

**Committee of the Regions****EDUC-V-037****105th plenary session, 30-31 January 2014****OPINION****European single market for electronic communications****THE COMMITTEE OF THE REGIONS**

- welcomes the Commission proposal's general objective of moving towards a single market for electronic communications; points out, however, that changes to the European legal framework for electronic communications must take due account of the de facto and de jure situation in the Member States and regions;
- draws attention to the fact that a gradual, multi-speed approach is the only possible way of developing the digital society and progressively achieving convergence;
- reiterates that local and regional authorities have a key role in ensuring equal and affordable broadband access in areas where the market fails; urges, therefore, the Commission to support them in their financing activities, firstly by authorising participation by the European Structural Funds in the financing of digital infrastructure in all EU regions, and secondly by recognising digital development projects in rural and sparsely populated areas as services of general economic interest;
- broadly welcomes the introduction of a single EU authorisation procedure but underlines the need to ensure that it does not lead to greater legal uncertainty and reduce the predictability of regulations;
- rejects the European Commission's proposed measures to harmonise spectrum management, and suggests establishing an EU-wide status quo regarding spectrum allocation plans and timetables before developing a European spectrum regime;
- notes that the proposed harmonisation of end-user rights must not reduce the level of protection currently provided in the Member States, and advises the Commission to consider strengthening end-user rights by means of minimum harmonisation;
- welcomes the reduction in maximum tariffs for regulated roaming calls and the ban on charges for receiving calls when roaming, and supports the Commission's efforts to prevent unjustified surcharges over the long term and to achieve uniform prices for national and international calls for consumers.

COR-2013-05960-00-01-AC-TRA

Rapporteur

Frank Zimmermann (DE/PES), Member of the Berlin House of Representatives

Reference document

Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012
COM(2013) 627 final

Opinion of the Committee of the Regions – European single market for electronic communications

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

1. welcomes the Commission proposal's general objective of moving towards a single market for electronic communications in which citizens and businesses can access electronic communications services wherever they are provided in the Union, without cross-border restrictions or unjustified additional costs, and companies providing electronic communications networks and services can operate and provide them wherever they are established or their customers are situated in the EU;
2. highlights the objective pursued by the Europe 2020 strategy and the Digital Agenda for Europe of achieving a growing, successful and dynamic digital single market for all sectors;
3. underscores the importance to businesses and consumers of connections to electronic communications networks and of greater market integration, and stresses that the digital single market offers great opportunities for European society as a whole;
4. points out, however, that changes to the European legal framework for electronic communications must take due account of the *de facto* and *de jure* situation in the Member States and regions;
5. draws attention to the fact that – given the current digital divide within the EU, the inadequacy of ICT infrastructure, the lack of a level playing field and the significant disparities within and between Member States in terms of wealth and income – a gradual, multi-speed approach is the only possible way of developing the digital society and progressively achieving convergence;
6. points out that some Member States have already adopted rules aiming to bridge the gap between urban and rural areas when it comes to broadband access. EU-wide rules will need to take account of the heterogeneity of the current situation in the Member States;
7. reiterates that local and regional authorities have a key role and significant responsibility in ensuring equal and affordable broadband access in areas where the market fails, in leading pilot projects aimed at bridging the digital divide, and in developing new people-centred public e-services;
8. points out that local and regional authorities in rural areas considered unprofitable by private operators have to get involved in financing digital infrastructure. In order to ensure that all citizens in all regions have equal access to new technologies, the Committee of the Regions

urges the Commission to support local and regional authorities in their financing activities, firstly by authorising participation by the European Structural Funds in the financing of digital infrastructure in all EU regions, and secondly by recognising digital development projects in rural and sparsely populated areas as services of general economic interest;

