

## **OPINION ON THE EU TELECOMMUNICATIONS PACKAGE**

In an environment where measures such as graduated measures and content filtering are being considered at a policy level, it is important to also have in place other measures which safeguard the interests of the Internet user and the citizen.

The EU Council of Ministers will discuss tomorrow two amendments adopted by the EU Parliament in the framework of the Telecom Package. ISOC-ECC believes that these two amendments are important to provide those very safeguards.

### **Graduated measures / Amendment 138**

(European Parliament, Trautmann report Amendment 138 - Framework Directive, Article 8, paragraph 4, point ga)

### **Text of the Amendment**

*No restriction may be imposed on the fundamental rights and freedoms of end-users, without a prior ruling by the judicial authorities, notably in accordance with Article 11 of the Charter of Fundamental Rights of the European Union on freedom of expression and information, save when public security is threatened where the ruling may be subsequent.*

### **ISOC-ECC Opinion**

- ISOC-ECC supports the basic principle expressed by amendment 138, ie. that no one should endure a penalty without a ruling of a Court of law, except under specific, clearly limited circumstances,
- ISOC-ECC regrets that such an amendment, which has nothing to do with the intent and purpose of the Telecommunications package, had to be adopted in order to oppose the will of certain Member States to pass a legislation at the EU level reducing drastically the level of protection each citizen of the EU, be they internet users or not, enjoys,
- ISOC-ECC calls on the EU Council of Ministers to maintain this amendment.

### **Documents to check**

[www.isoc-ecc.org/docs/ipr2008/GRADUATED\\_RESPONSES\\_FIN2\\_040808.pdf](http://www.isoc-ecc.org/docs/ipr2008/GRADUATED_RESPONSES_FIN2_040808.pdf)

<http://www.ipTEGRITY.com/pdf/telecoms.package.graduated.response.monica.horten.18august2008.pdf>

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The Internet Society (ISOC) is a nonprofit organisation dedicated to ensuring the open development, evolution and use of the Internet for the benefit of people throughout the world.

The ISOC provides leadership in addressing issues that confront the future of the Internet, and is the organisational home for the groups responsible for Internet infrastructure standards, including the Internet Engineering Task Force (IETF) and the Internet Architecture Board (IAB). The Internet Society has more than 28,000 individual members in over 80 national and regional chapters around the world.

ISOC European Coordinating Council coordinates the work of the European ISOC Chapters. We defend ISOC's principles and goals at the European level and European interests in Internet-related issues before ISOC and other global institutions.

We promote European cooperation in Internet projects and the dialogue among European actors involved in Internet-related issues. ISOC-ECC helps to educate European users, industry and researchers and fosters their participation in decision-making processes about Internet-related issues.

**Net Neutrality / Amendment 166**

(European Parliament, Harbour report, Amendment 166 - Universal Services Directive, Article 32(a))

**Text of the Amendment**

*Member States shall ensure that any restrictions to users' rights to access content, services and applications, if they are necessary, shall be implemented by appropriate measures, in accordance with the principles of proportionality, effectiveness and dissuasiveness. These measures shall not have the effect of hindering the development of the information society, in compliance with the Directive 2000/31/EC, and shall not conflict with citizens' fundamental rights, including the right to privacy and the right to due process.*

**ISOC-ECC Opinion**

- ISOC-ECC recognised the Net Neutrality principle which Amendment 166 addresses as one of the key principles of an open Internet,
- ISOC-ECC notes that the European Union had already recognised (during the WSIS process) the end-to-end principle as a fundamental technical principle of the Internet and welcomes the will of the European Parliament to now translate it in a political one through the Net Neutrality principle. The end-to-end and Net Neutrality principles both state that the focus of policy should be on senders and receivers of messages rather than the channel carrying them,
- ISOC-ECC calls on the EU Council of Ministers to maintain this amendment. In view of the general trend towards universal access to broad band Internet and the migration of an increasingly wide range of public and private services to the Internet, it is untenable and counterproductive to apply any restrictions to users' rights other than through well defined and codified procedures, fully compatible with applicable law,
- ISOC-ECC calls for further work on the Net Neutrality principle after the adoption of the Telecom Package in order to refine the Net Neutrality principle and render it effective.

**Documents to check**

<http://www.benton.org/node/15785> (with a comprehensive list of references for the FCC ruling on the COMCAST case)

[http://www.iptegrity.com/index.php?option=com\\_content&task=view&id=205&Itemid=9](http://www.iptegrity.com/index.php?option=com_content&task=view&id=205&Itemid=9)

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