality of internet access services is <del>material</del> by analysing, inter alia, quality parameters <del>such as timing and reliability parameters</del> ((latency, jitter, packet loss, <i>etc.</i>), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with services other than internet access services, and quality as perceived by end-users.</p>	<p>analysing, inter alia, quality parameters (latency, jitter, packet loss, etc.), levels and effects of congestion in the network, actual versus advertised speeds, performance of internet access services compared with services other than internet access services, and quality as perceived by end-users.</p>
	<p>(<del>11</del> 12) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise the right to avail of open internet access. To this end, national regulatory authorities should have monitoring and reporting obligations, and should ensure compliance of providers of electronic communications to the public with the obligation to ensure sufficient network capacity for the provision of non-discriminatory internet access services of high quality which should not be impaired by provision of services with</p>	<p>(12) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise the right to avail of open internet access. To this end, national regulatory authorities should have monitoring and reporting obligations, and should ensure compliance of providers of electronic communications to the public, <b>including providers of internet access services</b>, with their obligations <b>pursuant to Article 3, including the obligation</b> to ensure sufficient network capacity for the provision of non-</p>	<p>(12) National regulatory authorities play an essential role in ensuring that end-users are effectively able to exercise the right to avail of open internet access. To this end, national regulatory authorities should have monitoring and reporting obligations, and should ensure compliance of providers of electronic communications to the public, including providers of internet access services, with their obligations pursuant to Article 3, including the obligation to ensure sufficient network capacity for the provision of non-</p>

	<p>a specific level of quality. <b>Providers of internet access services should ensure maximum transparency in the provision of internet access services according to the additional transparency measures laid down in Article 4. Therefore, national regulatory authorities should enforce compliance with Article 3 and the respective parts of Article 4. They should also have powers to impose minimum quality of service requirements on all or individual providers of electronic communications to the public if this is necessary to prevent degradation of the quality of service of internet access services for other end-users. In doing so, national regulatory authorities should take utmost account of relevant guidance from BEREC.</b></p>	<p>discriminatory internet access services of high quality which should not be impaired by <b>the</b> provision of services with a specific level of quality. <del>Providers of internet access services should ensure maximum transparency in the provision of internet access services according to the additional transparency measures laid down in Article 4. Therefore, national regulatory authorities should enforce compliance with Article 3 and the respective parts of Article 4. They</del> <b>National regulatory authorities</b> should also have powers to impose <b>technical characteristics</b>, minimum quality of service requirements <b>and other appropriate measures</b> on all or individual providers of electronic communications to the public if this is necessary <b>to ensure compliance with Article 3 or to</b> prevent degradation of the quality of service of internet access services for other end-users. In doing so, national regulatory authorities should take utmost account of relevant guidance from BEREC.</p>	<p>discriminatory internet access services of high quality which should not be impaired by the provision of services with a specific level of quality. National regulatory authorities should also have powers to impose technical characteristics, minimum quality of service requirements and other appropriate measures on all or individual providers of electronic communications to the public if this is necessary to ensure compliance with Article 3 or to prevent degradation of the quality of service of internet access services for other end-users. In doing so, national regulatory authorities should take utmost account of relevant guidance from BEREC.</p>
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		<p><b>(13) <i>The open internet provisions should be complemented by effective end-user provisions which address issues particularly linked to internet access services and enable end-users to make informed choices. These provisions should apply in addition to the applicable provisions of Directive 2002/22/EC as amended and Member States may maintain or adopt more far-reaching measures. Providers of internet access services should inform end-users in a clear manner about any traffic management practices deployed and about the possible impact of other services to which they subscribe on the quality and availability of their respective internet access services. In view of the increasing use of data volume allowances it is essential that end-users be able to be fully aware of any such allowances and to continuously monitor their data consumption. Discrepancies between advertised quality parameters, in particular speeds, and the actually available</i></b></p>	<p><b>(12a)</b> The open internet provisions should be complemented by effective end-user provisions which address issues particularly linked to internet access services and enable end-users to make informed choices. These provisions should apply in addition to the applicable provisions of Directive 2002/22/EC as amended and Member States may maintain or adopt more far-reaching measures. Providers of internet access services should inform end-users in a clear manner about any traffic management practices deployed and about the possible impact of other services to which they subscribe on the quality and availability of their respective internet access services. In view of the increasing use of data volume allowances it is essential that end-users be able to be fully aware of any such allowances and to continuously monitor their data consumption. Discrepancies between advertised quality parameters, in particular speeds, and the actually available quality of internet access</p>
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		<p><i>quality of internet access services, have been evidenced by studies of national regulatory authorities. In order to empower end-users in such scenarios, providers of internet access services should provide precise contractual information on the relevant speeds and on available remedies in accordance with national law in case of non-compliance of performance. National regulatory authorities should enforce compliance with Article 4.</i></p>	<p>services, have been evidenced by studies of national regulatory authorities. In order to empower end-users in such scenarios, providers of internet access services should <b>therefore inform end-users, prior to the conclusion of the contract, of the speed and other quality of service parameters which they can realistically deliver.</b> <del>provide precise contractual information on the relevant speeds.</del> <b>The normally available speed is understood to be the speed that a consumer could expect to receive most of the time when accessing the service, regardless of the time of day. Normally available speed should be derived from estimated speed ranges, speed averages, peak-hour speed and minimal speed. The methodology should be established in BEREC guidelines and regularly reviewed and updated to reflect technology and infrastructure evolution.</b> <del>and on available remedies in accordance with national law in case of non-compliance of performance.</del> National regulatory</p>
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Marking for Articles: bold-italic/strikethrough shows differences with Council text of 4 March 2015	Marking for Articles: bold-italic/strikethrough shows differences with EP suggestions of 8 May 2015	Marking for Arts: bold-italic/strikethrough shows differences with Council text of 29 May 2015	Marking for Arts: bold-italic/strikethrough shows differences with COM non-paper of 4 June
<b>Article 1 – Objective and scope</b>	<b>Article 1 – Objective and scope</b>	<b>Article 1 – Objective and scope</b>	<b>Article 1 – Objective and scope</b>
This Regulation establishes common rules on <i>aiming at ensuring</i> open internet <i>access offered by providers of electronic communications to the public</i> , <del>access</del> safeguarding <i>related</i> end-users' rights and ensuring non-discriminatory treatment of traffic. <del>in provision of internet access services.</del>	1. This Regulation establishes common rules <del>on</del> <i>to ensure</i> open internet access <del>offered by providers of electronic communications to the public</del> , safeguarding <i>related</i> end-user's rights and <del>ensuring non-discriminatory</del> <i>equal</i> treatment of traffic in <i>the</i> provision of internet access services.	1. This Regulation establishes common rules to ensure open internet access, safeguarding related end-user's rights and equal treatment of traffic in the provision of internet access services.	1. This Regulation establishes common rules to ensure <i>an open</i> internet access <i>which is open</i> , safeguarding related end-user's rights and <i>ensuring equal and non-discriminatory</i> treatment of traffic.
<b>Article 2 - Definitions</b>	<b>Article 2 - Definitions</b>	<b>Article 2 - Definitions</b>	<b>Article 2 - Definitions</b>
<i>(12a) "net neutrality" means the principle according to which all internet traffic is treated equally, without discrimination, restriction or interference, independently of its sender, recipient, type, content, device, service or application;</i>	<i>Deleted</i>	<i>Deleted</i>	<i>Deleted</i>
	(1) "provider of electronic communications to the public" means	(1) "provider of electronic communications to the public" means	(1) "provider of electronic communications to the public" means

