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Subject: Proposal for a Directive of the European Parliament and of the Council
establishing the European Electronic Communications Code (Recast)
- Preparation for the trilogue

I. INTRODUCTION

1. Following the two trilogues held in October and December, and the four trilogues held in February and March 2018, the Presidency will now request on 20 April a mandate from the Coreper in view of the trilogue of 25 April.

2. For the Presidency, the aim of this trilogue is to find a political agreement primarily on the access, governance and some end-users' issues, as well and outline the contours of the political agreement on the remainder of the Code, which could then be prepared at technical level before a final trilogue. In this context, on 25 April, the Presidency aims to explain to the European Parliament the limited flexibility that the Council has following the numerous and significant compromises already made, in particular on Spectrum and End User Rights.
3. The mandate that the Presidency requests only covers those articles which have not yet been agreed with the European Parliament. However, a full consolidated version of the Code has been circulated to delegations to illustrate the overall picture¹.
4. During the trilogue, the Presidency **does not intend** to discuss Article 1, definitions 4 to 7 and 33 and 34 in Article 2, remaining parts of Article 59 (paragraphs 1, 4, 5, 6), and the Annexes. These, as well as all recitals, will require further work after the trilogue.
5. The mandate that the Presidency requests from COREPER is made of two complementary elements:
 - In **Annex II** of this document, **amendments to the provisions of the Code**, which are **detailed in Annex I** of this document;
 - In **Section II** of this note, **principles for defining the frame of the future political agreement** with the European Parliament. These principles include Presidency's proposals on how to make additional but targeted concessions towards the Parliament.

¹ doc. WK 4523/2018

II. FRAME FOR THE REMAINING EECC PROVISIONS SUBJECT TO FUTURE POLITICAL AGREEMENT

6. In this section, the Presidency summarises the main remaining divergences in each part of the Code and its understanding of the main priorities of the EP, and proposes principles for defining the frame for the remaining Code provisions subject to future political agreement. As the delegations have insisted on keeping the Council position in many areas, the Presidency has tried to identify less critical elements as possible areas for further flexibility from the Council. However, it is clear that the Presidency would only use these elements during the negotiations if the Parliament is ready to make significant compromises in return.

Governance, Commission powers and final provisions

7. In the governance part, the Presidency expects that the EP would propose to the Council to extend the list of minimum regulatory tasks in Art. 5 by including the open internet/Internet of Things in the set of regulatory competences. **Therefore, the Presidency would like to know if Member States could accept the inclusion of tasks relating to the market shaping and competition aspects of open internet .**
8. The EP wants a harmonised general authorisation mechanism that would include Number Independent Interpersonal Communications Services (NIICS) to simplify the procedures for the operators and BEREC to serve as a one-stop-shop. The Council thinks this would create a less efficient process and an unnecessary burden on BEREC and the relevant national authorities. **The Presidency proposes to maintain the Council position.**
9. The EP wants the Commission to adopt delegated acts on the termination rates (Art. 73) while the Council proposes implementing acts. **The Presidency proposes to keep this as a possible element of flexibility.**

10. The EP wants the Commission to be able to update the minimum list of services Annex V (Article 108) while the initial position of the Council was to not grant these powers. **The Presidency proposes to keep this as a possible element of flexibility.**

Security

11. The EP insists on the need for ECS and ECN to provide end-to-end encryption to ensure the confidentiality of communications and limit security issues. At this stage, Member States cannot support this, especially as it is not possible to use encryption for traditional communications going over the networks of different providers. The text proposed in Annex II already includes a compromise from the Council. **The Presidency proposes to maintain this latest position.**
12. If the EP continues insisting, the Presidency would like to know if the delegations could agree to the principle of a provision tasking the Commission to issue a report on the need to develop or implement standards improving the security of electronic communications networks and services, and taking utmost account of the work of ENISA.

Access

13. It is clear that the Access provisions contain many red lines for delegations. In particular, the Presidency considers that Articles 33 and 61 should not be further amended, and that BEREC should not have decision-making powers.
14. The EP is insisting on the total deletion of commercial agreements (or their equivalent) and on additional safeguards to reach an agreement on Articles 33, 59(2), 61, 74, and 76bis. Therefore, the Presidency needs more elements than the ones proposed in Annex II. In particular, if the European Parliament shows openness to the Council's latest proposals, the Presidency would like to be able to:

- Introduce, as a last resort, a Commission veto /”double lock” mechanism in Article 59(2) for those cases where NRAs propose symmetric regulation beyond the first concentration point; the “double lock” mechanism could be a system where BEREC has to provide an opinion (not a decision) and where Commission could only have a veto if it agrees with the BEREC opinion. **The Presidency would appreciate any views from the Member States on the acceptable criteria for triggering the safeguard mechanism, if any.** The Presidency does not intend to discuss the details of the criteria that could be needed either for triggering the safeguard mechanism, or for clarifying the elements that BEREC and the Commission. These would first be discussed at technical level after the trilogue.
 - introduce a ”double-lock” veto mechanism in Article 74 as an alternative to the Commission’s veto and specify the cases for its usage;
 - propose further amendments of the provisions relating to cooperative arrangements in Articles 74 and 76bis, for instance, for including regulatory power to trigger SMP undertaking to propose co-investment commitments, if necessary.
15. The Presidency also would like to point out that Article 72 (3) has not been agreed yet with the EP and needs updated views from delegations on how to continue negotiations on this provision.
16. Finally the Presidency intends to ask the EP to replace Article 78a by a recital linked to the instalment payments referred to in Article 98.

