In September 2013 the European Commission published what it called “its most ambitious plan in 26 years of telecoms market reform” with a series of updates to European regulations in the telecoms sector.

The Industry, Research and Energy (ITRE) committee has since been leading the European Parliament’s work under MEP Pilar Del Castillo Vera (EPP, Spain). The committee voted on and adopted the report Tuesday, March 18, 2014. It now faces the crucial, formative vote in the European Parliament plenary, April 3.

What is involved

Among the issues the law reforms seek to address are:

- Roaming charges
- Net Neutrality
- Consumer rights in telecoms contracts
- International phone calls within EU
- Creating an EU Single Market for companies offering telecoms services

Parliament committee vote a mixed bag

The Commission and Parliament have chipped away at Roaming. It should be abolished as it is irreconcilable with the basic tenets of a single European marketplace. While the urgent need for a European law of Net Neutrality has been addressed, the committee’s current position is an unacceptable compromise that endangers consumers’ right to access the open internet.

What is Net Neutrality?

For consumers, Net Neutrality is the principle that all internet data and content should be treated without undue discrimination by telecoms companies, thereby maintaining the open and neutral character of the internet so valued by users. By extension, it helps prevent these operators from becoming online gatekeepers – picking what content or services succeed or fail.

However, violations already occur in 3 main forms, as evidenced by BEREC’s 2012 traffic management investigation. Clear, unambiguous regulatory protection is needed – after all, a March 2014 Eurobarometer found that 25% of Europeans still experience blocking of internet content (such as videos, music or apps). Network operators currently:

- Restrict, by ‘throttling’ or outright blocking, the use of specific technologies or apps;
- Prioritise their own services over competitors;
- Charge a premium to online service providers for fast delivery of their content.

If unchecked, these breaches will increase in the near future. Currently, the EU has no clear legal protection for Net Neutrality which would safeguard against these malfeasances, unlike some Member States (e.g. The Netherlands and Slovenia).

For the first time, the Telecoms Single Market plans to define “specialised services”. These can range from Digital TV to a telemedicine application or to the uplink of a household energy smart meter. They are separate from the open Internet and therefore not subject to the net neutrality principle.

Regulating these services in a vague and too flexible manner could result in telecoms operators taking control of and separating online content such as streamed video, then charging the provider and finally selling it offline at a premium to the end-user. Sufficient evidence exists that some ‘specialised services’ risk undermining the open internet and its default neutrality on which it was originally built. In time, this would reduce the range and diversity of consumer choice.

**Consumer data limits = network operator free for all**

Under the proposed regulation as voted by the ITRE committee, the non-discrimination rules on internet connections only apply within a consumer’s data allowance cap. Beyond these, operators are free to discriminate. This is a new major loophole and MEPs at plenary should close it — the general ban on discriminatory management of data should be the overarching principle and apply to all internet data, regardless of contract caps and speeds.

Under the plans, consumers will be able to report Net Neutrality problems to National Regulatory Authority (NRA), but prevention is always better than cure and NRAs have often proven too cumbersome with lengthy and complicated procedures dissuading consumers.

**The abolition of Roaming (eventually)?**

The ITRE vote added to the European Parliament chorus saying that Roaming retail charges within the EU must be abolished by December 2015. BEUC supports this aim. It is unjustifiable that European consumers still cannot use their mobile devices when abroad within the EU and are charged exorbitantly to access the internet, make and receive calls or send simple text messages. A March 2014 Eurobarometer found over half of consumers fear the costs and limit their data usage when abroad.

We remain concerned that, contrary to the Commission proposal, the ITRE committee has cast aside caps on wholesale roaming prices (those charged between operators for network access). The logical conclusion of this is that it will stifle market competition by making it particularly tough for new entrants to the market to cover their costs. An abolition of retail roaming caps should happen alongside a further reduction of wholesale caps.

**Consumer rights**

The European Parliament’s IMCO committee stewarded the chapter which focusses on rights and obligations when it comes to switching networks, information disclosure and contract termination. 3 key remaining challenges for BEUC include:

- Consumers must always have the right to rescind a contract with an operator if unilateral changes occur during the service period. The Universal Services Directive currently allows this, but IMCO’s report opens an unwelcome exception: if the change is to the consumer’s “benefit” — an entirely arbitrary, and operator defined, definition.
- If consumers find their service e.g. internet speed continuously underperforms compared to what was advertised and agreed contractually, they should have an explicit right to leave the contract, free of charge.
- Early Termination Fees are a definite disincentive to switching and enable operators to ‘lock-in’ consumers and should not be used. It is legitimate for operators to recover the cost of subsidised handsets, but additional arbitrary termination fees are unfair.