	an undertaking providing public electronic communications networks or publicly available electronic communications services.	an undertaking providing public electronic communications networks or publicly available electronic communications services.	an undertaking providing public electronic communications networks or publicly available electronic communications services.
(14) ‘internet access service’ means a publicly available electronic communications service that provides connectivity to the internet <i>in accordance with the principle of net neutrality</i> , and thereby connectivity between virtually all end points <i>of</i> the internet, irrespective of the network technology <i>or terminal equipment</i> used; [Am. 96]	(2) “internet access service” means a publicly available electronic communications service that provides access to the internet <del>in accordance with the principle of net neutrality</del> , and thereby connectivity between virtually all end points of the internet, irrespective of the network technology or terminal equipment used;	(2) “internet access service” means a publicly available electronic communications service that provides access to the internet, and thereby connectivity between virtually all end points of the internet, irrespective of the network technology or terminal equipment used;	(2) “internet access service” means a publicly available electronic communications service that provides access to the internet, and thereby connectivity between virtually all end points of the internet, irrespective of the network technology or terminal equipment used;
[Deletion of ‘specialised service’ accepted depending on overall agreement.]			
<b>Article 3 - Safeguarding of open internet access</b>	<b>Article 3 - Safeguarding of open internet access</b>	<b>Article 3 - Safeguarding of open internet access</b>	<b>Article 3 - Safeguarding of open internet access</b>
1. End-users shall have the right to access and distribute information and content, use and provide applications and services and <i>to</i> use terminal equipment of their choice irrespective of the end-user’s or provider’s location or the location, origin or destination of	1. End-users shall have the right to access and distribute information and content, use and provide applications and services and use terminal equipment of their choice, irrespective of the end-user’s or provider’s location or the location, origin or destination of	1. End-users shall have the right to access and distribute information and content, use and provide applications and services and use terminal equipment of their choice, irrespective of the end-user’s or provider’s location or the location, origin or destination of	1. End-users shall have the right to access and distribute information and content, use and provide applications and services and use terminal equipment of their choice, irrespective of the end-user’s or provider’s location or the location, origin or destination of