Universal Service Obligations

17. Member States have clearly signalled that the Universal Service Obligations should not impact their social prerogatives and should only act as a safety net in case of a non-functional market. In this context, delegations are of the view that it is impossible to guarantee a choice to consumers benefitting from the USO, that the possibility to designate providers is needed for availability and affordability of the broadband internet access, and that they should be able to ensure the affordable access of the relevant end-users through more options than social tariffs or financial support.
18. The EP, supported by the Commission, is of the view that only social tariffs and financial support are needed, and that there should be no designation of providers for the affordability.
19. Finally the co-legislators disagree on the need to have a possibility to finance the affordability through a sectoral fund.
20. In order to find an agreement, the Presidency asks for the flexibility to propose the deletion of the words "*In particular*" in line 1068 especially as SMP remedies can be implemented before concluding that the market is not providing affordable internet access, and to delete the word "adequate" before "broadband internet access" as it is clear that this access is the one defined in article 79(2).
21. The Presidency will maintain the Council position on Articles 86a and 86b.

End-User Rights

22. The Presidency has made significant concessions in the End User Rights provisions by moving on nearly all proposals of the EP. The Presidency now expects the EP to confirm that it can accept the Council position on the level of harmonisation.

23. The Presidency will not aim at finding an agreement on the inclusion, or not, of NIICS in articles 96 and 98, but will try to identify the concerns of the EP regarding the link of articles 98 and 100 with the Digital Content Directive.
24. The Presidency thinks that some of the following additional compromises could be made, if necessary to guarantee a positive outcome to this trilogue:
- limit the transition period in Article 94 to at least one year after transposition;
 - limit Article 95(7) to matters relating to contract information to avoid the misunderstanding that this provision has an impact on other articles of the Code;
 - include in article 100 the amendments proposed in document WK 4444/2018;
 - accept the EP proposal on Article 59(1)c in exchange for the possibility of including Article 59(1)c as an additional basis for the triggering of the specific review procedure foreseen in Article 114a;
 - limit Article 102a(2) (Reverse 112) to apps provided by Member States, as the EP wants to avoid a situation where Member States would put obligations on private NIICS to notify users.
25. In Article 102.5 the Presidency will address to the EP the need for elaborating a recital to clarify that “where available” includes the notion of technically feasible.
26. The Presidency also does not intend to abandon the flexibility for Member States to choose the best way to provide public warnings between warnings sent through mobile networks and those sent through dedicated apps.

27. The Presidency does not propose to compromise on the proposal by the EP in article 93(2a) to avoid data retention.
28. **The Presidency would continue to insist on the position of the Council in Article 106, assuming that Member States have no flexibility on it.**

Intra-EU calls

29. Last but not least, the Presidency is of the view that the Intra-EU calls provision will be the key to reaching a political agreement that is acceptable to the Council. In order to protect the numerous red lines of the Council, the Presidency intends to invite the EP to signal the concessions it would be ready to make in exchange for a move from the Council that would go beyond the transparency mechanism proposed by the Commission.
30. If the EP proposes a package that respects the red lines of delegations (in particular on Access, USO, End User Rights and Governance) in exchange for a commitment by the Council to limit excessive prices of Intra-EU calls (not including calls made while roaming as these are already regulated), **the Presidency would like to know if it could give a positive signal to the Parliament to find jointly a workable solution, knowing that the text of this provision would in any case have to be elaborated at technical level. The EP has clarified that it does not aim at free international calls or at depriving operators from recovering their costs. In this regard, the Presidency would like to know if the Member States could accept, as a last resort, a to consider solutions around capping the prices of intra-EU calls as close as possible to the price of domestic calls increased by the additional costs that the operators incur (e.g. transit costs, termination, joint, common costs, etc.) as this is the intent of the EP. If necessary, it could also include an appropriate review clause. The latest analysis of BEREC would also be taken into account.**

III. CONCLUSION

31. The Presidency intends to advance the work in the trilogue on 25 April and hopes that it will be possible to reach an agreement on Articles 5, 33, 59(2), 61, 74 and 76bis.
 32. It also wishes to obtain commitments on concessions that the EP would be ready to make to obtain more from the Council on those issues that seem critical to the EP (e.g. reverse 112, intra-EU calls).
 33. Therefore, the Presidency invites the Coreper to endorse the approach of the Presidency explained in section II, and to grant a negotiating mandate on the basis of this document.
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DETAILED CHANGES TO THE COUNCIL TEXT