9. is concerned, in this connection, at the lack of funding for broadband expansion under the Connecting Europe Facility (CEF) for 2014-2020;
10. notes that it is essential to extend glass fibre networks to cover the last mile without delay, to route data transmission – including mobile communications – through the fixed network via appropriate routers;
11. takes the view that EU-wide regulation must not put Member States with relatively small populations and territories at a competitive disadvantage;
12. reiterates that information and communication technologies, which underpin an information society which is open to all, should address the needs of all members of society, including those at risk of social exclusion;
13. emphasises that the processing of personal data foreseen under this Regulation should be a subject to existing Union and national legislation, including in particular Directives 95/46/EC and 2002/58/EC;
14. finds it regrettable that the proposal for a regulation has not been subject to a public consultation allowing all interested parties to express their views on the specific legislative changes proposed;
15. is convinced that there needs to be an in-depth examination of these extensive proposals, and therefore feels that the Commission's timetable, under which the regulation would be applicable from 1 July 2014, is extremely ambitious;

Single EU authorisation

16. broadly welcomes the simplification of nationally fragmented authorisation procedures brought about by introducing a single EU authorisation, in the interests of regulatory consistency and predictability for the businesses concerned;
17. calls for it to be ensured that a single EU authorisation procedure does not lead to greater legal uncertainty and reduce the predictability of regulations;
18. notes that the proposed amendment to Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services entails a significant transfer of competences away from national regulatory authorities towards the European Union. In

particular, the European Commission's power to require national regulatory authorities to withdraw draft measures reduces their room for manoeuvre in the long term;

19. calls for it to be ensured that the power granted solely to the national regulatory authority of the home Member State to suspend or withdraw the rights of a European electronic communications provider (Article 6(1)) does not lead to a regulatory "race to the bottom" or exacerbate "forum shopping";

Coordination of use of the radio spectrum

20. stresses that the radio spectrum is a scarce public good;
21. agrees with the Commission that efficient management of the radio spectrum is important in order to facilitate access for operators and promote innovation and cultural diversity;
22. notes that the proposal to give the European Commission the power to set mandatory timetables for frequency management and to require national regulatory authorities to withdraw proposed remedies represents a significant transfer of competences concerning frequency management to the European Union;
23. reiterates its concerns regarding the further transfer to the EU of competences concerning frequency management, which it raised back in 2008 with regard to the telecommunications package and which are not alleviated by the present draft regulation;
24. points out that the measures in the Radio Spectrum Policy Programme (RSPP), including the inventory to be undertaken by 2015, have not yet been completed and first need to be evaluated;
25. notes that the Member States have legal and technical obligations that stand in the way of European regulation of the radio spectrum use and that can only be removed in the medium to long term;
26. points out that an EU-wide reorganisation of the radio spectrum and spectrum allocation procedures must respect existing licences, which may be valid for up to 20 years;
27. sees an urgent need to clarify matters with the competent authorities in the Member States before laying down a Regulation, given that some Member States are already planning the spectrum allocation for the "Digital Dividend II", which is expected to take place in late 2014/early 2015,
28. stresses that the Member States and regions must have enough reserved spectrum for innovative applications;

29. considers it important to make use of the technological and legal possibilities of shared spectrum applications and innovative new technologies such as cognitive radio, ultra-wideband and white spectrum, thus enabling more efficient use of the spectrum;
30. is concerned that the proposed change to the regulatory framework could lead to delays in radio spectrum allocation over the next 12 to 18 months;
31. therefore rejects the European Commission's proposed measures to harmonise spectrum management, and notes that international agreements could be used to ensure consistent spectrum management while respecting Member States' sovereignty in this regard;
32. suggests establishing an EU-wide status quo regarding spectrum allocation plans and timetables before developing a European spectrum regime, in order to use this information as a basis for drafting a long-term single procedure for spectrum allocation;
33. recommends starting by defining a core element of spectrum policy that is of strategic importance to EU-wide network infrastructure policy, and suggests focusing on mobile networks, appropriate network access options such as WLAN, and an EU-wide LTE network;
34. considers this restriction to the mobile spectrum also to be in line with the subsidiarity principle, as it means that the only frequencies allocated at EU level are those where this procedure is in fact expected to improve efficiency;
35. specifically welcomes the proposal to facilitate the use of public RLAN connections, which will lead to more widespread publicly accessible internet connections;
36. notes that the general authorisation for the provision and operation of unobtrusive small-area wireless access points – in accordance with technical characteristics defined by the Commission – restricts the influence of local and regional authorities;

