

Open letter from European Consumers to The Conciliation Committee on Telecom Package

Maintain the Current Amendment 138: Protect consumers' fundamental rights on the Internet

Dear member of the conciliation committee,

As member of the Conciliation Committee, you will decide on the fate of the Telecoms Package. You will have to determine whether citizens' fundamental rights, in particular the right to a fair trial, protected by amendment 138, will be acknowledged in the Internet environment.

The European Parliament plenary, already voted twice in favour of amendment 138. MEPs previously adopted the 'Bono report' which vigorously condemned the so-called 'graduated response' - according to which rights holders (e.g. music and film companies) could ask Internet Service Providers (ISPs) to suspend Internet access for the presumed infringers of intellectual property rights. Amendment 138 was adopted twice in plenary to prevent this.

The French Constitutional Court has now set an important precedent. It has judged the so-called 'Loi Hadopi I', which would implement the "graduated response" in France, to be unconstitutional.

If current amendment 138 does not remain in the Telecoms Package, Internet Service Providers (ISPs) will be asked to cut off the Internet connection of a person who is suspected of having violated copyright. ISPs would not even need to wait for a judicial authority to judge whether copyright infringement has actually taken place. This constitutes a violation of the **fundamental rights to a fair trial and to presumption of innocence**.

The **fundamental right to privacy** is also at stake. In order to implement the 'graduated response', privacy intrusive technical means (e.g. deep packet inspection techniques) will have to be put into place to monitor users' online behaviour. These techniques violate the consumer right to privacy **and confidentiality of communication**.

Furthermore, the **fundamental right to information and freedom of expression** will be curtailed. Today, access to the Internet has become a fundamental need – if not a fundamental right. Cutting someone's Internet connection, in the digital era, deprives them from access to essential services such as employment opportunities, social, health and government services.

The amended version of amendment 138 now proposed by the Council is not acceptable because infringement of copyright is considered a criminal offence in some Member States – thus leaving the door open to a "graduated response".

The 'graduated response' is not an appropriate answer to the issue of illegal downloading. Rather, it is an undemocratic and ill-founded response to an issue which must urgently be dealt with by the content industry through developing new systems of distribution adapted to the digital environment; certainly not by treating consumers like 'pirates' while violating their fundamental rights.

We call on the members of the conciliation committee to ensure consumers' fundamental rights are safeguarded on the Internet by keeping the current amendment 138.

With best regards,

Willemien Bax,
Deputy Director General

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Co-signed by our member organisations:

