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Directorate-General for Communications Networks, Content and Technology

Electronic Communications Networks and Services  
**Implementation of the Regulatory Framework**

Brussels, 30 April 2018

**COCOM17-13REV-3**

**COMMUNICATIONS COMMITTEE**

**Working Document**

**Subject: Sanctions for violations of the Net neutrality provisions under the TSM Regulation**

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### **Net Neutrality Penalties - Notifications under Article 6 TSM about penalties and information on the exact level of sanctions**

Article 6 of the Telecom Single Market (TSM) regulation (Regulation (EU) 2015/2120) stipulates that "Member States shall lay down the rules on penalties applicable to infringements of Articles 3, 4 and 5". The deadline to notify the Commission of these rules and measures was 30 April 2016.

1) **Until 17 January 2018** the Commission has received notifications in this regard from 22 Member States. The **6 Member States (AT, HR, CZ, IE, IT and PT)** that have not notified the Commission yet, are kindly requested to do so and to update the Commission about the situation in this regard by contacting [cnect-cocom@ec.europa.eu](mailto:cnect-cocom@ec.europa.eu) and the respective country desk officer. Member States should specify the date of the notification, send the notification document or provide information about the status of the draft measure, if any.

2) The TSM Regulation asks national regulatory authorities to publish reports on an annual basis regarding their monitoring and findings, and provide those reports to the Commission and to BEREC. In addition, BEREC intends to produce an annual report about the implementation of the Regulation and the state of net neutrality in the EU Member States. In order to prepare this annual report, BEREC has prepared a "BEREC Questionnaire on National Implementation of the Regulation (EU) 2015/2120" which is addressed to all NRAs and includes a question<sup>1</sup> regarding Article 6 of the Regulation already.

In addition to that question, all MS are hereby required to provide answers to the following additional questions (not included in the BEREC questionnaire) as regards sanctions for the breaches of the NN provisions (Art. 3, 4 and 5 of Regulation (EU) 2015/2120):

(i) the exact range of fines that are applicable to breaches of Article 3, 4 and 5. Please provide them separately, if it is the case. (Example: The exact range of fines is XX for infringements of Article 3(3) (applying the mentioned traffic management practices). The exact range of fines is XX for infringements of Article

4(1) (not providing the information in the contract). Etc.)

(ii) the exact range of daily/weekly penalty payments and

(iii) whether such fines and penalty payments may be imposed directly by the NRA, another authority or a judge/court.

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<sup>1</sup> Q. 31: "Has your Member State laid down rules on penalties applicable to infringements of Articles 3, 4, and 5 pursuant to Article 6 of Regulation (EU) 2015/2120? Y/N  
If yes, please describe them.  
If no, please outline the plans in your Member State to establish such penalties."

**For the time being, 14 MS (AT, BE, DE, DK, FR, GR, HR, IE, LV, MT, PL, SI, SK and UK) have answered the questions on sanctions and signalled modifications to the Commission.**

3) We are providing you below with an overview that is available to the Commission based on the information provided by each Member State for the telecom country chapters but also after those chapters have been drafted. Please verify, whether the information in this table is correct and accurate and complete and include any modifications directly in the attached table, in track changes, and send them back to the COCOM functional mailbox [CNECT-COCOM@ec.europa.eu](mailto:CNECT-COCOM@ec.europa.eu) by **14 February 2018**.

Nr.	MS	Date of notification	Sanctions	Updated after June COCOM
1.	AT	n/a	<p>Austria did not notify the penalties referred to in Article 6.</p> <p>The Austrian Telecommunications Act contains a general provision on penalties applicable to infringements of an ordinance or an official decision of the regulatory authority based on law. So if an infringement of the net neutrality provisions occurs, the regulatory authority would issue an official decision addressing the violation and subsequently, if the undertaking does not follow the decision, the penalty provision would be applicable. The range of fines is up to 58.000€.</p> <p>As we are aware that this provision is very general in its formulation, we are working on a more specific provision to be incorporated in the Telecommunications Act with the next amendment.</p> <p>The draft for an amendment of the Telecommunications Act has been finalised and the public consultation will start soon. As soon as the public consultation has started, we can provide you with the draft text. The political goal is to bring the proposal into parliament in September and to have a final decision before the end of the year.</p> <p>The amendment will contain specific provisions concerning penalties applicable to infringements of Articles 3, 4 and 5 of Regulation (EU) 2015/2120.</p> <p>The fines imposed by the telecommunications office following an administrative penal proceeding will be up to 58.000€. If there is a repeated infringement, the minimum fine should be 10.000€.</p> <p>In addition, if the regulatory authority establishes that an undertaking has gained economic advantage due to an unlawful act in violation of the respective regulation, the regulatory authority may apply to the Cartel Court to fix an amount for skimming. The amount to be skimmed shall depend on the extent of the economic advantage and may be set by the Cartel Court to be up to 10% of the undertaking's turnover of the preceding year.</p>	Yes, on 3 July 2017.
2.	BE	03/05/2016	<p>The Belgian Institute for Postal Services and Telecommunications (BIPT) monitors net neutrality in Belgium. It can use a wide range of penalties to address violations of net neutrality rules; the requisite implementing measures were notified ahead of the target date of 30 April 2016.</p>	Yes, on 28 July 2017.