Net neutrality and rights of end users

37. welcomes the European Commission's efforts to ensure, by harmonising the rights of end users of electronic communications services, that citizens and providers across the EU have similar rights and obligations and can provide and acquire services across borders under the same conditions;
38. shares the objective of ensuring that end users have non-discriminatory access to communications networks and services provided by businesses established in other Member States;

39. supports the Commission's efforts to strengthen consumer protection and user rights in the electronic communications sector by providing consumers with more information about prices and supply conditions;
40. considers the principle of net neutrality to be an essential prerequisite for enabling an innovative internet with open, dynamic and complex structures and for securing a level playing field for European citizens and entrepreneurs;
41. agrees with the European Parliament that any solution proposed on the issue of net neutrality can be effective only through a consistent European approach, and therefore broadly welcomes the Commission's initiative to propose regulations in this field;
42. points out that the openness of the internet is a key driving force for competitiveness, economic growth, social development and innovation, resulting in a spectacular growth in online applications, content and services and thus in an impressive rise in supply of and demand for content and services, and that it has massively accelerated the free movement of knowledge, ideas and information, even in countries with only limited access to independent media;
43. agrees with the European Parliament that there are serious risks in departing from network neutrality and the best effort principle – such as anticompetitive behaviour, the blocking of innovation, restrictions on freedom of expression and media pluralism, lack of consumer awareness and infringement of privacy – which will be detrimental to businesses, consumers and democratic society as a whole;
44. is convinced that Article 23 of the Commission's proposal contravenes the principle of net neutrality as set out above, and recommends that these provisions be completely revised;
45. specifically highlights the risk to net neutrality presented by agreements between access providers and content providers on the provision of specialised services with an enhanced quality of service;
46. is concerned that application of Article 23(2) could privilege financially strong businesses, or disadvantage smaller content providers and end users, and advises against undermining the position of accessibility as a defining principle of internet architecture, restricting the innovativeness of the internet and putting the cultural diversity of the net at risk;
47. supports the call to ensure that internet service providers do not block, discriminate against, impair or degrade the ability of any person to use a service to access, use, send, post, receive or offer any content, application or service of their choice, irrespective of source or target;
48. therefore specifically welcomes the prohibition on blocking, degrading or discriminating against specific content, applications or services (Article 23(5)), but would note that the

vagueness and lack of legal clarity of the proposed exceptions are liable to make the principle largely meaningless;

49. is concerned that a legally unclear definition of "reasonable traffic management" may jeopardise the welcome prohibition on shutting down networks, and that the blanket extension to cover the implementation of "legislative provisions" (Article 23(5)(a)) is incompatible with the proportionality principle and data protection requirements;
50. in view of the existing standards, recommends reconsidering whether the proposed rules on traffic management are necessary;
51. supports the Commission's efforts to introduce appropriate measures to strengthen consumer protection and make the electronic communications market more transparent, and to make it easier for market participants to obtain reliable and comprehensible information;
52. points out that the national regulations transposing the European legal framework for telecommunications often take account of significant specific national circumstances, and therefore calls for a detailed consultation of national regulatory authorities and consumer protection organisations;
53. notes that the proposed harmonisation of end-user rights must not reduce the level of protection currently provided in the Member States, and advises the Commission to consider strengthening end-user rights by means of minimum harmonisation;

