

Brussels, 7 October 2008

Commission position on President Sarkozy's letter on Amendment 138 adopted by the European Parliament in plenary vote on 24 September

The Commission takes note of the letter received by President Sarkozy last Friday asking the Commission to reject Amendment 138 adopted by the plenary of the European Parliament on 24 September in its vote on the EU Telecoms Package.

The amendment referred to by President Sarkozy was initiated by several Members of the European Parliament. It was amended orally right before the final vote in order to secure a broad cross-party majority.

The amendment, in its version adopted by the plenary of the European Parliament, requires telecoms regulators to apply the principle:

"that 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."

This version of the amendment was adopted by the European Parliament in an open vote with a large majority of 573 votes in favour and 74 votes against.

The European Commission respects this democratic decision of the European Parliament.

In the Commission's view, this amendment is an important restatement of key legal principles inherent in the legal order of the European Union, especially of citizens' fundamental rights. The language of the amendment is deliberately drafted in order to leave Member States scope for reaching a fair balance between several fundamental rights, namely the right for the respect of private life, the right for property and effective remedies, and the right of freedom of information and expression. The Commission can therefore accept the amendment proposed by the European Parliament.

The Commission understands that this issue is of high political importance in the domestic debate in France, where legislation is in preparation proposing the establishment of a new national Internet authority that could have a role in monitoring, and possibly restricting, internet traffic of French citizens in order to combat violations of intellectual property rights. The European Commission invites the French government to discuss its views on Amendment 138 with ministers of the other 26 Member States. As the EU Telecoms Package is decided under the co-decision procedure, agreement of Parliament and Council is required before an amendment can become law.

The Commission stands ready to act as facilitator in this debate, once the Council has also decided on its view on the matter.