Nr.	MS	Date of notification	Sanctions	Updated after June COCOM
			<p>Natural persons can be fined up to EUR 5,000 and legal persons can be fined a maximum of 5% of their turnover and if they do not pursue an activity from which they obtain a revenue, then legal persons can be fined a maximum of EUR 1,000,000.</p> <p>The Belgian Institute for Postal Services and Telecommunications (BIPT) monitors net neutrality in Belgium. With regards to audiovisual media services, the sector regulators of the three language communities in Belgium (Vlaamse Regulator voor de Media (VRM), Conseil Supérieur de l'Audiovisuel (CSA) and Medienrat also have net neutrality monitoring competences.</p> <p><i>(i) the exact range of fines that are applicable to breaches of Article 3, 4 and 5. Please provide them separately, if it is the case. (Example: The exact range of fines is XX for infringements of Article 3(3) (applying the mentioned traffic management practices). The exact range of fines is XX for infringements of Article 4(1) (not providing the information in the contract). Etc.)</i></p> <ul style="list-style-type: none"> <li>- <b>(BIPT)</b> There is no exact range determined per article. The BIPT suggests a fine during the “notice of default” procedure, after which the operator can defend itself. After the defense by the concerned operator, the BIPT takes a final decision on the fine. The initial fine is capped to 5% of the last annual turnover in the electronic communications sector (in case of a repeated offense, the cap is 10%) The concerned operator can appeal before the court of appeal but this appeal does not suspend the fine.</li> <li>- <b>(VRM)</b> There is no exact range determined per article. The VRM can impose fines up to 125.000 euro. The concerned operator can appeal before the Council of State but this appeal does not suspend the fine.</li> <li>- <b>(CSA)</b> There is no exact range of fines determined per article. The CSA can impose a fine of an amount that is not lower than EUR 250 nor higher than 3% of the annual turnover excluding tax. In the event of a repeated infringement within a period of five years, this amount can be increased to 5% of the annual turnover excluding tax (art. 159 § 1 No. 7 of the Decree of the French Community on Audiovisual Media Services). The concerned operator can appeal before the Council of State but this appeal does not suspend the fine.</li> <li>- <b>(Medienrat)</b> There is no exact range determined per article. Regarding electronic communications, the Medienrat may, in the context of the "notice of default" procedure, impose among other measures a fine between 2.500 and 25.000 Euro. The concerned operator can appeal before the Council of State but this appeal does not suspend the fine.</li> </ul> <p><i>(ii) the exact range of daily/weekly penalty payments and</i></p> <ul style="list-style-type: none"> <li>- The BIPT only has the power to impose a single fine for the established infringements (up until present). Imposing penalty payments is the exclusive competence of the courts.</li> </ul>	

Nr.	MS	Date of notification	Sanctions	Updated after June COCOM
			<ul style="list-style-type: none"> <li>- The VRM, the CSA and the Medienrat only have the power to impose a single fine for the established infringements. Imposing penalty payments is the exclusive competence of the courts.</li> </ul> <p><i>(iii) whether such fines and penalty payments may be imposed directly by the NRA, another authority or a judge/court.</i></p> <ul style="list-style-type: none"> <li>- Fines are imposed directly by the BIPT. Imposing penalty payments is the exclusive competence of the courts.</li> <li>- Fines are imposed directly by the VRM, the CSA and the Medienrat. Imposing penalty payments is the exclusive competence of the courts.</li> </ul>	
3.	BG	17/03/2017	Bulgaria has adopted a bill amending the Law on electronic communications in order to transpose the requirements on penalties in Regulation (EC) No 2015/2120 that was published in the State Gazette on 27 December 2016. Bulgarian authorities notified these measures on 13 March 2017. In particular the Law lays down penalties for infringements of Articles 3, 4 and 5 of the Regulation. The maximum fines are: up to €100,000 for certain infringements of Article 3(3) (for traffic management practices); up to €2,500 for Article 4 (not providing the information in the contract); up to €20,000 for Article 5(1) and (2) (specific requirements imposed by the NRA and not providing information to the NRA).	No
4.	CY	11/05/2016	Cyprus adopted a bill transposing the requirements on penalties in Regulation (EC) No 2015/2120 at the beginning of 2016 and notified these measures to the Commission on 26 April 2016, just before the deadline of 30 April 2016. In particular, the law lays down penalties for infringements of Articles 3, 4 and 5 of the Regulation. Maximum fines would be €170,000 for any infringements of these articles. As in the rules on roaming, these fines can be doubled for recurring offences and the OCECPR can withdraw the general authorisation of the offending provider. Secondary legislation supporting the implementation of the transparency measures was published on 3 March 2017. The OCECPR has the necessary powers to monitor and enforce open internet provisions.	No
5.	CZ	n/a	<p>The Czech Republic did not notify the penalties referred to in Article 6 of the Regulation.</p> <p>The penalties applicable to the breach of net neutrality rules were increased with the adoption on 19 July 2017 of the Law 252/2017 amending the Electronic Communications Act 127/2005. These penalties may reach up to CZK 15 000 000 (approximately EUR 600 000) or up to 5 % of the net turnover:</p> <p>Section 118 (12) (p) of Act No. 127/2005 Coll. provides that an undertaking providing a publicly available electronic communications service commits an offense when [...] contrary to a directly applicable European Union rules governing common rules to ensure fair and non-discriminatory handling of traffic in the provision of Internet access services and the provision of related end-user rights (1) does not provide access to the open Internet, or (2) does not ensure that a contract that includes Internet access services contains the required data, (3) does not introduce transparent, simple and effective procedures for dealing with end-user complaints. A fine may be imposed for an offense under Section 118, up to [...] CZK 15 000 000 or up to</p>	Yes, 19 February 2018