<p>the service, information or content, via their internet access service <del>in accordance with this Article.</del></p>	<p>the service, information or content, via their internet access service.</p> <p><i>This paragraph is without prejudice to Union law or national law, in compliance with Union law, related to the lawfulness of the information, content, application or services.</i></p>	<p>the service, information or content, via their internet access service.</p> <p>This paragraph is without prejudice to Union law or national law, in compliance with Union law, related to the lawfulness of the <del>information,</del> content, application or services.</p>	<p>the service, information or content, via their internet access service.</p> <p>This paragraph is without prejudice to Union law or national law, in compliance with Union law, related to the lawfulness of the content, application or services.</p>
<p>2. Providers of internet access services and end-users may agree on <i>the</i> commercial conditions for internet access services <del>such as related to</del> price, data volumes or speeds. Such agreements, and any commercial practices conducted by providers of internet access services, shall <del>[be non-discriminatory and shall]</del> not limit the exercise of the right of end-users set out in paragraph 1.</p>	<p>2. Providers of internet access services and end-users may agree on commercial <i>and technical conditions and characteristics of</i> <del>for</del> internet access services <del>related to</del> <i>such as</i> price, data <i>volumes or</i> speed. Such agreements, and any commercial practices conducted by providers of internet access services, shall <del>[be non-discriminatory and shall]</del> not limit the exercise of the right of end-users set out in paragraph 1.</p>	<p>2. <i>Agreements between</i> <del>Providers of</del> providers of internet access services and end-users may agree on commercial and technical conditions and characteristics of internet access services such as price, data volumes or speed, <del>Such agreements,</del> and any commercial practices conducted by providers of internet access services, shall not limit the <i>effective</i> exercise of the right of end-users set out in paragraph 1.</p>	<p><b>4.</b> Agreements between providers of internet access services and end-users on commercial and technical conditions and characteristics of internet access services such as price, data volumes or speed, and any commercial practices conducted by providers of internet access services, <i>shall be non-discriminatory and</i> shall not limit the <del>effective</del> exercise of the right of end-users set out in paragraph 1.</p>
<p>3. Subject to this paragraph <i>and in accordance with the principle of net neutrality</i>, providers of internet access services shall <del>equally</del> treat <i>all equivalent types of</i> traffic <i>equally</i> when providing internet access services.</p>	<p>3. Subject to this paragraph <del>and in accordance with the principle of net neutrality</del>, providers of internet access services shall treat all traffic equally when providing internet access services.</p>	<p>3. Subject to this paragraph, providers of internet access services shall treat all traffic equally when providing internet access services, <i>without discrimination, restriction or interference, and irrespective of the sender and receiver, the content</i></p>	<p><del>3.2. Subject to this paragraph,</del> Providers of internet access services shall treat all traffic equally when providing internet access services, without discrimination, restriction or interference, and irrespective of the sender and receiver, the content</p>

		<i>accessed or distributed, the applications or services used or provided, or the terminal equipment used.</i>	accessed or distributed, the applications or services used or provided, or the terminal equipment used.
Providers of internet access services may implement reasonable traffic management measures. In order to be deemed reasonable and compliant with the principle of equal treatment, such measures shall be transparent, non-discriminatory, proportionate and shall not constitute anti-competitive behaviour, account being taken of objectively different technical quality of service requirements of specific categories of traffic, <i>whereas such a distinction can only be made on the basis of the packet header. Such measures shall not be maintained longer than necessary.</i>	Providers of internet access services may implement reasonable traffic management measures. In order to be deemed reasonable and compliant with the principle of equal treatment, such measures shall be transparent, non-discriminatory, proportionate and shall not constitute anti-competitive behaviour. When implementing these measures, providers <i>and shall be based on</i> objectively different technical quality of service requirements of specific categories of traffic, <del>whereas such a distinction can only be made on the basis of the packet header.</del> Such measures shall not be maintained longer than necessary.	Providers of internet access services may implement reasonable traffic management measures. In order to be deemed reasonable, such measures shall be transparent, non-discriminatory, proportionate, <i>and shall not be based on commercial considerations</i> constitute anti-competitive behaviour and shall be based <i>but</i> on objectively different technical quality of service requirements of specific categories of traffic. Such measures <i>shall not monitor the specific content of data packets and</i> shall not be maintained longer than necessary.	Providers of internet access services may implement reasonable traffic management measures. In order to be deemed reasonable, such measures shall be transparent, non-discriminatory, proportionate, and shall not be based on commercial considerations but on objectively different technical quality of service requirements of specific categories of traffic. Such measures shall not monitor the specific content of data packets and shall not be maintained longer than necessary.
Providers of internet access services shall not engage in traffic management measures going beyond the reasonable measures set out in sub-paragraph 2, and in particular shall not block, slow down, alter, degrade or discriminate	Providers of internet access services shall not engage in traffic management measures going beyond the reasonable measures set out in subparagraph 2, and in particular shall not block, slow down, alter, degrade or discriminate	Providers of internet access services shall not engage in traffic management measures going beyond the reasonable measures set out in subparagraph 2, and <i>in particular</i> shall not block, slow down, alter, <i>restrict, interfere with,</i>	Providers of internet access services shall not engage in traffic management measures going beyond the <del>reasonable</del> measures set out in subparagraph 2, and in particular shall not block, slow down, alter, restrict, interfere with,