1. In this annex, with the exception of minor terminology changes (e.g. "*undertakings providing*" replaced by "*providers of*"), the Presidency details all changes made in the text of the Code (**Annex II**) compared to the latest proposals discussed during the Working Party meetings of 11 and 16 April (doc. 7632/18 and 7709/18).
2. The changes made are detailed in 9 parts (A to I) as follows:
 - **Part A - Governance:** Article 2 (definition 23), Article 5-17, 20-22a, 25-29 (including new recital on RSPG), 31, 38 and 39;
 - **Part B - Security:** Article 2 (definition 22), Articles 40 and 41;
 - **Part C - Access:** Articles 33, 59(2), 61, 63, 72, 73 (Commission powers), 74, 76bis, 78a;
 - **Part D - Spectrum:** Article 50, recitals 120 and 122;
 - **Part E - Universal Service Obligations:** Articles 79 to 86b;
 - **Part F - Numbering:** Articles 87 to 91;
 - **Part G –End User Rights, interoperability of emergency services and Reverse 112:** Articles 2 (*definitions 31a, 32, 35, 35a, 36, 36a, 37, 38, 38a*), 59.1.(c), 91a, 93-96, 98-100, 102-106;
 - **Part H - Intra-EU Calls:** article 92a;
 - **Part I – Final provisions:** Articles 108-118.

A. Governance

3. One important change made by the Presidency throughout the entire text of the Code is to reflect the agreement reached between the Member States on the roles of the NRAs and other competent authorities. Now the relevant articles either mention "***NRA***" if it is an exclusive competence of the NRA, or "***national regulatory and/or other competent authority***" in other cases.
4. In article 7 (line 123), the Presidency proposes three years for the minimum term of office of the head of the national regulatory authority (NRA) instead of four years requested by the EP.
5. In article 11 (line 142), the amendment of the Parliament has been deleted as this article does not foresee the processing of personal data.
6. In articles 12 and 13 there are no proposed changes to the Council's position;
7. In the first subparagraph of article 20(1) (line 228), the last sentence is deleted as repetitive with the content of article 22.
8. In article 22, the Presidency proposes an amendment to better reflect the division of competences (line 263), and proposes to return to the initial Council position regarding the penalties (line 267a) as its previous compromise was not judged as an improvement by the EP.
9. In article 25 (line 295), the Presidency proposes to return to the initial Council position which gave flexibility to the Member States to designate either an NRA or CA or an ADR entity as the dispute resolution entity. However to move towards the EP, the Presidency proposes an additional subparagraph, between brackets, making it mandatory for the ADR and the NRA or CA responsible for End User Rights to cooperate, where necessary.

10. In article 26 (line 301), the Presidency proposes a compromise to clarify that the NRA should act on the basis of clear procedures.
11. In article 28 (line 326), instead of accepting to set the legal basis for the RSPG in the Code, the Presidency proposes to include a recital that explains that the Commission would update its decision. This is similar to what was done in recital 29 of Directive 2009/140/EC.
12. In article 38(1) (line 454), a clarification is introduced to make more explicit the fact that the Commission can only adopt decisions in the cases defined in paragraph 3. The Presidency has also added the need to take into account the opinion of the RSPG where relevant. However, it did not take into account the comments by Member States that were in contradiction with the possibility given by the Treaties for the Commission to adopt recommendations.

B. Security

13. In Article 40(1) (line 485), following the request by the EP, the Presidency proposes to change recital 91b to not mention explicitly the lawful interception.
14. In Article 40(1a) (line 487), the Presidency proposes a simplification to avoid the lack of clarity of the previous proposal as signalled by Member States on 16 April.

C. Access

15. In Articles 74 and 76bis, the Presidency proposes amendments to the technical proposal made by the Commission to take into account the comments made by the delegations on 11 April and written comments submitted afterwards.

D. Spectrum

16. In order to take into accounts the comments made by Member States in the Working Party meeting of 26 March and to further clarify the difference between the renewal (Article 50) and the extension (Article 49), the Presidency proposes in line 635 of Annex II amendments to article 50 and recitals 120 and 122. The Presidency hopes that this can be provisionally agreed with the EP at technical level before the trilogue.

E. Universal Service Obligations

17. In Articles 79(2) (line 1060) and 80(2) (line 1068), the Presidency proposes to adjust its previous proposal on the basis of the preferences expressed by Member States during the WP meetings held on 11 and 16 April. In line 1068, the Presidency also proposes to replace "For example" by "In particular" as suggested by some Member States as a possible compromise towards the EP, but has bracketed this text as it is clear that the EP, supported by the Commission, will probably not accept this.

F. Numbering

18. On Numbering-related provisions (Articles 87-91) no changes are proposed to the initial Council position on numbering, apart from those changes already discussed on article 90.

G. End User Rights, interoperability of emergency services and Reverse 112

19. In article 91a (line 1170), the Presidency proposes to keep the recital 228a as discussed on 11 April, instead of the version proposed for the discussion on 16 April.
20. In article 102(5) (line 1307), and in order to respond to the Member States' concerns about the text that was provisionally agreed in a previous trilogue, the Presidency proposes to later clarify in a recital that the notion of "where available" would include the notion of technically feasible.
21. In article 102a (line 1314a) the Presidency has taken the proposal of a Member State to adjust the recital 260a to the current content of the provision.
22. In article 103 (line 1321), and in order to reflect the feedback given by the EP, the Presidency has clarified that the recital to be drafted on disproportionate burden should be based on the current corresponding draft provisions of the European Accessibility Act.
23. Article 105 is amended to legally improve the elements linked to the standardisation. Moreover the consistency between paragraph 3 (line 1332a) and recital 265new (line 1331) is improved.

