

Annex 1

The new Internet Freedom Provision

Article 1(3)a of the new Framework Directive

“Measures taken by Member States regarding end-users’ access to or use of services and applications through electronic communications networks shall respect **the fundamental rights and freedoms of natural persons, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and general principles of Community law.**

Any of these measures regarding end-users’ access to or use of services and applications through electronic communications networks liable to restrict those fundamental rights or freedoms may **only** be imposed if they are **appropriate, proportionate and necessary within a democratic society**, and their implementation shall be subject to **adequate procedural safeguards** in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms and general principles of Community law, including **effective judicial review and due process**. Accordingly, these measures may **only** be taken with due respect for the **principle of presumption of innocence and the right to privacy. A prior fair and impartial procedure shall be guaranteed**, including **the right to be heard** of the person or persons concerned, subject to the need for appropriate conditions and procedural arrangements in duly substantiated cases of urgency in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms . **The right to an effective and timely judicial review shall be guaranteed.**”