<p><del>between</del> <b>against</b> specific content, applications or services, or specific categories <del>or entire classes of traffic thereof</del>, except as necessary, and only for as long as necessary, to:</p>	<p><del>against</del> between specific content, applications or services, <del>or specific categories or entire classes of traffic</del>, except as necessary, and only for as long as necessary, to:</p>	<p>degrade or discriminate between specific content, applications or services, <b>or specific categories thereof</b>, except as necessary, and only for as long as necessary, to:</p>	<p>degrade or discriminate between specific content, applications or services, or specific categories thereof, except as necessary, and only for as long as necessary, to:</p>
<p>a) comply with legal obligations, to which the internet access service provider is subject, that are <b><i>laid down in Union legislation or national legislation, in compliance with Union law, or in measures giving effect to such Union or national legislation, including orders by courts or public authorities vested with relevant powers;</i></b></p>	<p>a) comply with legal obligations to which the internet access service provider is subject, that are laid down in Union legislation or national legislation, in compliance with Union law, or in measures giving effect to such Union or national legislation, including orders by courts or public authorities vested with relevant powers;</p>	<p>a) comply with <del>legal obligations to which the internet access service provider is subject, that are laid down in</del> Union legislation or national legislation, in compliance with Union law, <b><i>to which the internet access service provider is subject, or in with</i></b> measures giving effect to such Union or national legislation, <b><i>in compliance with Union law</i></b>, including <b><i>with</i></b> orders by courts or public authorities vested with relevant powers;</p>	<p>a) comply with Union legislation or national legislation, in compliance with Union law, to which the internet access service provider is subject, or with measures giving effect to such Union or national legislation, in compliance with Union law, including with orders by courts or public authorities vested with relevant powers;</p>
<p>b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminal equipment;</p>	<p>b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminal equipment;</p>	<p>b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminal equipment;</p>	<p>b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminal equipment;</p>
<p>c) prevent <del>or impending network congestion and</del> mitigate the effects of temporary <del>and</del> exceptional network congestion, provided that equivalent types of traffic are treated equally.</p>	<p>c) prevent <del>or impending network congestion and</del> mitigate the effects of exceptional <del>and</del> or temporary network congestion, provided that equivalent <del>types</del> <b><i>categories</i></b> of traffic are treated equally;</p>	<p>c) prevent impending network congestion and mitigate the effects of exceptional or temporary network congestion, provided that equivalent categories of traffic are treated equally;</p>	<p>c) prevent impending network congestion and mitigate the effects of exceptional or temporary network congestion, provided that equivalent categories of traffic are treated equally;</p>

	<i>d) prevent transmission of unsolicited communication within the meaning of Article 13 of Directive 2002/58/EC or implement parental control measures, subject to a prior explicit consent of the end-user. The end-user shall be given the possibility to withdraw this consent at any time.</i>	d) prevent transmission of unsolicited communication within the meaning of Article 13 of Directive 2002/58/EC <sup>2</sup> or implement parental control measures <i>with respect to content, services or applications which might seriously impair the physical, mental or moral development of minors, in particular pornography or gratuitous violence</i> , subject to a prior explicit consent of the end-user. The end-user shall be given the possibility to withdraw this consent at any time.	d <sup>3</sup> ) prevent transmission of <i>specific types or categories of harmful content</i> or unsolicited communication within the meaning of Article 13 of Directive 2002/58/EC <sup>1</sup> or implement parental control measures with respect to content, services or applications which might seriously impair the physical, mental or moral development of minors, in particular pornography or gratuitous violence, subject to a prior explicit <i>request or</i> consent of the end-user. The end-user shall be given the possibility to withdraw this <i>request or</i> consent at any time, <i>using a mechanism that is no more onerous than the mechanism used to opt-in.</i>
Traffic management <i>measures shall not be maintained longer than necessary.</i>	<i>Deleted</i>	<i>Deleted</i>	<i>Deleted</i>
Traffic management measures may only entail processing of personal data	<b>4.</b> Any traffic management measures may only entail processing of personal	4. Any traffic management measures may only entail processing of personal	<b>3.</b> Any traffic management measures may only entail processing of personal

<sup>2</sup> 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 , 31.07.2002, p. 37).

<sup>3</sup> CULT rapporteur for opinion has reservations on the wording in point (d) and recital 10.



<p>that is necessary and proportionate to achieve the objectives of paragraph 3 (a – d). Such processing shall be carried out in accordance with Directive 95/46. Traffic management measures shall also comply with Directive 2002/58.</p>	<p>data that is necessary and proportionate to achieve the objectives of paragraph 3 4 (a—d). Such processing shall be carried out in accordance with Directive 95/46. Traffic management measures shall also comply with Directive 2002/58.</p>	<p>data that is necessary and proportionate to achieve the objectives of paragraph 3. Such processing shall be carried out in accordance with Directive 95/46. Traffic management measures shall also comply with Directive 2002/58.</p>	<p>data that is necessary and proportionate to achieve the objectives of paragraph 3. Such processing shall be carried out in accordance with Directive 95/46. Traffic management measures shall also comply with Directive 2002/58.</p>
<p>4. <b>End-users shall be provided with complete information in accordance with Article 20(2), Article 21(3) and Article 21a of Directive 2002/22/EC, including information on any traffic management measures applied that might affect access to and distribution of information, content, applications and services as specified in this Article.</b></p>	<p>5. Providers of electronic communications to the public, including providers of internet access services, and providers of content, applications and services shall be free to offer services <del>which are distinct from</del> <b>other than</b> internet access services <del>and</del> which are optimised for specific content, applications or services, or a combination thereof, in order to meet their requirements for a specific level of quality.</p>	<p>5. Providers of electronic communications to the public, including providers of internet access services, and providers of content, applications and services shall be free to offer services other than internet access services which are optimised for specific content, applications or services, or a combination thereof, in order to meet their requirements for a specific level of quality.</p>	<p>5. Providers of electronic communications to the public, including providers of internet access services, and providers of content, applications and services shall be free to offer services other than internet access services which are optimised for specific content, applications or services, or a combination thereof, <b>where the optimisation is indispensable</b> in order to meet requirements <b>of the content, applications or services</b> for a specific level of quality.</p>
<p>5. Providers of electronic communications to the public, including providers of internet access services, and providers of content, applications and services shall be free to offer individual services which are</p>	<p><b>Providers of electronic communications to the public, including providers of internet access services, may offer such services only if the network capacity is sufficient to provide them in addition to internet</b></p>	<p>Providers of electronic communications to the public, including providers of internet access services, may offer <b>or facilitate</b> such services only if the network capacity is sufficient to provide them <b>in addition</b></p>	<p>Providers of electronic communications to the public, including providers of internet access services, may offer or facilitate such services only if the network capacity is sufficient to provide them in addition</p>