Roaming

54. warmly welcomes the reduction in maximum tariffs for regulated roaming calls and the ban on charges for receiving calls when roaming, and supports the Commission's efforts to prevent unjustified surcharges over the long term and to achieve uniform prices for national and international calls for consumers;
55. supports the Commission's intention of using the option of bilateral or multilateral roaming agreements to apply domestic prices to both domestic and regulated roaming services;
56. considers it important to ensure that the option of end users to opt out of the application of the domestic service rate in return for other advantages must not make it possible to circumvent the provision of roaming at domestic rates on a regular basis;
57. urges the Commission to ensure that the guidelines to be adopted for the application of reasonable use criteria means that end users can in practice be confident in continuing their usual domestic usage patterns when in other Member States;

58. draws attention to the risk that domestic call rates may be increased (in compensation), and urges the Commission to pay particular attention to this aspect when evaluating Regulation (EU) No 531/2012;
59. notes that bilateral and multilateral roaming agreements must be examined critically to determine whether they restrict competition or are liable to strengthen the competitive position of providers that already have a strong market position;

Subsidiarity and proportionality

60. feels that the proposal for a Regulation includes a number of measures that need to be assessed in terms of compliance with the subsidiarity principle, such as the transfer of competence for spectrum regulation and spectrum allocation procedures, the veto rights granted to the Commission regarding measures concerning European electronic communications providers (EECPs), and the imposition of a standardised virtual access product, which may end up removing the requirement for physical unbundling of access to the local loop;
61. points out that the choice of a Regulation as the legal instrument and the power to adopt implementing acts to harmonise spectrum availability, the timing of assignments and the duration of rights of use for spectrum (*Chapter III - Section 1 - Coordination of use of radio spectrum within the single market* of the proposed Regulation) raise concerns regarding compliance with the proportionality principle;
62. is also of the opinion that a number of the individual topics in the proposal need to be examined in detail to assess the extent to which they are appropriate, necessary and adequate to complete the digital single market;
63. concludes that, due to the above-mentioned concerns, large parts of the Commission's proposal are not yet ready for adoption;
64. suggests that the provisions eliminating roaming charges should be implemented according to the proposed timetable, and that the remaining measures should be reviewed and revised following consultation with the main stakeholders and taking account of the objections raised;

II. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

Article 2(15)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>"specialised service" means an electronic communications service or any other service that provides the capability to access specific content, applications or services, or a combination thereof, and whose technical characteristics are controlled from end-to-end or provides the capability to send or receive data to or from a determined number of parties or endpoints; and that is not marketed or widely used as a substitute for internet access service;</p>	<p>Delete</p>

Reason

The proposal to delete the associated regulation in Article 23(2) makes this definition superfluous.

Amendment 2

Article 14

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p><i>Article 14 – Access to radio local area networks</i></p> <p>1. National competent authorities shall allow the provision of access through radio local area networks to the network of a provider of electronic communications to the public as well as the use of the harmonised radio spectrum for such provision, subject only to general authorisation.</p> <p>2. National competent authorities shall not prevent providers of electronic communications to the public from allowing access for the public to their networks, through radio local area networks, which may be located at an end user's premises, subject to compliance with the general authorisation conditions and the prior informed agreement of the end user.</p> <p>3. Providers of electronic communications to the</p>	<p><i>Article 14 – Access to radio local area networks</i></p> <p>1. National Public competent authorities shall allow the provision of access through radio local area networks to the network of a provider of electronic communications to the public as well as the use of the harmonised radio spectrum for such provision, subject only to general authorisation.</p> <p>2. National Public competent authorities shall not prevent providers of electronic communications to the public from allowing access for the public to their networks, through radio local area networks, which may be located at an end user's premises, subject to compliance with the general authorisation conditions and the prior informed agreement of the end user.</p> <p>3. Providers of electronic communications to the</p>

