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New EU Telecoms Package Agreed upon on 5th November 2009**10 November 2009**

On 5th November 2009 the European Parliament and the Council of Ministers finally agreed on a package of EU Telecoms Reforms involving five directives and referred to as the "Telecoms Package." The Telecoms Package will apply to communication providers, such as telecoms and Internet service providers (ISPs), but not to companies who merely access the Internet to provide services to users.

The provisions of the Telecoms Package were endorsed by an overwhelming majority of the European Parliament in May this year. However, one provision had remained controversial between Parliament and the Council of Ministers, and that was the degree to which access to the Internet should, and could, be protected by EU law, as well as the procedural and judicial safeguards for Internet users. This controversial and timely debate centred on whether, for example, EU countries should be permitted to implement the "three-strikes rule" and require ISPs to shut down Internet service if the service is being used for repeated instances of unlawful file sharing, whether such action should be taken, whether it could in reality be implemented, what jurisdiction's law would govern, and whether the action could be taken with or without recourse to judicial review or other court action. All of the other provisions of the Telecoms Package were agreed upon, but this provision, referred to as the new "Internet Freedom Provision," was not. Accordingly, it was attached as an annex to the Package to be voted on in the forthcoming weeks.

Of the agreed reforms in the Telecoms Package, perhaps the most significant reforms for consumers and communication providers alike were the following:

1. A right of European consumers to change, in one working day, their fixed or mobile operator while keeping their old phone number;
2. More transparency in consumer contracts including the provision of realistic information on the minimum service-quality levels that the consumers might expect to achieve;
3. Greater flexibility in choosing and changing between competing broadband service providers;

This memorandum is intended only as a general discussion of these issues. It is not considered to be legal advice. We would be pleased to provide additional details or advice about specific situations. For additional information on this important topic, please feel free to call upon your Dewey & LeBoeuf relationship partner.

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4. Establishment of a new European Telecoms Authority to promote greater competition and more consistent regulation of the telecoms market and more harmonisation of possible regulatory remedies;
5. Encouragement of investment in the development of the next generation access networks; and
6. Acceleration of the plans to make broadband accessible to all Europeans.

The Telecoms Package also introduced greater protection against spam, cookies and similar devices and, more significantly, against personal data breaches by including mandatory notification for data security breaches — **the first law of its kind in Europe**. This means that communication providers will be obliged to inform the regulators and their customers about personal data security breaches. More information on this issue is provided in the Dewey & LeBoeuf Client Alert — ***"First EU Law Mandating Notification by Telecoms and ISPs of Personal Data Security Breaches."***

Although the Telecoms Package reforms have been debated since 2007, and although by May 2009 the reforms seemed to be more likely than not to be implemented, many communication providers may be unprepared for the changes. In addition to the technological changes, their contracts and privacy policies will need to be changed not only for Europe, but also for their global operations: the reforms can have global ramifications depending on the location of the communication providers' control centres and technology. There is still time to make these changes. The new Internet Freedom Provision will be voted on within the next six weeks; the entire Telecoms Package is likely to come into force by early 2010; and the reforms are likely to be implemented into national legislation by the 27 EU countries by May 2011.

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