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			5 % of the net turnover of the perpetrator of an offense committed for the last completed accounting period, whichever is the higher [...]	
6.	DE	03/07/2017	The Draft of a Third Law Amending the Telecommunications Act <sup>2</sup> sets out the rules on penalties under Article 6 of Regulation (EU) 2015/2120. In particular, it stipulates administrative fines for certain infringements of Article 3 and Article 4 of Regulation (EU) 2015/2120. The maximum fine is €500,000 for certain infringements of Article 3(3)(3) (applying the mentioned traffic management practices), and for infringements of executable administrative orders based on Article 5(1). The maximum fine is €100,000 for infringements of Article 4(1) (not providing the information in the contract) and maximum €10,000 for infringements of Article 5(2) (not providing information at all, correctly, completely or in time to the national regulatory authority (NRA)). Furthermore, penalty payments of up to € 500,000 may be imposed in order to enforce an administrative order. The German regulatory authority, Bundesnetzagentur, is competent both for imposing fines and penalty payments with regard to net neutrality violations. On 12 October 2016, the Federal Government published an update of the draft law. <sup>3</sup> In May 2017, the Upper House of German Parliament finally adopted the Third Law Amending the Telecommunications Act. Promulgation of the new act was on 3 July 2017. On the same day the Federal Government notified the European Commission. The new rules on penalties entered into force on 4 July 2017.	Yes, on 04 July 2017 and on 05. February 2018.
7.	DK	29/04/2016	The Danish Energy Agency is responsible for net neutrality and the regulation on open internet access in Denmark. According to Executive Order no. 324 of 31 March 2016 <sup>4</sup> the Danish Energy Agency may issue injunctions for compliance with provisions of the Regulation on Open Internet Access (and Roaming). If the party has failed to comply with the injunction, the Danish Energy Agency may impose administrative fines to enforce compliance therewith. The exact amount of the administrative fines is not defined, but they should be large enough to enforce compliance with the imposed injunction. The administrative fines can be imposed daily until compliance is in place and the amount of the administrative fines can be increased if necessary to enforce compliance.	Yes, on 29 June 2017.
8.	EE	31/05/2016	As regards penalties imposed under Article 6 of Regulation 2015/2120, ETRA is responsible for monitoring compliance with the requirements laid down in Articles 3, 4, 5 and 7 of the Regulation. The Electronic Communications Act, the Administrative Procedure Act and the Law Enforcement Act lay down rules and	No

<sup>2</sup> *Gesetzentwurf der Bundesregierung — Entwurf eines Dritten Gesetzes zur Änderung des Telekommunikationsgesetzes*, Drucksache 436/16, 12.08.2016 (<https://www.bundestag.de/blob/478034/fb0659ec8ffd73e256611b6e9ca9b6a4/vorlage-18-9951-data.pdf>).

<sup>3</sup> *Gesetzentwurf der Bundesregierung — Entwurf eines Dritten Gesetzes zur Änderung des Telekommunikationsgesetzes*, Drucksache 18/9951, 12.10.2016 (<http://dip21.bundestag.de/dip21/btd/18/099/1809951.pdf>).

