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Protocol 26 and the Promotion of User Rights

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Protocol 26 and the Promotion of User Rights

Who's a user?

Promotion of User Rights

Judicial interpretation / Treaty revisions and secondary legislation

Protocol 26 & Article 14 TFEU

Focus and objectives

User Rights and the other Values in Protocol 26

The content of user rights / Universal and public service obligations
/ User access to data

Rights and Realities

Enforcing rights and the complaints process



User Rights and the Values of Protocol 26

Who's a User?

- Telecoms – end-user; consumer; customer; subscriber
- Post – user; consumer; customer; citizen; sender; addressee
- Energy – user (end; storage; facility; system; network);
consumer (citizen; business); customer
- Transport – user; passenger; traveller; public; general public



Promotion of User Rights

Judicial interpretation

Case 120/78 Cassis - mutual recognition - the defense of the consumer and consumer choice

Case C-362/88 GB-INNO-BM – information and market access

Case C-320/91 Corbeau – public service obligation - *on behalf of all users*

Case C-402/07 Sturgeon – right to compensation

Promotion of User Rights

Policy and legislative development



- Preliminary Programme (1975) OJ C 92/2
- SEA 1986 – ‘a high level of protection’ in consumer policy
- The legislative development of the consumer *acquis*
- COM(2000) 580 final – Services of General Interest



Promotion of User Rights

Policy and legislative development

- COM(2000) 580 final – Services of General Interest - Principles
 - clarity of obligations
 - good quality service provision
 - high levels of public health and physical safety
 - full transparency
 - choice of service and where appropriate supplier
 - regulatory bodies independent of operators
 - redress in the form of complaint handling and dispute settlement mechanisms



Protocol 26 & Art. 14 TFEU

Focus and objectives

- Services of General Economic Interest (SGEI)
- promoting social and territorial cohesion
- basis of principles and conditions
- providing, commissioning and organising SGEI
- diversity between various SGEI
- differences in the needs and preferences of users
- as closely as possible to the needs of the users
- a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.



User Rights and the Values of Protocol 26

The Content of User Rights

Values

Quality

Safety

Affordability

Equal treatment

Universal access

Operational Objectives

Quality of Service (quality)

Market information (choice)

Transparency (services and costs)

Affordability (universal access)

Non-discrimination (equal treatment)

Continuity of service (safety of supply?)



User Rights and the Values of Protocol 26

Information and essential conditions – Obligations

- National independent regulatory authorities
- Contract – specifying the service to be offered
- Performance monitoring – QoS measures
- Consumer (User) consultation and contact
- Transparent complaint handling processes
- Operating transparency
- Choice and competition
- Personal data privacy
- Independent complaint and ADR bodies
- Social welfare

User Rights and the Values of Protocol 26 *access to data*



- Art. 8 - Charter of Fundamental Rights - the right to protection of personal data & and of access to data
- Directive 95/46/EC – protection and free movement of personal data
- Data protection rules are divergent and inconsistent
- Proposals for change
 - COM (2012) 9 final (framework)
 - COM (2012) 10 final (directive)
 - COM (2012) 11 final (regulation)

User Rights and the Values of Protocol 26 *access to data*

- Proposals for change - Rights of the data subject
 - COM (2012) 10 final (proposed directive)
 - Article 11 - Information to the data subject
 - Article 12 - Right of access for the data subject
 - Article 13 - Limitations to the right of access
 - Article 15 - Right to rectification
 - Article 16 - Right to erasure

PROVIDING HIGH-QUALITY PUBLIC SERVICES IN EUROPE BASED ON THE VALUES OF PROTOCOL 26 TFEU



Rights and Realities

Enforcing rights and the complaints process

- 750 + diverse ADR schemes
- Energy sector - a lack of awareness and a lack of respect of core principles
- User engagement/or the lack of it – EB 342 consumer empowerment
 - the value of the detriment
 - too much effort, too expensive or takes too long
 - ADR threshold values
 - Complaining redress and vulnerable consumers