<p>distinct from internet access services and which are optimised for specific content, applications or services, or a combination thereof, in order to meet their requirements for a specific level of quality.</p>	<p><del>access services, they are</del></p>	<p><i>to any internet access services provided.</i></p>	<p>to any internet access services provided.</p>
<p>Such services shall only be offered if the network capacity made available by providers of electronic communications services to the public, including providers of internet access services, is sufficient to provide them in addition to internet access services, they are not marketed or usable as substitute for internet access services and are not to the <del>appreciable</del> detriment of the availability or quality of internet access services. <del>for other end-users.</del></p>	<p><i><u>Such services shall</u> not <u>be offered as a replacement</u> for internet access services, and <del>are</del> <u>shall</u> not <u>be</u> to the <del>material</del> <u>general</u> detriment of the availability or <u>general</u> quality of internet access services <i>for other end-users.</i></i></p>	<p>Such services shall not be <i>usable or</i> offered as a replacement for internet access services, and shall not be to the detriment of the availability or general quality of internet access services for other end-users.</p>	<p>Such services shall not be usable or offered as a replacement for internet access services, and shall not be to the detriment of the availability or <del>general</del> quality of internet access services <del>for other end-users.</del></p>

EP text of 22 May plus corrections of 27 May	Council text of 29 May	Commission non-paper of 4 June	EP text of 18 June
<b>Article 4 – Transparency, supervision and enforcement of open internet access</b>	<b>Article 4 – Transparency, supervision and enforcement of open internet access</b>	<b>Article 4 – Transparency, supervision and enforcement of open internet access</b>	<b>Article 4 – Transparency, supervision and enforcement of open internet access</b>
Marking: bold-italic shows differences with Presidency text of 18 May Strikethrough/underlined shows corrections compared to EP text of 22 May	Marking: bold-italic/strikethrough shows differences with EP text of 22 May	Marking: bold-italic/strikethrough shows differences with Council text of 29 May 2015	Marking: bold-italic/strikethrough shows differences with COM non-paper of 4 June
1. National regulatory authorities shall closely monitor and ensure compliance with Article 3, and shall promote the continued availability of <i>non-discriminatory</i> internet access services at levels of quality that reflects advances in technology and are not impaired by services referring to Article 3(5). For those purposes national regulatory authorities may impose technical characteristics and minimum quality of service requirements <i>in accordance with Article 22 of the Universal Services Directive</i> . National regulatory	1. National regulatory authorities shall closely monitor and ensure compliance with Article 3 <i>and with paragraphs 3 and 5 of this Article</i> , and shall promote the continued availability of <del>non-discriminatory</del> <i>open</i> internet access <del>services</del> at levels of quality that reflect advances in technology <del>and are not impaired by services referring to Article 3(5)</del> . For those purposes national regulatory authorities may impose technical characteristics and minimum quality of service requirements in accordance with <i>the second subparagraph of Article 22(3)</i>	1. National regulatory authorities shall closely monitor and ensure compliance with Article 3 and with paragraphs 3 <i>to 6</i> of this Article, and shall promote the continued availability of open internet access at levels of quality that reflect advances in technology. For those purposes national regulatory authorities may impose technical characteristics <del>and</del> minimum quality of service requirements <i>and other appropriate and necessary measures on one or more providers of electronic communications to the public, including providers of internet access</i>	1. National regulatory authorities shall closely monitor and ensure compliance with Article 3 and with paragraphs 3 to 6 of this Article, and shall promote the continued availability of <i>non-discriminatory</i> <del>open</del> internet access at levels of quality that reflect advances in technology. For those purposes national regulatory authorities may impose technical characteristics and minimum quality of service requirements and other appropriate and necessary measures on one or more providers of electronic communications to the public,