<sup>4</sup> <https://www.retsinformation.dk/Forms/R0710.aspx?id=179230>

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			penalties of up to €9,600. It remains to be seen whether such penalties will have a deterrent effect.	
9.	ES	28/04/2016	<p>Some parts of the Spanish <i>Ley General de Telecomunicaciones</i> regarding penalties and transparency are directly applicable also in the net neutrality field.</p> <p>The maximum fine possible according to the law is € 2 mn. However, the fine is graduated depending on the seriousness of the breach, the number of users involved and other circumstances. The usual fine for a breach on user rights as it would be the case of a breach of net neutrality is between 250,000€ and € 1 mn.</p>	No
10.	FI	24/05/2016	<p>Under section 304 of the Information Society Code (Tietoyhteiskuntakaari, act n:o 917/2014 as amended by act n:o 456/2016), sections 302, 303, 308, 309, 311-315, 325, 330-332, 336, 340, 344 and 345 also apply to the supervision of compliance with Regulation (EU) No 531/2012 and Regulation (EU) 2015/2120 and to the consequences of violation and resolution of disputes arising from said regulations. Under section 332, FICORA may support an order to rectify a violation by imposing a conditional fine.</p> <p>The amount of a conditional fine is determined in accordance with the Act on Conditionally Imposed Fines (Uhkakasakkolaki, 1113/1990). Under Section 8 of that act, the amount of the conditional fine should be determined on the basis of the nature and the extent of the primary obligation in question, together with the solvency of the party on whom the fine is imposed and any other relevant facts. A conditional fine may be either fixed or time-based (e.g. per week of non-compliance) and may be renewed and its amount reconsidered if the violation is not remedied. There is no predetermined range for the amount of a conditional fine, although such fines are usually found in the range of 50 000 to 100 000 Euros.</p> <p>FICORA imposes the conditional fine directly and may order it to be paid if the violation in question is not rectified within a reasonable time period as specified in its order to rectify the violation.</p>	Yes, on 02.02.2018
11.	FR	08/06/2017	<p>Following the adoption of Regulation (EU) 2015/2120, the French Digital Republic Act specifies that ARCEP is the authority in charge of ensuring open internet access, in particular in terms of Articles 3 and 5 of the Regulation. Open internet access is covered by the general enforcement powers of ARCEP (in particular Article L.36-11 of the French Postal and Electronic Communications Code further to the amendments that the French Digital Republic Act brings to this article). If a market player infringes the Regulation and ignores a formal demand to cease the infringement, it could be penalised to the tune of up to 3% of its annual turnover (or 5% in the event of a repeated infringement) or, as a last resort, could be prohibited from distributing a service. The law also provides for specific powers to collect information from all market players on issues such as traffic management.</p> <p>Les autorités françaises ont notifié le régime des sanctions applicables en cas d'atteinte à la neutralité de l'internet le 8 juin dernier.</p> <p>Les autorités françaises valident les informations reportées dans le tableau annexé au document de la Commission.</p>	Yes, on 06 July 2017.

Nr.	MS	Date of notification	Sanctions	Updated after June COCOM
			<p>Pour répondre spécifiquement aux questions complémentaires posées par la Commission, les précisions suivantes pourront être apportées :</p> <p>Les sanctions peuvent être imposées directement par l'autorité de régulation nationale, à savoir l'ARCEP, en vertu de l'article L. 36-11 du code des postes et des communications électroniques. L'ARCEP est en effet chargée de contrôler le respect des dispositions relatives à la neutralité de l'internet aux termes de l'article L. 36-7. Lorsqu'un fournisseur de service d'accès à internet ne respecte pas les dispositions relatives à la neutralité du net, l'ARCEP, dans sa formation compétente<sup>5</sup>, le met en demeure de s'y conformer dans un délai qu'elle détermine. Lorsqu'aux termes de ce délai, le fournisseur n'a pas mis en œuvre les exigences requises, l'ARCEP, dans sa formation en charge des étapes d'instruction et de poursuite, peut notifier les griefs à la personne en cause et transmet alors le dossier d'instruction et cette notification à la formation restreinte. La formation restreinte peut prononcer à l'encontre du fournisseur de service d'accès à internet, l'une des sanctions suivantes, qui peuvent faire l'objet d'un recours de pleine juridiction et d'une demande de suspension présentée conformément à l'article L. 521-1 du code de justice administrative, devant le Conseil d'Etat :</p> <ul style="list-style-type: none"> <li>- la suspension totale ou partielle, pour un mois au plus, du droit d'établir un réseau de communications électroniques ou de fournir un service de communications électroniques, ou le retrait de ce droit, dans la limite de trois ans ;</li> <li>- la suspension totale ou partielle, pour un mois au plus, la réduction de la durée, dans la limite d'une année, ou le retrait de la décision d'attribution ou d'assignation prise en application des articles L. 42-1 ou L. 44 ;</li> <li>- une sanction pécuniaire dont le montant est proportionné à la gravité du manquement et aux avantages qui en sont tirés, sans pouvoir excéder 3 % du chiffre d'affaires hors taxes du dernier exercice clos, taux porté à 5 % en cas de nouvelle violation de la même obligation. A défaut d'activité permettant de déterminer ce plafond, le montant de la sanction ne peut excéder 150 000 €, porté à 375 000 € en cas de nouvelle violation de la même obligation.</li> </ul> <p>Ce régime de sanction est le même quelle que soit l'obligation à laquelle le fournisseur de service d'accès à internet a contrevenu, et s'applique donc pour les articles 3 à 5 du règlement 2120/2015 sur la neutralité de l'internet.</p>	
12.	GR	31 May 2017	General penalties are applied according to the administrative sanctions described in article 77 of the Greek law 4070/2012 and allow EETT to impose fines of up to €3 million and, in the case of serious and recurrent infringements, suspend or withdraw the general authorisation.	Yes, on 29 June 2017.
13.	HR	n/a	<u>(i)</u> The exact range of fines for all breaches is HRK 100,000.00 to 1,000,000.00 for legal person and HRK 20,000.00 to 100,000.00 for a responsible person in the legal person. All breaches are contained in the same	Yes, on 3 July 2017 and on 14. February 2018.