<p>public shall not unilaterally restrict:</p> <p>a) the right of end users to accede to radio local area networks of their choice provided by third parties;</p> <p>b) the right of end users to allow reciprocally or more generally access to the networks of such providers by other end users through radio local area networks, including on the basis of third-party initiatives which federate and make publicly accessible the radio local area networks of different end users.</p> <p>4. National competent authorities shall not restrict the right of end users to allow reciprocally or more generally access to their radio local area networks by other end users, including on the basis of third-party initiatives which federate and make publicly accessible the radio local area networks of different end users.</p> <p>5. National competent authorities shall not restrict the provision of public access to radio local area networks:</p> <p>(a) by public authorities on or in the immediate vicinity of premises occupied by such public authorities, when it is ancillary to the public services provided on such premises;</p> <p>(b) by initiatives of non-governmental organisations or public authorities to federate and make reciprocally or more generally accessible the radio local area networks of different end users, including, where applicable, the radio local area networks to which public access is provided in accordance with sub-point (a).</p> <p>6. An undertaking, public authority or other end user shall not be deemed to be a provider of electronic communications to the public solely by virtue of the provision of public access to radio local area networks, where such provision is not commercial in character, or is merely ancillary to another commercial activity or public service which is not dependent on the conveyance of signals on such networks.</p>	<p>public shall not unilaterally restrict:</p> <p>a) the right of end users to accede to radio local area networks of their choice provided by third parties;</p> <p>b) the right of end users to allow reciprocally or more generally access to the networks of such providers by other end users through radio local area networks, including on the basis of third-party initiatives which federate and make publicly accessible the radio local area networks of different end users.</p> <p>4. National Public competent authorities shall not restrict the right of end users to allow reciprocally or more generally access to their radio local area networks by other end users, including on the basis of third-party initiatives which federate and make publicly accessible the radio local area networks of different end users.</p> <p>5. National Public competent authorities shall not restrict the provision of public access to radio local area networks:</p> <p>(a) by public authorities on or in the immediate vicinity of premises occupied by such public authorities, when it is ancillary to the public services provided on such premises;</p> <p>(b) by initiatives of non-governmental organisations or public authorities to federate and make reciprocally or more generally accessible the radio local area networks of different end users, including, where applicable, the radio local area networks to which public access is provided in accordance with sub-point (a).</p> <p>6. An undertaking, public authority or other end user shall not be deemed to be a provider of electronic communications to the public solely by virtue of the provision of public access to radio local area networks, where such provision is not commercial in character, or is merely ancillary to another commercial activity or public service which is not dependent on the conveyance of signals on such networks.</p>
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Reason

In many Member States, access to radio local area networks is governed by local and regional public authorities and not by national authorities.

Amendment 3

Article 23

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p><i>Article 23 - Freedom to provide and avail of open internet access, and reasonable traffic management</i></p> <p>1. End-users shall be free to access and distribute information and content, run applications and use services of their choice via their internet access service.</p> <p>End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.</p> <p>2. End-users shall also be free to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service.</p> <p>In order to enable the provision of specialised services to end-users, providers of content, applications and services and providers of electronic communications to the public shall be free to enter into agreements with each other to transmit the related data volumes or traffic as specialised services with a defined quality of service or dedicated capacity. The provision of specialised services shall not impair in a recurring or continuous manner the general quality of internet access services.</p> <p>3. This Article is without prejudice to Union or national legislation related to the lawfulness of the</p>	<p><i>Article 23 - Freedom to provide and avail of open internet access, and reasonable traffic management</i></p> <p>1. End-users shall be free to access and distribute information and content, run applications and use services of their choice via their internet access service.</p> <p>End-users shall be free to enter into agreements on data volumes and speeds with providers of internet access services and, in accordance with any such agreements relative to data volumes, to avail of any offers by providers of internet content, applications and services.</p> <p>2. End users shall also be free to agree with either providers of electronic communications to the public or with providers of content, applications and services on the provision of specialised services with an enhanced quality of service.</p> <p>In order to enable the provision of specialised services to end users, providers of content, applications and services and providers of electronic communications to the public shall be free to enter into agreements with each other to transmit the related data volumes or traffic as specialised services with a defined quality of service or dedicated capacity. The provision of specialised services shall not impair in a recurring or continuous manner the general quality of internet access services.</p> <p>3. <u>2.</u> This Article is without prejudice to Union or national legislation related to the lawfulness of the</p>

