



GSM Europe

The European interest group of the GSM Association

<http://gsmeurope.gsmworld.com>

London, 28th May 2002

Subject: GSM Europe's Position on the Communications Data Protection Directive in view of the European Parliament's plenary vote

Dear Member of the European Parliament,

In view of the upcoming plenary vote GSM Europe would like to express its views on Article 13 on unsolicited communications and Article 15 on Data Retention where amendments adopted by the LIBE Committee differ from the position taken by Council.

Amendment 15 to Article 13.1 differentiates SMS from 'email' communications. GSM Europe finds this makes no sense technologically, since e-mail and SMS have essentially the same service characteristics. GSM Europe considers that the Council text fully addresses the earlier concerns of the EP by ensuring that SMS is covered by the definition of 'electronic mail.' This solution is also in line with the principle of technological neutrality underpinning the new regulatory framework. **GSM Europe therefore urges the EP to reject amendment 15.**

The last part of amendment 16 to Article 13.2, amendment 30 and amendment 45 reintroduce the obligation to provide a technical solution, which is not needed. The article 13.4 of the Common Position already prohibits the sending of unsolicited commercial emails in which the identity of the sender would be disguised or concealed. This is an important safeguard, already introduced by the e-commerce directive. Amendments 16, 30 and 45 therefore do not add substantial benefit to the existing legislation. On this background, **GSM Europe would urge the EP to reject amendments 16, 30 and 45.**

GSM Europe appreciates the improvement of art. 13.2. **Therefore, GSM Europe would urge the EP to adopt amendments 27 and 29 and reject amendments 40, 41, 42 and 43.**

Regarding data retention (article 15), GSM Europe strongly believes that any extension in storage requirements to meet the requests of law enforcement authorities will have to be carefully justified in terms of all costs and benefits for society as a whole. By reinstating the European Parliaments first reading amendment on data retention GSM Europe feels that the result offers a suitable balance between strengthening individual rights while taking into consideration law enforcement authorities justified requests for data and industry's needs to process data for legitimate business purposes. **GSM Europe therefore urges the Parliament to adopt amendments 2, 20 and 39.**

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