<sup>5</sup> Formation de règlement des différends, de poursuite et d'instruction de l'Autorité



Nr.	MS	Date of notification	Sanctions	Updated after June COCOM
			<p>provision i.e. Article 119, Paragraph 1 and Subparagraph 70. of Electronic Communications Act (OG 73/08, 90/11, 133/12, 80/13, 71/14, 72/17).</p> <p><u>(ii)</u> No imposition of daily/weekly penalties is provided.</p> <p><u>(iii)</u> The NRA (HAKOM) has a power to initiate misdemeanour proceedings before the competent court and to propose the fine. The NRA may impose the fine directly, but it would be automatically suspended in case of the appeal. The final imposition of the penalty is therefore a sole authority of the court.</p>	
14.	HU	21/12/2016	In line with Article 6, the Hungarian NRA can impose a wide range of penalties, as provided for in Act C of 2003 on electronic communication. Penalties range from a simple warning to fines of up to 0.5% of the annual revenue of the company concerned.	No
15.	IE	n/a	<p>Ireland has not yet laid down the rules on the penalties referred to in Article 6.</p> <p>Regulations to provide for sanctions for violations of the net neutrality provisions of the TSM Regulation are in preparation. Non-compliance by undertakings with their obligations under Articles 3, 4 and 5 will be a criminal offence, liable on conviction by a court to a fine of up to €5000. Where an undertaking has not complied with an obligation or requirement under the TSM, the Regulator may apply to the High Court for an order of compliance, including an order directing the remedy of any non-compliance. The Regulator may also apply for an order to pay to the Regulator a financial penalty for the period of non-compliance. The High Court shall decide the amount of the penalty having regard to the duration and effect on consumers and other operators of the non-compliance, the submission by the Regulator on the appropriate amount, and any evidence that the undertaking has profited as a result of the non-compliance. The High Court is not limited in the amount of a penalty it can impose. Under the Irish Constitution, no body other than a court of law can impose sanctions or penalties.</p> <p>The Commission for Communications Regulation (ComReg) is the competent authority for enforcement of the TSM Regulation.</p>	Yes, on 14 July 2017.
16.	IT	n/a	<p>Italy adopted in November 2017 the "European Law" whose Article 4 amends Article 98 of the Italian Electronic communication Code introducing a new level of sanctions for the breaches of Regulation 2015/2120. The new paragraph 16- <i>bis</i>, 16-<i>ter</i> and 16 -<i>quater</i> of the above mentioned Italian Electronic Communication Code read as follows:</p> <p>16-<i>bis</i>. In the event of a violation of Article 3, paragraphs 1, 2, 5, 6 and 7, Article 4, paragraphs 1, 2 and 3, Article 5, paragraph 1, Article 6-bis, Article 6-ter, paragraph 1, Article 6-quater paragraphs 1 and 2 of Article 6-sexies, paragraphs 1, 3 and 4, Article 7 (1), (2) and (3), Article 9, Article 11, Article 12 of the Article 14, Article 15, paragraphs 1, 2, 3, 5 and 6, or Article 16, paragraph 4 of Regulation (EU) No 531/2012 of the</p>	Yes, in December 2017.

Nr.	MS	Date of notification	Sanctions	Updated after June COCOM
			<p>European Parliament and of the Council of 13 June 2012 on roaming on networks public communications services within the Union, such as amended by Regulation (EU) 2015/2120 and by Regulation (EU) 2017/920, the Authority imposes a pecuniary administrative sanction from € 120,000 to € 2,500,000 and order the immediate cessation of the violation. The Authority also orders the operator the reimbursement of sums unduly charged to users, indicating a deadline for complying, that in any case cannot be less than thirty days. If the Authority finds, at a summary examination, the existence of an infringement of Article 3, paragraphs 1, 2, 5 and 6, Article 4, paragraphs 1, 2 and 3, Article 5, paragraph 1, Article 6-bis, Article 6-ter, paragraph 1 of the Article 6-quater, paragraph 1, Article 6-sexies, paragraphs 1 and 3, Article 7 (1) of Article 9 (1) and (4) of the Article 11, Article 12 (1) of Article 14 or Article 15, paragraphs 1, 2, 3, 5 and 6 of the aforementioned Regulation (EU) n. 531/2012, and subsequent modifications, and finds that here are reasons of urgency due to the risk of significant damage for the functioning of the market or for the protection of users, it may adopt, having previously heard from the interested operators and pending of the adoption of the final decision, temporary measures to suspend the conduct with immediate effect.</p> <p>16-ter. In the event of a violation of Article 3, Article 4 (1) and (2) or Article 5 (2) of <b>Regulation (EU) 2015/2120</b> of the European Parliament and of the Council of 25 November 2015 establishing measures concerning access to an <b>open Internet</b> and amending Directive 2002/22 / EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union, the Authority imposes a pecuniary administrative sanction from € 120,000 to € 2,500,000 and orders the immediate termination of the violation. If the Authority finds, to a summary examination, the existence of a violation of Article 3, paragraphs 1, 2, 3 and 4 of the aforementioned Regulation (EU) 2015/2120 and considers there are grounds for urgency due to the risk of a damage of considerable gravity for the functioning of the market or for the protection of users, may adopt, having heard the operators concerned and pending the adoption of the definitive provision, temporary measures to suspend the conduct with immediate effect.</p> <p>16-quater. The Authority may request the publication of the measures adopted pursuant to paragraphs 16-bis and 16-ter, at the expense of the operator, on the means of communication deemed most appropriate, even with publication in one or more newspapers with national diffusion.</p>	
17.	LT	08/07/2016	<p>RRT notified the European Commission by 8 July 2016 of Lithuania's national measures implementing Article 6 of Regulation (EU) 2015/2120. If the Regulation is breached, RRT can impose fines under Article 74 of the Law on Electronic Communications.</p> <p>If a market player infringes the Regulation and ignores a formal demand to cease the infringement, it could be fined up to 3% of its annual gross income from activities associated with electronic communications. If it</p>	No