<p>information, content, application or services transmitted.</p> <p>4. The exercise of the freedoms provided for in paragraphs 1 and 2 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and (2).</p> <p>5. Within the limits of any contractually agreed data volumes or speeds for internet access services, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to:</p> <p>a) implement a legislative provision or a court order, or prevent or impede serious crimes;</p> <p>b) preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;</p> <p>c) prevent the transmission of unsolicited communications to end-users who have given their prior consent to such restrictive measures;</p> <p>d) minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.</p> <p>Reasonable traffic management shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.</p>	<p>information, content, application or services transmitted.</p> <p>4. <u>3.</u> The exercise of the freedoms provided for in paragraphs 1 shall be facilitated by the provision of complete information in accordance with Article 25(1), Article 26 (2), and Article 27 (1) and (2).</p> <p>5. <u>4.</u> Within the limits of any contractually agreed data volumes or speeds for internet access services, providers of internet access services shall not restrict the freedoms provided for in paragraph 1 by blocking, slowing down, degrading or discriminating against specific content, applications or services, or specific classes thereof, except in cases where it is necessary to apply reasonable traffic management measures. Reasonable traffic management measures shall be transparent, non-discriminatory, proportionate and necessary to <u>Exceptions shall be permitted only to:</u></p> <p>a) implement a legislative provision or a court order, or prevent or impede serious crimes;</p> <p>b) <u>a)</u> preserve the integrity and security of the network, services provided via this network, and the end-users' terminals;</p> <p>e) <u>b)</u> prevent the transmission of unsolicited communications to end-users who have given their prior consent to such restrictive measures;</p> <p>d) <u>c)</u> minimise the effects of temporary or exceptional network congestion provided that equivalent types of traffic are treated equally.</p> <p><u>Measures pursuant to a), b) or c) shall be transparent, non-discriminatory, proportionate and necessary. Reasonable traffic management</u> Their implementation shall only entail processing of data that is necessary and proportionate to achieve the purposes set out in this paragraph.</p>
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Reason

Specific agreements between internet access providers and content providers to provide specialised services are contrary to the principles of free network access and non-discrimination. They also risk privileging financially strong businesses over smaller providers.

The unclear term "traffic management measures" can be deleted if the Regulation lays down clearly defined exceptions. Exceptions that are liable to undermine the principle of non-blocking and non-discrimination, because they are too vague or non-specific, would lead to considerable legal uncertainty.

Amendment 4

Article 24(1)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p data-bbox="220 887 751 920"><i>Article 24 - Safeguards for quality of service</i></p> <p data-bbox="183 943 788 1496">1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.</p>	<p data-bbox="836 887 1367 920"><i>Article 24 - Safeguards for quality of service</i></p> <p data-bbox="810 943 1396 1541">1. National regulatory authorities shall closely monitor and ensure the effective ability of end-users to benefit from the freedoms provided for in Article 23 (1) and (2), compliance with Article 23 (5), and the continued availability of non-discriminatory internet access services at levels of quality that reflect advances in technology and that are not impaired by specialised services. They shall, in cooperation with other competent national authorities, also monitor the effects of specialised services on cultural diversity and innovation. National regulatory authorities shall report on an annual basis to the Commission and BEREC on their monitoring and findings.</p>

Reason

Follows on from the proposed amendment to Article 23.

Amendment 5
Article 35(2)(c)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
(c) in paragraph 5 the following point (aa) is inserted: <i>‘(aa) take a decision requiring the national regulatory authority concerned to withdraw the draft measure, together with specific proposals for amending it, when the intended measure aims at imposing, amending or withdrawing an obligation on a European electronic communications provider within the meaning of Regulation [XXX/2014].’</i>	(c) in paragraph 5 the following point (aa) is inserted: <i>‘(aa) take a decision requiring the national regulatory authority concerned to withdraw the draft measure, together with specific proposals for amending it, when the intended measure aims at imposing, amending or withdrawing an obligation on a European electronic communications provider within the meaning of Regulation [XXX/2014].’</i>

Reason

The Committee of the Regions rejects the transfer of competence associated with Article 35(2)(c). The Committee of the Regions considers the option of issuing recommendations given to the European Commission in Article 7a(5) of the Framework Directive to be adequate.