H. Intra-EU Calls

24. Even though delegations have signalled some openness towards the technical proposal made by the Commission, the Presidency has decided not to include any concrete proposal on this matter in Annex II and expects the EP to propose an alternative option. Indeed, the EP has made it clear that the Commission proposal was not acceptable as it did not reflect the EP's intent. This absence of text in the mandate should also reflect the views of a large majority of the delegations that the regulation of intra-EU calls is either unnecessary or inappropriate in the Code.

I. Final provisions

25. Articles 108-118 do not contain any change to the Council position apart from the ones already agreed in trilogues or the ones relating to the roles of NRAs and other competent authorities.

ANNEX II - Provisions

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
1	PART I. FRAMEWORK (GENERAL RULES FOR THE ORGANISATION OF THE SECTOR)	PART I. FRAMEWORK (GENERAL RULES FOR THE ORGANISATION OF THE SECTOR)	
2	TITLE I: SCOPE, AIM & OBJECTIVES, DEFINITIONS	TITLE I: SCOPE, AIM & OBJECTIVES, DEFINITIONS	
3	CHAPTER I	CHAPTER I	
4	SUBJECT MATTER, AIM AND DEFINITIONS	SUBJECT MATTER, AIM AND DEFINITIONS	
5	Article 1	<i>Article 1</i>	
6	Subject matter and aim	Subject matter and aim	
7	1. This Directive establishes a harmonised framework for the regulation of electronic communications services, electronic communications networks, associated facilities and associated services, and certain aspects of terminal equipment. It lays down tasks of national regulatory and, <i>where applicable</i> , for other competent authorities and establishes a set of procedures to ensure the harmonised application of the regulatory framework throughout the Union.	1. This Directive establishes a harmonised framework for the regulation of electronic communications services, electronic communications networks, associated facilities and associated services, and certain aspects of terminal equipment . It lays down tasks of national regulatory and for other competent authorities and establishes a set of procedures to ensure the harmonised application of the regulatory framework throughout the Union .	1. This Directive establishes a harmonised framework for the regulation of electronic communications services, electronic communications networks, associated facilities and associated services, and certain aspects of terminal equipment. It lays down tasks of national regulatory and, <i>where applicable</i> , for other competent authorities and establishes a set of procedures to ensure the harmonised application of the regulatory framework throughout the Union.
8	2. The aim of this Directive is on the one hand to implement an internal market in electronic communications networks and services that will result in deployment and take-up of very high capacity <i>secured</i> networks, sustainable competition, interoperability of electronic communications services, <i>accessibility</i> and end-user benefits.	2. The aim of this Directive is on the one hand to implement an internal market in electronic communications networks and services that will result in deployment and take-up of very high capacity networks, sustainable competition, interoperability of electronic communications services and end-user benefits.	
9	On the other hand, it is to ensure the provision throughout the Union of good-quality, affordable, publicly available services through effective competition and choice, to deal with circumstances in which the needs of end-users, including <i>users with disabilities in order to access the services on an equal basis with others</i> , are not satisfactorily met by the market and to lay down the necessary end-user rights.	On the other hand, it is to ensure the provision throughout the Union of good-quality, affordable , publicly available services through effective competition and choice, to deal with circumstances in which the needs of end-users , including disabled users, are not satisfactorily met by the market and to lay down the necessary end-user rights .	On the other hand, it is to ensure the provision throughout the Union of good-quality, affordable , publicly available services through effective competition and choice, to deal with circumstances in which the needs of end-users , including disabled users <i>with disabilities</i> , are not satisfactorily met by the market and to lay down the necessary end-user rights .
10	3. This Directive is without prejudice to:	3. This Directive is without prejudice to:	

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
11	- obligations imposed by national law in accordance with Union law or by Union law in respect of services provided using electronic communications networks and services ; - measures taken at Union or national level, in compliance with Union law, to pursue general interest objectives, in particular relating to <i>the protection of personal data and privacy, content regulation and audio-visual policy;</i>	- obligations imposed by national law in accordance with Union law or by Union law in respect of services provided using electronic communications networks and services ;	
12	- measures taken at Union or national level, in compliance with Union law, to pursue general interest objectives, in particular relating to <i>the protection of personal data and privacy,</i> content regulation and audio-visual policy.	- measures taken at Union or national level, in compliance with Union law, to pursue general interest objectives, in particular relating to content regulation and audio-visual policy.	- measures taken at Union or national level, in compliance with Union law, to pursue general interest objectives, in particular relating to <i>the protection of personal data and privacy,</i> content regulation and audio-visual policy.
13		- the provisions of Directive 2014/53/EU.	
14		- the actions taken by Member States for public order and public security purposes and for defence.	
15	- Regulation (EU) No 531/2012 and Regulation (EU) 2015/2120.	- Regulation (EU) No 531/2012 and Regulation (EU) 2015/2120.	
16	<i>3a. Where information contains personal data, the Commission, BEREC and the authorities concerned shall ensure the compliance of data processing with Union data protection rules.</i>		
17	4. The provisions of this Directive concerning end-users' rights shall apply without prejudice to Union rules on consumer protection, in particular Directives 93/13/EEC and 2011/83/EU and national rules in conformity with Union law.	4. The provisions of this Directive concerning end-users' rights shall apply without prejudice to Union rules on consumer protection, in particular Directives 93/13/EEC and 2011/83/EU and national rules in conformity with Union law.	
18	<i>Article 2</i>	Article 2	
19	Definitions	Definitions	
20	For the purposes of this Directive:	<i>For the purposes of this Directive:</i>	
24	(4) 'electronic communications service' means a service provided for remuneration via electronic communications networks, which encompasses 'internet access service' as defined in Article 2(2) of Regulation (EU) 2015/2120; and/or 'interpersonal communications service'; and/or services consisting wholly or mainly in	(4)'electronic communications service' means a service normally provided for remuneration via electronic communications networks, which encompasses 'internet access service' as defined in Article 2(2) of Regulation (EU) 2015/2120; and/or 'interpersonal communications service'; and/or services consisting wholly or mainly in	