Nr.	MS	Date of notification	Sanctions	Updated after June COCOM
			is difficult or impossible to calculate the volume of such activity, a fine of up to €144,810 may be imposed. A fine of 5%, or up to €5,792, may be imposed when is difficult or impossible to calculate the volume of such activity in the case of a repeat offence. Where the annual gross income is less than €86,886 a fine of up to €2,896 is imposed. In the case of a repeated or serious infringement the fine goes up to €5,792. If an undertaking fails to comply with the obligation imposed by RRT to discontinue illegal activities or does not comply with the requirements of RRT, the Authority has the right to fine the undertaking up to €14,481. In the event of continuous infringement a fine of up to €1,448 for each day of continued infringement can be imposed.	
18.	LU	15/06/2016	In accordance with article 83 of the Telecoms Law (Loi du 27 février 2011 sur les réseaux et les services de communications électroniques), as amended, the national NRA (ILR – Institut Luxembourgeois de régulation), can take sanctions in accordance with articles 3, 4, and 5.2 of the Regulation 2015/2120. The maximum fine is 1.000.000 euros. In addition, ILR may impose, either instead or in addition to the fine, one or more of the following disciplinary sanctions: a public warning, the prohibition to perform certain operations or to provide certain services, the temporary suspension of one or more executives of the company. An appeal for judicial review can be lodged by the Administrative Court against any decision taken by the ILR.	Yes, on 13 April 2018
19.	LV	08/07/2016	According to the notification of Latvian authorities of 7 July 2016, Article 158.6 of the Latvian Administrative Sanctions Code was amended by 16 June 2016 law, which entered into force on the 13 July 2016 to provide the following sanctions for breach of open internet access: 'a warning or imposing a fine on individuals from seventy to seven hundred Euro, officials - from hundred and forty to seven hundred euros, and for legal entities - from two hundred eighty up to fourteen thousand euro.' The new sanctions entered into force on 13 July 2016. The Regulator is eligible to impose such sanctions.	Yes, on 06 July 2017 and on 14. February 2018.
20.	MT	21/03/2017	The relevant amendments to national legislation were made in 2016. Penalties and sanctions are regulated in the Malta Communications Authority Act (MCAA) <sup>6</sup> . In case of a breach of EU relevant legislation (for instance norms under Regulation 2015/2120/EU), administrative fines not exceeding €350,000 for each infringement and/or €12,000 for each day of non-compliance may be imposed. If the infringement in the opinion of the MCAA has ' <i>especially significant effects on the market to the detriment of competitors and/or consumers</i> ' the amount of the fine may be increased up to 5% of the	Yes, on 07 July 2017 and on 08. February 2018.

<sup>6</sup> More precisely, this is regulated under Part VI of the Malta Communications Authority Act (MCAA), Cap. 418 of the Laws of Malta, introduced following the enactment of Act XVIII of 2016, in particular Article 33 of the MCAA.

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			<p>turnover of the undertaking concerned for the year immediately preceding when the infringement was committed. This provision<sup>7</sup> came into force on 30 April 2016.</p> <p><u>(i) the exact range of fines that are applicable to breaches of Article 3, 4 and 5. Please provide them separately, if it is the case. (Example: The exact range of fines is XX for infringements of Article 3(3) (applying the mentioned traffic management practices). The exact range of fines is XX for infringements of Article 4(1) (not providing the information in the contract).</u></p> <p>There are no specific fines or sanctions targeted at these provisions and hence the general provisions regulating fines apply. The fines applicable range up to a maximum of €350,000 per infringement and may include a daily fine of up to €12,000 for each day of non-compliance. If the act or omission has especially significant effects on the market the amount may be increased up to 5% of the turnover of the undertaking concerned for the previous year of business. These norms apply to all infringements. The MCA, in determining the amount, is required to take into account the nature and extent of the infringement, its duration and its impact on the market and on consumers.</p> <p><u>(ii) the exact range of daily/weekly penalty payments and :</u></p> <p>See reply to (i) above</p> <p><u>(iii) whether such fines and penalty payments may be imposed directly by the NRA, another authority or a judge/court.</u></p> <p>The administrative fines are imposed by the NRA (Malta Communications Authority). There is a right of appeal before the Administrative Review Tribunal (ART). There is also a further right of appeal from a final judgment of the ART to the Court of Appeal (Inferior).</p>	
21.	NL	14/11/2016	<p>The Netherlands has laid down rules on applicable penalties for infringements of Articles 3, 4 and 5 of the Regulation and the necessary measures to ensure that they are implemented according to Article 6. The legal power to issue penalties for infringements will be laid down in Article 15.1 (3) and 15.4 (3)a of the Telecommunications Act. However, by end of year 2016 ACM did not yet have the power to apply penalties due to an error in the law which assigned it this legal power.<sup>8</sup> The ACM's power to enforce the Regulation (this excludes its power to fine ISPs) has been effective since 3 November 2016 and is retroactive to 30 April 2016.</p> <p>The level of sanctions is included in article 15.4 of the Dutch Telecommunications Act. In para 3 of this article, it is stated that for violations of net neutrality rules ACM can charge a maximum fine of € 900.000, or, if that is higher, 10% of the company's revenue. Usually this refers in practice to the "relevant revenue" not</p>	No

<sup>7</sup> Paragraph 7 of Article 20 of Act XVIII of 2016, which effectively provided for the application of Part VI of Cap. 418, came into force on 30 April 2016, as per Legal Notice 172 of 2016.

