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PRESS RELEASE

Data retention:

E-communications service providers remain seriously concerned with the agreement reached by EU Justice Ministers to store records of every e-mail, phone call, fax and text message.

Brussels – Following agreement at last week's Justice and Home Affairs Council, E-communications service providers, through their trade associations, urge that the European Parliament extends the more balanced approach adopted with respect to traditional telephony services, and in particular on unsuccessful calls and mobile location data, to EU online services.

The E-communications Industry remains seriously concerned that Ministers have failed to address four fundamental areas:

With regard to the **effectiveness** of the proposed Directive, no adequate cost-benefit appraisal has been undertaken to ensure the proportionality of the proposed measures. This is not just poor regulatory practice, but has major real world repercussions, particularly for the Internet industry and ISPs. Although Ministers have consistently acknowledged great uncertainty about the impact of massively increased data retention on the Internet world (50 or more times data to be retained than is currently the case), agreed measures go far beyond existing practice in any developed economy and are not even accompanied by any coherent justification. The Parliament would be failing in its duties if it were to support regulation in the absence of clearly defined reasons for doing so.






With regard to the **effect**, the Directive should set a maximum. Member States should not be able to act at a national level to add further data retention requirements. Otherwise the Directive will fail to safeguard civil rights and privacy and mean that communications service providers and law enforcement agencies face different regulatory regimes across the EU. The Parliament must consider that EU based operators subjected to data retention risk losing customers to non-EU service providers.

With regard to the **scope**, the Directive, as currently drafted, fails to acknowledge the specificities of the online world. The Internet is an inherently global space. Only a fraction of the email services used today would be covered by the EU Directive as the world's largest email providers are not in Europe. The circumvention of the rules by terrorists and criminals would be simple. Anyone wishing to avoid the data retention rules can easily use one of the thousands of e-mail services available around the world. As an example, spam is based in hidden or faked e-mail addresses, yet while spammers demonstrate the limits of email retention, the Council's proposals even require operators to store data from the millions of daily spam emails.

With regard to **cost**, reimbursement of operators and services providers is imperative. The extensive requirements currently set out in the draft Directive are hugely expensive. Unless law enforcement authorities face the additional cost of capturing, storing and retrieving data, there is no means to ensure the right of access to data is used appropriately and proportionately. Furthermore, the cost of complying with the proposals will lead to the economic failure of many companies, particularly ISPs, if a proper reimbursement regime is not implemented.

Industry recognises the efforts of the Parliament and Council to find a better balance on the data requirements for traditional telephony services. However, on the eve of a decisive vote, E-communications service providers urge the European Parliament to address our points on effectiveness, effect, scope and cost specifically as regards Internet communications, so that a viable agreement can be achieved before the end of the UK Presidency.

The contributors to this joint statement are:

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	<p>ETNO (the European Telecommunications Network Operators' Association - www.etno.be) is the voice of the European telecommunications network operators with over a decade of experience in shaping EU telecoms policy. The association represents 41 companies located in 34 European countries. They account for an aggregate annual turnover of more than 210 billion € and employ over one million people across Europe.</p>
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