authorities shall publish reports on an annual basis regarding their monitoring and findings, and provide those reports to the Commission and BEREC.	of the Universal Service Directive. National regulatory authorities shall publish reports on an annual basis regarding their monitoring and findings, and provide those reports to the Commission and BEREC.	<del>services. in accordance with the second subparagraph of Article 22(3) of the Universal Service Directive</del> National regulatory authorities shall publish reports on an annual basis regarding their monitoring and findings, and provide those reports to the Commission and BEREC.	including providers of internet access services. National regulatory authorities shall publish reports on an annual basis regarding their monitoring and findings, and provide those reports to the Commission and BEREC.
2. Providers of electronic communication services to the public, including providers of internet access services, shall make available, at the request of the national regulatory authority, information relevant to their obligations under Article 3 and 4, in particular information about how their network traffic and capacity are managed, as well as justifications for any traffic management measures applied. Those providers shall provide such information promptly on request and in accordance with time limits and the level of detail required by the national regulatory authority.	2. Providers of electronic communication services to the public, including providers of internet access services, shall make available, at the request of the national regulatory authority, information relevant to the obligations set out in Article 3 and <b>paragraphs 3 and 5 of this Article</b> , in particular information about how their network traffic and capacity are managed, as well as justifications for any traffic management measures applied. Those providers shall provide such information promptly on request and in accordance with the time limits and the level of detail required by the national regulatory authority.	2. Providers of electronic communication services to the public, including providers of internet access services, shall make available, at the request of the national regulatory authority, information relevant to the obligations set out in Article 3 and paragraphs 3 <b>to 6</b> of this Article, in particular information about how their network traffic and capacity are managed, as well as justifications for any traffic management measures applied. Those providers shall provide <del>such</del> <b>the requested</b> information promptly on request and in accordance with the time limits and the level of detail required by the national regulatory authority.	2. Providers of electronic communication services to the public, including providers of internet access services, shall make available, at the request of the national regulatory authority, information relevant to the obligations set out in Article 3 and paragraphs 3 to 6 of this Article, in particular information about how their network traffic and capacity are managed, as well as justifications for any traffic management measures applied. Those providers shall provide the requested information in accordance with the time limits and the level of detail required by the national regulatory authority.
<b>3. Providers of internet access</b>		<b>3. Providers of internet access</b>	3. Providers of internet access services

<p><i>services shall offer end-users the facility to monitor and control their usage of <del>electronic communication internet access</del> services billed on time or volume consumption. That facility shall include:</i></p> <p><i>(a) for pre-paid and post-paid services, access, free of charge, to timely information on their service consumption;</i></p> <p><i>(b) for post-paid services, the ability to set, free of charge, a predefined financial cap on their usage, to request notification when a predefined proportion of the cap and the cap itself has been reached, the procedure to be followed to continue usage if the cap is exceeded, and the applicable pricing plans;</i></p> <p><i>(c) itemised bills on a durable medium.</i></p> <p><i><del>After reaching the financial limit, end-users shall continue to be able to receive calls and SMS messages and access free phone numbers and emergency services by dialling the European emergency call number</del></i></p>		<p><i>services shall offer end-users the facility to monitor their own usage of such services to the extent that these are billed on time or volume consumption. That facility shall include access, free of charge, to timely information on their service consumption.</i></p>	<p>shall offer end-users the facility to monitor their own usage of such services to the extent that these are billed on time or volume consumption. That facility shall include <i>for pre-paid and post-paid services</i> access, free of charge, to timely information on their <i>internet access</i> service consumption.</p>
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<del>"112" free of charge until the end of the agreed billing period.</del>			
34. Providers of internet access services shall ensure that a contract which includes an internet access service <del>shall specify</del> the following information:	<del>2a-3.</del> Providers of internet access services shall ensure that a contract which includes an internet access service <b>shall specify at least</b> the following information:	4. Providers of internet access services shall ensure that a contract which includes an internet access service <del>shall specify</del> at least the following information:	4. Providers of internet access services shall ensure that a contract which includes an internet access service specifies at least the following information:
<b>(a) information on any procedures put in place by the provider to measure and shape traffic including an indication of the underlying communication inspection methods used for reasonable traffic management measures and information on how traffic management measures applied by that provider could impact on internet access service quality, end-users' privacy and the protection of personal data;</b>	<del>(a) information on any procedures put in place by the provider to measure and shape traffic including an indication of the underlying communication inspection methods used for reasonable traffic management measures and information on how traffic management measures applied by that provider could impact on internet access service quality, end-users' privacy and the protection of personal data;</del>	<b>(a) information on any procedures put in place by the provider to measure and shape traffic including an explanation of the underlying communication inspection methods used for traffic management measures and information on how traffic management measures applied by that provider could impact on internet access service quality, end-users' privacy and the protection of personal data;</b>	(a) information on any procedures put in place by the provider to measure and shape traffic including an explanation of the underlying communication inspection methods used for traffic management measures and information on how traffic management measures applied by that provider could impact on internet access service quality, end-users' privacy and the protection of personal data;
(b) a clear and comprehensible explanation as to how any volume limitation, speed and other quality of service parameters may in practice have an impact on internet access services, in particular the use of content, applications and services.	(b) a clear and comprehensible explanation as to how any volume limitation, speed and other quality of service parameters may in practice have an impact on internet access services, in particular the use of content, applications and services;	(b) a clear and comprehensible explanation as to how any volume limitation, speed and other quality of service parameters may in practice have an impact on internet access services, in particular the use of content, applications and services;	(b) a clear and comprehensible explanation as to how any volume limitation, speed and other quality of service parameters may in practice have an impact on internet access services, in particular the use of content, applications and services;