<sup>8</sup> ACM is competent to hand out penalties since 28th of February 2017.

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			<p>the "total revenue" of the business. The relevant revenue is the revenue that was made with the service(s) that the violation pertains to. In the case of Lycamobile, for example, this was the revenue resulting from calls to and from other countries.</p> <p>In some cases the relevant revenue and resulting fine may not adequately reflect the severity of the violation. In that case ACM may decide to use a broader definition and may, for example, use the total (annual) revenue of the company. So ACM has some flexibility in determining which revenue to use.</p>	
22.	PL	08/06/2016 03/08/2016	<p>(i) According to Article 209(1)(29a) of the Telecommunications Act, any person who fails to fulfil obligations specified in Articles 3, 4 and 5(2) of the Regulation (EU) No. 2015/2120 of the European Parliament and of the Council of 25 November 2015, shall be liable to a financial penalty.</p> <p>As stated in Article 210, a financial penalty shall be imposed by the President of the Office of Electronic Communications (President of UKE), by means of a decision, in the amount of up to 3% of the revenues of a fined entity for the past calendar year. In determining the amount of a financial penalty, the President of UKE shall take account of the scope of the violation, the past record of an entity and its financial potential. The decision to impose a financial penalty shall not be immediately enforceable and is subject to appeal to the District Court in Warsaw - the Court for Competition and Consumer Protection, as stated in Article 206(2)(3).</p> <p>An entity shall provide the President of UKE, at his/her request, within 30 days of receipt thereof, with the data necessary to specify the basis of a financial penalty. Where an entity in question should fail to provide the required data or where such data should prevent the assessment of the basis of a financial penalty, the President of UKE may make his/her own assessment of the amount of a financial penalty, but never less than the amount of PLN 500,000 (which is around €118,000, according to the currency exchange as of 12 June 2017). If the period of the entity's operation is shorter than a calendar year, the basis for a financial penalty shall be established at the level of PLN 500000.</p> <p>Irrespective of the above financial penalty, the President of UKE may impose a financial penalty on a person in charge of a telecommunications undertaking, in particular a person performing managerial functions or a member of a management body of that telecommunications undertaking or of an association of such undertakings, up to 300% of his/her monthly remuneration.</p> <p>(ii) The Telecommunications Act does not stipulate any other financial payments, including daily/weekly financial payments, than those stated above.</p> <p>(iii) The authority in charge at national level is the President of UKE and such financial penalties may be imposed directly by the NRA.</p>	Yes, on 23 June 2017.
23.	PT	n/a	It is currently expected the amendment of the Electronic Communications Law in order to include the	No

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			sanctioning regime applicable to any failure to comply the provisions of EU Regulation 2015/2120. The sanctioning regime could not be approved by ANACOM as it must be approved by law.	
24.	RO	18/05/2016	<p>According to article 142 point 55 of the GEO no. 111/2011, non-compliance of the obligations deriving from the regulations of the European Union in the field of electronic communications and terminal equipment, where the competence of monitoring and checking the compliance with such obligations sits with the national regulatory authority, represents a contravention. On 16 May 2016, the Romanian authorities notified to the Commission about the NRA's powers to enforce Regulation (EU) 2015/2120.</p> <p>Non-observance of Articles 3, 4 and 5 of Regulation (EU) 2015/2120 triggers the application of sanctions pursuant to Article 143 of GEO Government Emergency Ordinance No 111/2011.</p> <p>Article 143 of the Government Emergency Ordinance No 111/2011: Contraventions will be sanctioned:</p> <p>a) with fine ranging from RON 5,000 (€1,100) to RON 60,000, (€13,000) and, if there are repeated breaches, with a fine of up to RON 100,000 (€22,000);</p> <p>b) [...] for persons with a turnover exceeding RON 3,000,000 (€667,000), with fine of up to 2% of turnover, and, if there are repeated breaches, with fine of up to 5% of turnover.</p>	Yes, on 14.February 2018
25.	SE	09/06/2016	<p>Sweden has laid down rules on penalties for infringements of Articles 3, 4 and 5 of Regulation (EU) 2015/2120 and the necessary measures to ensure that they are implemented in accordance with Article 6 of Regulation (EU) 2015/2120.</p> <p>Amendments to the Act on Electronic Communications were adopted on 23 March 2016 (SFS 2016:344) and came into force on 30 April 2016. These were notified to the Commission on 9 June 2016. Under that Act PTS may issue orders and bans necessary to ensure compliance with the obligations stemming from Regulation (EU) 2015/2120. In this context, PTS may issue fines as deemed appropriate.</p> <p>The monetary amount of fines is in principle unlimited. The amount should be high enough to be dissuasive, but not excessive, taking into account the principle of proportionality.</p>	No
26.	SI	28/04/2016	<p>Decree on the implementation of the Regulation (EU) laying down measures concerning open internet access (Official Gazette of RS, Nr. 29/16)<sup>9</sup>, adopted on 20th of April 2016, layed down the rules on penalties in line with the TSM Regulation. Penalties are specified in Article 4.</p> <p>The exact range of fines for infringements of Article 3, Article 4 (1, 2) or Article 5 (1, 2) of TSM Regulation is between €500 and €15,000 for a smaller undertaking and entrepreneur and between €20,000 and €50,000 for a medium or large undertaking. Moreover, Decree provides imposition of fines on responsible individuals in the companies or entrepreneur ranging between €200 and €2,000.</p> <p>(i) the <u>exact range</u> of fines that are applicable to breaches of Article 3, 4 and 5. Please provide them</p>	Yes, 26 July 2017.