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	the conveyance of signals such as transmission services used for the provision of machine-to-machine services and for broadcasting, but excludes services providing, or exercising editorial control over, content transmitted using electronic communications networks and services; as well as not-for-profit-services provided by individuals;	the conveyance of signals such as transmission services used for the provision of machine-to-machine services and for broadcasting, but excludes services providing, or exercising editorial control over, content transmitted using electronic communications networks and services;	
25	(5) 'interpersonal communications service' means a service provided for remuneration that enables direct interpersonal and interactive exchange of information via electronic communications networks between a finite number of persons, whereby the persons initiating or participating in the communication determine its recipient(s); it does not include services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service;	(5) 'interpersonal communications service' means a service normally provided for remuneration that enables direct interpersonal and interactive exchange of information via electronic communications networks between a finite number of persons, whereby the persons initiating or participating in the communication determine its recipient(s); it does not include services which enable interpersonal and interactive communication merely as an minor ancillary feature that is intrinsically linked to another service;	
26	(6) 'number-based interpersonal communications service' means an interpersonal communications service which connects with the public switched telephone network, either by means of assigned numbering resources, i.e. a number or numbers in national or international telephone numbering plans, or by enabling communication with a number or numbers in national or international telephone numbering plans, and where the provider of the service has substantial control over the network used for enabling the communication;	(6) 'number-based interpersonal communications service' means an interpersonal communications service which connects with the public switched telephone network, either by means of publicly assigned numbering resources, i.e. a number or numbers in national or international telephone numbering plans, or by enabling communication with a number or numbers in national or international telephone numbering plans;	
42	(22) 'security' of networks and services means the ability of electronic communications networks and services to resist, at a given level of confidence, any action that compromises the availability, authenticity, integrity or confidentiality of stored or transmitted or processed data or the related services offered by, or accessible via, those networks or services.	(22) 'security' of networks and services means the ability of electronic communications networks and services to resist, at a given level of confidence, any action that compromises the availability, authenticity, integrity or confidentiality of those networks and services, of stored or transmitted or processed data, or of the related services offered by, or accessible via, those electronic communications networks or services.	<i>Keep Council text</i>
43	(23) 'general authorisation' means a legal framework established by the Member State ensuring rights for the	(23) 'general authorisation' means a legal framework established by the Member State ensuring rights for the	<i>Keep Council text</i>

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	provision of electronic communications networks or services and laying down sector-specific obligations that may apply to all or to specific types of electronic communications networks and services, in accordance with this Directive, <i>excluding not-for-profit-services provided by individuals.</i>	provision of electronic communications networks or services and laying down sector-specific obligations that may apply to all or to specific types of electronic communications networks and services, in accordance with this Directive.	
52	<i>(31a) 'public pay telephone' means a telephone available to the general public, for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes;</i>		<i>Keep Council position</i>
53	(32) 'voice communications' means <i>an electronic communications</i> service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan, <i>and comprising other means of communication as an alternative to voice communication and intended specifically for end-users with disabilities, such as total conversation services (voice, video and real time text) and text based and video based relay services;</i>	(32) voice communications' means a service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan;	<i>Keep Council text</i>
54	(33) 'geographic number' means a number from the national telephone numbering plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point (NTP);	(33) 'geographic number' means a number from the national telephone numbering plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point (NTP);	<i>Keep Council text</i>
55	(34) 'non-geographic number' means a number from the national telephone numbering plan that is not a geographic number, such as mobile, freephone and premium-rate numbers;	(34) 'non-geographic number' means a number from the national telephone -numbering plan that is not a geographic number, such as mobile, freephone and premium-rate numbers;	<i>Keep Council text</i>
57	<i>(35a) 'relay services' means services that enable people who are deaf or hard of hearing or who have a speech impairment, to communicate by phone through an interpreter that uses text or sign language with another person in a manner that is functionally equivalent to the ability of an individual without a disability;</i>		<i>Proposal to adjust in a recital</i>