Amendment 6
Article 37(4)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<i>3. Individual end-users served by a roaming provider availing of this Article may, upon their own request, make a deliberate and explicit choice to renounce the benefit of the application to regulated roaming services of the applicable domestic service rate under a given retail package in return for other advantages offered by that provider. The roaming provider shall remind those end users of the nature of the roaming advantages which would thereby be lost. National regulatory authorities shall monitor in particular whether roaming providers availing of this Article engage in business practices which would amount to circumvention of the default regime.</i>	<i>3. Individual end-users served by a roaming provider availing of this Article may, upon their own request, make a deliberate and explicit choice to renounce the benefit of the application to regulated roaming services of the applicable domestic service rate under a given retail package in return for other advantages offered by that provider. The roaming provider shall remind those end users of the nature of the roaming advantages which would thereby be lost. National regulatory authorities shall monitor in particular whether roaming providers availing of this Article engage in business practices which would amount to circumvention of the default regime.</i>

Reason

The necessary steps to reduce roaming charges cannot be undermined by businesses escaping their obligations by granting poorly defined "other advantages".

Brussels, 31 January 2014.

The President
of the Committee of the Regions

Ramón Luis Valcárcel Siso

The Secretary-General
of the Committee of the Regions

Gerhard Stahl

III. PROCEDURE

Title	Proposal for a Regulation of the European Parliament and of the Council laying down measures to complete the European single market for electronic communications and to achieve a Connected Continent
Reference(s)	Regulation of the European Parliament and of the Council laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent, and amending Directives 2002/20/EC, 2002/21/EC and 2002/22/EC and Regulations (EC) No 1211/2009 and (EU) No 531/2012, COM(2013) 627 final
Legal basis	Article 307 TFEU
Procedural basis	Optional consultation
Date of Council/EP referral/Date of Commission letter	9 October 2013
Date of Bureau/President's decision	
Commission responsible	Commission for Education, Youth, Culture and Research
Rapporteur	Frank Zimmermann (DE/PES)
Analysis	10 October 2013
Discussed in commission	13 November 2013
Date adopted by commission	13 November 2013
Result of the vote in commission (majority, unanimity)	Adopted by unanimity
Date adopted in plenary	31 January 2014
Previous Committee opinions	<ul style="list-style-type: none"> – Opinion on i2010 - A European Information Society for Growth and Employment, COM(2005) 229 final, Rapporteur: Theodoros Georgakis, CdR 252/2005 fin – Opinion on e-Inclusion, COM(2007) 694 final, Rapporteur: Andras Szalay, CdR 5/2008 fin – Opinion on the Interoperability Solutions for European Public Administrations (ISA), COM(2008) 583 final, Rapporteur: Veronica Ionita, CdR 10/2009 fin – Opinion on ICT infrastructures for e-science; A strategy for ICT R&D, Innovation and research on FET, COM(2009) 108 final, COM(2009) 116 final, COM(2009) 184 final, Rapporteur: Liudvikas Žukauskas, CdR 156/2009 fin

	<ul style="list-style-type: none">– Opinion on Digital Agenda for Europe, COM(2010) 245 final, Rapporteur: Markku Markkula, CdR 104/2010 fin– Opinion on Reducing The Costs Of Deploying Broadband, COM(2013)147 final, Rapporteur: Gabor Bihary, CdR 3597/2013 final– Draft Opinion on the Guidelines For Trans-European Telecommunications Networks, COM(2013)329 fin, Rapporteur: Alin-Adrian Nica, CdR 5559/2013 final
Date of subsidiarity monitoring consultation	n/a