<sup>9</sup> <http://www.uradni-list.si/1/objava.jsp?sop=2016-01-1179>

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			<p>separately, if it is the case. (Example: The exact range of fines is XX for infringements of Article 3(3) (applying the mentioned traffic management practices). The exact range of fines is XX for infringements of Article 4(1) (not providing the information in the contract). Etc.)</p> <p>Legal basis at the level of national legislation is Decree on the implementation of the Regulation (EU) laying down measures concerning open internet access (Official Gazette of RS, Nr. 29/16), adopted on 20<sup>th</sup> of April 2016. Penalties are specified in Article 4.</p> <p>The exact range of fines for infringements of Article 3, Article 4 (1, 2) or Article 5 (1, 2) of the TSM Regulation is between €500 and €15,000 for a smaller undertaking and entrepreneur and between €20,000 and €50,000 for a medium or large undertaking. Moreover, the Decree provides imposition of fines on responsible individuals in the companies or entrepreneur ranging between €200 and €2,000.</p> <p>(ii) the <u>exact range</u> of daily/weekly penalty payments and N/A</p> <p>(iii) whether such fines and penalty payments may be imposed directly by the NRA, another authority or a judge/court.</p> <p>Agency for communication networks and services of RS (hereinafter: AKOS) is competent authority to impose such fines.</p>	
27.	SK	15/05/2017	<p>Penalties for violations of the Net neutrality under the TSM regulation are set out in Article 73 paragraph 1 letter b) of the Act No. 351/2011 Coll. on Electronic Communications as amended. These penalties were introduced by amendment to the Act on Electronic Communications, adopted on 29 November 2016 (under the Act No. 353/2016 Coll.). The Commission was notified of the amendment (and on penalties) on 15 May 2017.</p> <p>The Regulatory Authority for Electronic Communications and Postal Services (NRA) shall impose on the undertaking that has not fulfilled or has violated obligations stipulated in Article 3 paragraphs 2 to 5, Article 4 paragraphs 1 and 2 and Article 5 paragraph 2 of the TSM Regulation penalties ranging from 500 eur up to 5 % of the undertaking turnover of the previous accounting period.</p> <p>That range of penalties is applicable to breaches of Articles 3, 4 and 5, there is no separate (or specific) range for any of these Articles.</p> <p>There are no daily/weekly penalty payments. When imposing a penalty, NRA shall in particular take into account the severity, manner, duration and impacts of failing to fulfil the obligation. And, according to the Act on Electronic Communications, in case of repeated breach of obligation, a penalty may be imposed repeatedly.</p> <p>Penalties may be imposed directly by the NRA.</p>	Yes, on 30 June 2017.

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28.	UK	30/05/2016	<p>In the Open Internet Access (EU Regulation) Regulations 2016,<sup>10</sup> the UK has laid down the rules on penalties applicable to infringements of Articles 3, 4 and 5 of Regulation (EU) 2015/2120 in accordance with Article 6 of Regulation (EU) 2015/2120. The Open Internet Access (EU Regulation) Regulations 2016 came into force on 17 June 2016. A penalty of up to GBP 2,000,000 may be imposed for breaching an information requirement and a penalty of up to 10% of the turnover of the provider's relevant business for the relevant period in the case of other breaches. If Ofcom has given a notification for more than one breach, a separate penalty may be specified for each breach. Additionally a daily penalty can be imposed for each day when the breach continues after the period specified in the main penalty, but it should not exceed GBP 500 per day for a breach of information requirement and GBP 20,000 per day in case of other breaches.</p> <p><u>Ofcom answers:</u></p> <p>"Information requirement" is defined in the UK legislation as a requirement under Article 5(2) of the Regulation so the ranges would be as follows:</p> <p>Article 3 and Article 4 obligations: Fine from £0 to 10% of turnover. Penalty from £0 to £20,000/day</p> <p>Article 5 obligations: From £0 to £2million: Penalty from £0 to £500/day</p> <p>These fines and penalties may only be imposed by the NRA.</p>	Yes, on 27 June 2017.

<sup>10</sup> <http://www.legislation.gov.uk/uksi/2016/607/contents/made>.