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
59	<i>(36a) 'real time text' means communication using the transmission of text where characters are transmitted by a terminal as they are typed in such a way that the communication is perceived by the user as being not delayed;</i>		<i>Proposal to adjust in a recital</i>
60	(37) 'emergency communication': communication by means of voice communication services and relevant number-based interpersonal communications services between an end-user and the PSAP with the goal to request and receive emergency relief from emergency services;	(37) 'emergency communication': communication by means of interpersonal communications services between an end-user and the PSAP with the goal to request and receive emergency relief from emergency services;	<i>Keep Council text</i>
62	<i>(38a) 'caller location information' means in a public mobile network the data processed, both from network infrastructure and handset-derived, indicating the geographic position of an end-user's mobile terminal and in a public fixed network the data about the physical address of the termination point.</i>		<i>Proposal to adjust in a recital</i>
63	CHAPTER II	CHAPTER II	
64	OBJECTIVES	OBJECTIVES	
94	Title II: Institutional set-up and governance	Title II: Institutional set-up and governance	
95	CHAPTER I	CHAPTER I	
96	National regulatory and other competent authorities	National regulatory and other competent authorities	
97	Article 5	Article 5	
98	National regulatory and other competent authorities	National regulatory and other competent authorities	
99	1. MEMBER STATES SHALL ENSURE THAT EACH OF THE TASKS LAID DOWN IN THIS DIRECTIVE IS UNDERTAKEN BY A COMPETENT AUTHORITY.	1. Member States shall ensure that each of the tasks laid down in this Directive is undertaken by a competent authority .	
100	<i>UNDER THE SCOPE OF THIS DIRECTIVE</i> THE NATIONAL REGULATORY AUTHORITY SHALL BE RESPONSIBLE AT LEAST FOR THE FOLLOWING TASKS:	The national regulatory authority authority authorities shall be responsible at least for the following tasks:	<i>Under the scope of this Directive, The the national regulatory authorities shall be responsible at least for the following tasks:</i>
101	– IMPLEMENTING EX ANTE MARKET REGULATION, INCLUDING THE IMPOSITION OF ACCESS AND INTERCONNECTION OBLIGATIONS;	—implementing <i>ex ante</i> market regulation, including the imposition of access and interconnection obligations, and the tasks and competences allocated to national regulatory authorities in Articles 26, 27, 59(2), 60-78 and other Union legislation.	
102	– <i>conducting the geographical survey referred to in</i>	— CONDUCTING THE GEOGRAPHICAL SURVEY	

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	<i>Article 22;</i>	REFERRED TO IN ARTICLE 22;	
103	– ensuring the resolution of disputes between undertakings ■ ;	— ENSURING THE RESOLUTION OF DISPUTES BETWEEN UNDERTAKINGS AND BETWEEN UNDERTAKINGS AND CONSUMERS;	
104	– deciding the market-shaping, competition and regulatory elements of national processes for the grant, amendment or renewal of rights of use for radio spectrum, according to this Directive;	— carrying out radio spectrum management and/or decisions, or providing advice regarding market shaping and competition elements of national processes for rights of use of spectrum when such spectrum management and/or decisions are carried out by any other competent authority, according to this Directive.	
105	– granting general authorisation;	— granting general authorisation;	
106	– ensuring consumer protection and end-user rights in the electronic communications sector <i>within the remit of their competences under the sectorial regulation, and cooperating with relevant competent authorities wherever applicable;</i>	— ensuring consumer protection and end-user rights in the electronic communications sector; [contributing to the protection of end-users rights in cooperation with other competent authorities where applicable]	
107	– <i>monitoring closely the development of the Internet of Things in order to ensure competition, consumer protection and cybersecurity;</i>		
108	– determining the mechanisms for the financing regime as well as assessing the unfair burden and calculating the net-cost of the provision of the universal service;	— determining the mechanisms for the financing regime as well as assessing the unfair burden and calculating the net-cost of the provision of the universal service; - assessing the unfair burden and calculating the net cost of the provision of the universal service	
109	– <i>ensuring compliance with rules</i> related to open internet access <i>in accordance with Regulation (EU) 2015/2120;</i>	— dealing with issues related to open internet access;	
110	– granting numbering resources and managing numbering plans;	— granting numbering resources and managing numbering plans;	
111	– ensuring number portability;	– ensuring number portability;	