	<i>(c) a clear and comprehensible explanation as to how any services within the meaning of Article 3(5), to which the end-user subscribes might in practice have an impact on the same end-user's internet access services.</i>	(c) a clear and comprehensible explanation as to how any <i>other</i> services within the meaning of Article 3(5), to which the end-user subscribes, might in practice have an impact on the same end-user's internet access services;=	(c) a clear and comprehensible explanation as to how any other services within the meaning of Article 3(5), to which the end-user subscribes, might in practice have an impact on the same end-user's internet access services;
<i>(c) the specific tariff plan or tariff plans to which the contract applies and, for each such tariff plan, the types of services offered, including the volumes of communication; details of unit data pricing plans, pricing plans for bulk data and any applicable thresholds related to the specific tariff plan or tariff plans to which the contract applies. For data volumes above thresholds, unit or bulk pricing on an ad hoc or lasting basis and any data speed limitations that may be applied to the specific tariff plan or tariff plans to which the contract applies;</i>			<i>(ca) the specific tariff plan or tariff plans to which the contract applies and, for each such tariff plan, the types of services offered, including the volumes of communication;</i>
		<i>(d) a clear and comprehensible explanation about respectively the minimum, average, maximum and advertised download and upload</i>	(d) a clear and comprehensible explanation about respectively the minimum, <i>normally available</i> , <del>average</del> , maximum and advertised

		<i>speed of internet access services in the case of fixed networks, or the estimated average, maximum and advertised download and upload speed of internet access services in the case of mobile networks, and about how significant deviations from the respective advertised download and upload speeds can impact end-users' rights referred to in Article 3(1);</i>	download and upload speed of internet access services in the case of fixed networks, or the estimated average, maximum and advertised download and upload speed of internet access services in the case of mobile networks, and about how significant deviations from the respective advertised download and upload speeds can impact end-users' rights referred to in Article 3(1);
		<i>(e) a clear and comprehensible explanation of how any significant discrepancy, continuous or regularly recurring, between the actual performance of the internet access service regarding speed or other quality of service parameters and the performance indicated in accordance with sub-paragraphs (a) to (d) may be deemed to constitute non-conformity of performance and which remedies are available to the consumer in accordance with national law;</i>	(e) a clear and comprehensible explanation of <b><i>the remedies available to the consumer in accordance with national law in case of</i></b> <del>how any significant</del> discrepancy, continuous or regularly recurring, between the actual performance of the internet access service regarding speed or other quality of service parameters and the performance indicated in accordance with sub-paragraphs (a) to (d) <del>may be deemed to constitute non-conformity of performance and which remedies are available to the consumer in accordance with national law;</del>
<i>(d) how end-users can monitor the</i>		<i>(f) how end-users can monitor the</i>	(f) how end-users can monitor the



<i>current level of their consumption, and whether and how any voluntary limits can be set;</i>		<i>current level of their consumption, and whether and how any voluntary limits can be set.</i>	current level of their consumption, and whether and how any voluntary limits can be set;
<i>(e) for fixed data links, the normally available and minimum download and upload speed at the main location of the end-user;</i>			
<i>(f) for mobile data links, the estimated and minimum download and upload speed when connected through the provider's wireless network in the end-user's Member State of residence;</i>			
Providers of internet access services shall publish the information referred to in first subparagraph.	Providers of internet access services shall publish the information referred to in the first subparagraph.	Providers of internet access services shall publish the information referred to in the first subparagraph.	Providers of internet access services shall publish the information referred to in the first subparagraph.
<b>5. The provisions of paragraph 3 and 4 shall not prevent Member States from maintaining or introducing additional monitoring, information and transparency requirements, including on the content, form and manner of the information to be published. Those requirements shall comply with this Regulation and the relevant provisions of Directive 2002/21/EC and Directive</b>		<b>5. The information requirements laid down in paragraphs 3 and 4 are in addition to those contained in Directive 2002/22/EC as amended and shall not prevent Member States from maintaining or introducing additional monitoring, information and transparency requirements, including on the content, form and manner of the information to be published. Those requirements shall comply with</b>	<b>5. The information requirements laid down in provisions of paragraph 3 and 4 are in addition to those contained in Directive 2002/22/EC as amended and shall not prevent Member States from maintaining or introducing additional monitoring, information and transparency requirements, including on the content, form and manner of the information to be published. Those requirements shall</b>