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112	– performing any other task that this Directive reserves to national regulatory authorities.	—performing any other task that this Directive reserves to national regulatory authorities.	
113	Member States may assign other tasks provided for in this Directive to national regulatory authorities.	Member States may assign other tasks provided for in this Directive to national regulatory authorities such as general authorization.	
114	2. National regulatory authorities and other competent authorities of the same Member State or of different Member States shall enter into cooperative arrangements with each other to foster regulatory cooperation <i>where necessary</i> .	2. National regulatory authorities and other competent authorities of the same Member State or of different Member States shall have the right to enter into cooperative arrangements with each other to foster regulatory cooperation.	2. National regulatory authorities and other competent authorities of the same Member State or of different Member States shall have the right to enter into cooperative arrangements with each other to foster regulatory cooperation <u>[and shall do so where necessary]</u> .
115	3. Member States shall publish the tasks to be undertaken by national regulatory authorities and other competent authorities in an easily accessible form, in particular where those tasks are assigned to more than one body. Member States shall ensure, where appropriate, consultation and cooperation between those authorities, and between those authorities and national authorities entrusted with the implementation of competition law and national authorities entrusted with the implementation of consumer law, on matters of common interest. Where more than one authority has competence to address such matters, Member States shall ensure that the respective tasks of each authority are published in an easily accessible form.	3. Member States shall publish the tasks to be undertaken by national regulatory authorities and other competent authorities in an easily accessible form, in particular where those tasks are assigned to more than one body. Member States shall ensure, where appropriate, consultation and cooperation between those authorities, and between those authorities and national authorities entrusted with the implementation of competition law and national authorities entrusted with the implementation of consumer law, on matters of common interest. Where more than one authority has competence to address such matters, Member States shall ensure that the respective tasks of each authority are published in an easily accessible form.	
116	4. Member States shall notify to the Commission all national regulatory authorities and other competent authorities assigned tasks under this Directive, and their respective responsibilities, as well as any change thereof.	4. Member States shall notify to the Commission all national regulatory authorities and other competent authorities assigned tasks under this Directive , and their respective responsibilities, as well as any change thereof .	
117	<i>Article 6</i>	Article 6	
118	Independence of national regulatory and other competent authorities	Independence of national regulatory and other competent authorities	
119	1. Member States shall guarantee the independence of national regulatory authorities and of other competent authorities by ensuring that they are legally distinct from and functionally independent of all organisations	1. Member States shall guarantee the independence of national regulatory authorities and of other competent authorities by ensuring that they are legally distinct from and functionally independent of all organisations	1. Member States shall guarantee the independence of national regulatory authorities and of other competent authorities by ensuring that they are legally distinct from and

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	providing electronic communications networks, equipment or services. Member States that retain ownership or control of <i>providers of</i> electronic communications networks and/or services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.	providing electronic communications networks, equipment or services. Member States that retain ownership or control of undertakings providing electronic communications networks and/or services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.	functionally independent of all organisations providing electronic communications networks, equipment or services. Member States that retain ownership or control of undertakings providing providers of electronic communications networks and/or services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.
120	2. Member States shall ensure that national regulatory authorities and other competent authorities exercise their powers impartially, transparently and in a timely manner. Member States shall ensure that they have adequate technical , financial and human resources to carry out the tasks assigned to them.	2. Member States shall ensure that national regulatory authorities and other competent authorities exercise their powers impartially, transparently and in a timely manner. Member States shall ensure that they have adequate financial and human resources to carry out the tasks assigned to them.	2. Member States shall ensure that national regulatory authorities and other competent authorities exercise their powers impartially, transparently and in a timely manner. Member States shall ensure that they have adequate technical , financial and human resources to carry out the tasks assigned to them.
121	<i>Article 7</i>	Article 7	
122	Appointment and dismissal of members of national regulatory authorities	Appointment and dismissal of members of national regulatory authorities	Appointment and dismissal of members of national regulatory authorities
123	1. The head of a national regulatory authority, or, where applicable, the members of the collegiate body fulfilling that function within a national regulatory authority or their replacements, shall be appointed for a term of office of at least four years from among persons of recognised standing and professional experience, on the basis of merit, skills, knowledge and experience and following an open and transparent selection procedure. They shall not be allowed to serve more than two terms, either consecutive or not. Member States shall ensure continuity of decision-making by providing for an appropriate rotation scheme for the members of the collegiate body or the top management, such as by appointing the first members of the collegiate body for different periods, in order for their mandates, as well as that of their successors not to elapse at the same moment.	1. The head of a national regulatory authority, or, where applicable, the members of the collegiate body fulfilling that function within a national regulatory authority or their replacements, shall be appointed for a term of office of at least four years from among persons of recognised standing and professional experience, on the basis of merit, skills, knowledge and experience and following an open selection procedure. They shall not be allowed to serve more than two terms, either consecutive or not. Member States shall ensure continuity of decision-making by providing for an appropriate rotation scheme for the members of the collegiate body or the top management, such as by appointing the first members of the collegiate body for different periods, in order for their mandates, as well as that of their successors not to elapse at the same moment.	1. The head of a national regulatory authority, or, where applicable, the members of the collegiate body fulfilling that function within a national regulatory authority or their replacements, shall be appointed for a term of office of at least four years from among persons of recognised standing and professional experience, on the basis of merit, skills, knowledge and experience and following an open and transparent selection procedure. They shall not be allowed to serve more than two terms, either consecutive or not. Member States shall ensure continuity of decision-making by providing for an appropriate rotation scheme for the members of the collegiate body or the top management, such as by appointing the first members of the collegiate body for different periods, in order for their mandates, as

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			well as that of their successors not to elapse at the same moment.