<i>2002/22/EC, as amended.</i>		<i>this Regulation and the relevant provisions of Directive 2002/21/EC and Directive 2002/22/EC.</i>	comply with this Regulation and the relevant provisions of Directive 2002/21/EC and Directive 2002/22/EC, as amended.
<i>6. Any significant discrepancy, continuous or regularly recurring, between the actual performance regarding speed or other quality of service parameters and the performance indicated by the provider of electronic communications to the public in accordance with Paragraph 4 of this Article shall be deemed to constitute non-conformity of performance for the purposes of determining the remedies available to the consumer in accordance with national law.</i>			<i>6. Any significant discrepancy, continuous or regularly recurring, between the actual performance regarding speed or other quality of service parameters and the performance indicated by the provider of electronic communications to the public in accordance with Paragraph 4 of this Article shall be deemed to constitute non-conformity of performance for the purposes of determining the remedies available to the consumer in accordance with national law.</i>
<i>7. National regulatory authorities shall ensure that end-users have access to independent evaluation tools to enable them to compare the performance of <del>electronic communications network access and internet access</del> services and the cost of alternative usage patterns. National regulatory authorities, under</i>			<i>(EP para 7 of 22 May could be deleted as a compromise)</i>

<p><i>guidance from BEREC and after consulting relevant stakeholders, shall establish a voluntary certification scheme for interactive comparison websites, guides or similar tools, based on objective, transparent and proportionate requirements, including in particular independence from any provider of electronic communications to the public.</i></p>			
	<p><u><del>4. End-users shall have the right to submit complaints relating to rights and obligations under Article 3 and paragraph 3 of this Article to the national regulatory authorities.</del></u></p>		
<p><b>48.</b> Providers of internet access services shall put in place transparent, simple and efficient procedures to address complaints of end-users relating to rights and obligations under Article 3. <i>Such procedures shall be without prejudice to the end-user's right to refer the matter to the national regulatory authority.</i></p>	<p><del>4.</del> Providers of internet access services shall put in place transparent, simple and efficient procedures to address complaints of end-users relating to rights and obligations under Article 3 <i>and paragraph 3 of this Article.</i> Such procedures shall be without prejudice to the end-user's right to refer the matter to the national regulatory authority.</p>	<p><b>6.</b> Providers of internet access services shall put in place transparent, simple and efficient procedures to address complaints of end-users relating to rights and obligations under Article 3 and paragraphs 3 <i>and 4</i> of this Article. <i>Such procedures shall be without prejudice to the end-user's right to refer the matter to out-of court dispute resolution procedures.</i></p>	<p><b>7.</b> Providers of internet access services shall put in place transparent, simple and efficient procedures to address complaints of end-users relating to rights and obligations under Article 3 and paragraphs 3 and 4 of this Article. Such procedures shall be without prejudice to the end-user's right to refer the matter to out-of court dispute resolution procedures.</p>
<p><b>5. 9.</b> No later than nine months after</p>	<p><del>3</del> <b>5.</b> No later than nine months after</p>	<p><b>7.</b> No later than nine months after this</p>	<p><b>8.</b> No later than nine months after this</p>

<p>this Regulation enters into force, in order to contribute to the consistent application of this Regulation, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down guidelines for the implementation of the obligations of national competent authorities under this Article, including with respect to the application of traffic management measures set out in Article 3(4) and for monitoring of compliance.</p>	<p>this Regulation enters into force, in order to contribute to the consistent application of this Regulation, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down guidelines for the implementation of the obligations of national <del>competent</del> <b>regulatory</b> authorities under this Article, <del>including with respect to the application of traffic management measures set out in Article 3(4) and for monitoring of compliance.</del></p>	<p>Regulation enters into force, in order to contribute to the consistent application of this Regulation, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down guidelines for the implementation of the obligations of national regulatory authorities under this Article. <b><i>BEREC shall in particular issue guidelines for the methods of measuring the speed, the quality of service parameters to be measured such as the average versus advertised speed, and the quality as perceived by users, and the methods for measuring them over time, as well as the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information.</i></b></p>	<p>Regulation enters into force, in order to contribute to the consistent application of this Regulation, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, lay down guidelines for the implementation of the obligations of national regulatory authorities under this Article. BEREC shall in particular issue guidelines for the methods of measuring the speed, the quality of service parameters to be measured such as the average versus advertised speed, and the quality as perceived by users, and the methods for measuring them over time, as well as the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information.</p>
<p><b><i>10. In addition, BEREC shall issue guidelines for the methods of measuring the speed, the quality of</i></b></p>			<p><i>(EP para 10 of 22 May merged with 9, as per COM non-paper)</i></p>

<p><i>service parameters to be measured such as the average versus advertised speed, and the quality as perceived by users, and the methods for measuring them over time, as well as the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information.</i></p>			
	<p><i>6. For the purposes of this Article, “national <u>regulatory authorities</u>” shall mean the body or bodies within the meaning of point (g) of Article 2 of Directive 2002/21/EC and any other body or bodies charged by a Member State with the tasks assigned in this Article.</i></p>	<p><del>6. For the purposes of this Article, “national regulatory authorities” shall mean the body or bodies within the meaning of point (g) of Article 2 of Directive 2002/21/EC and any other body or bodies charged by a Member State with the tasks assigned in this Article.</del></p>	<p><i>Deleted</i></p>
		<p><i>8. This Article is without prejudice to other tasks assigned to the same or other competent authorities by Member States in compliance with EU law.</i></p>	<p>8. This Article is without prejudice to other tasks assigned to the same or other competent authorities by Member States in compliance with EU law.</p>