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
124	2. Member States shall ensure that the head of a national regulatory authority, or where applicable, members of the collegiate body fulfilling that function within a national regulatory authority or their replacements may be dismissed during their term only if they no longer fulfil the conditions set out in this Article.	2. Member States shall ensure that the head of a national regulatory authority, or where applicable, members of the collegiate body fulfilling that function within a national regulatory authority or their replacements may be dismissed during their term only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law set out in this Article.	2. Member States shall ensure that the head of a national regulatory authority, or where applicable, members of the collegiate body fulfilling that function within a national regulatory authority or their replacements may be dismissed during their term only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law set out in this Article.
125	3. The decision to dismiss the head of the national regulatory authority concerned, or where applicable members of the collegiate body fulfilling that function shall be made public at the time of dismissal. The dismissed head of the national regulatory authority, or where applicable, members of the collegiate body fulfilling that function shall receive a statement of reasons and shall have the right to request its publication, where this would not otherwise take place, in which case it shall be published. Member States shall ensure that this decision is subject to review by a court, on points of fact as well as on points of law.	3. <i>The decision to dismiss the head of the national regulatory authority concerned, or where applicable members of the collegiate body fulfilling that function shall be made public at the time of dismissal. The dismissed head of the national regulatory authority, or where applicable, members of the collegiate body fulfilling that function shall receive a statement of reasons and shall have the right to request its publication, where this would not otherwise take place, in which case it shall be published. Member States shall ensure that this decision is subject to review by a court, on points of fact as well as on points of law.</i>	3. <i>The decision to dismiss the head of the national regulatory authority concerned, or where applicable members of the collegiate body fulfilling that function shall be made public at the time of dismissal. The dismissed head of the national regulatory authority, or where applicable, members of the collegiate body fulfilling that function shall receive a statement of reasons and shall have the right to request its publication, where this would not otherwise take place, in which case it shall be published. Member States shall ensure that this decision is subject to review by a court, on points of fact as well as on points of law.</i>
126	Article 8	Article 8	Article 8
127	Political independence and accountability of the national regulatory authorities	Political independence and accountability of the national regulatory authorities	Political independence and accountability of the national regulatory authorities
128	1. Without prejudice to the provisions of Article 10, national regulatory authorities shall act independently and objectively, operate in a transparent and accountable manner in accordance with Union law and national law, have sufficient powers and shall not seek or take instructions from any other body in relation to the exercise of the tasks assigned to them under national law implementing Union law. This shall not prevent supervision in accordance with national constitutional	1. Without prejudice to the provisions of Article 10 , national regulatory authorities shall act independently and objectively including in the design of internal procedures and organisation of staff , and shall not seek or take instructions from any other body in relation to the exercise of the tasks assigned to them under national law implementing Union law. This shall not prevent supervision in accordance with national constitutional law. Only appeal bodies set up in	1. Without prejudice to the provisions of Article 10 , national regulatory authorities shall act independently and objectively including in the design of internal procedures and organisation of staff, shall operate in a transparent and accountable manner in accordance with Union law and national law, and shall not seek or take instructions from any other body in relation to the exercise of the tasks

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	law. Only appeal bodies set up in accordance with Article 31 shall have the power to suspend or overturn decisions by the national regulatory authorities.	accordance with Article 31 shall have the power to suspend or overturn decisions by the national regulatory authorities.	assigned to them under national law implementing Union law. This shall not prevent supervision in accordance with national constitutional law. Only appeal bodies set up in accordance with Article 31 shall have the power to suspend or overturn decisions by the national regulatory authorities.
129	2. National regulatory authorities shall report annually <i>inter alia</i> on the state of the electronic communications market, the decisions they issue, their human and financial resources and attribution of these, as well as on future plans. Their reports shall be made public.	2. National regulatory authorities shall report annually <i>inter alia</i> on the state of the electronic communications market, the decisions they issue, their human and financial resources and attribution of these, as well as on future plans. Their reports shall be made public.	2. National regulatory authorities shall report annually <i>inter alia</i> on the state of the electronic communications market, the decisions they issue, their human and financial resources and attribution of these, as well as on future plans. Their reports shall be made public.
130	<i>Article 9</i>	<i>Article 9</i>	<i>Article 9</i>
131	Regulatory capacity of national regulatory authorities	Regulatory capacity of national regulatory authorities	Regulatory capacity of national regulatory authorities
132	1. Member States shall ensure that national regulatory authorities have separate annual budgets with autonomy in the implementation of the allocated budget. The budgets shall be made public.	1. Member States shall ensure that national regulatory authorities have separate annual budgets with autonomy in the implementation of the allocated budget. The budgets shall be made public.	
133	2. Without prejudice to the obligation to ensure that national regulatory authorities have adequate financial and human resources to carry out the task assigned to them, financial autonomy shall not prevent supervision or control in accordance with national constitutional law. Any control exercised on the budget of the national regulatory authorities shall be exercised in a transparent manner and made public.	2. Without prejudice to the obligation to ensure that national regulatory authorities have adequate financial and human resources to carry out the task assigned to them, financial autonomy shall not prevent supervision or control in accordance with national constitutional law. Any control exercised on the budget of the national regulatory authorities shall be exercised in a transparent manner and made public.	
134	3. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and	3. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate	

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	contribute to the Body of European Regulators for Electronic Communications (BEREC) ² .	in and contribute to the Body of European Regulators for Electronic Communications (BEREC) ³ .	
135	<i>Article 10</i>	<i>Article 10</i>	<i>Article 10</i>
136	Participation of national regulatory authorities in BEREC	Participation of national regulatory authorities in BEREC	Participation of national regulatory authorities in BEREC
137	1. Member States shall ensure that the goals of BEREC of promoting greater regulatory coordination and coherence are actively supported by the respective national regulatory authorities.	1. Member States shall ensure that the goals of BEREC of promoting greater regulatory coordination and coherence are actively supported by the respective national regulatory authorities.	
138	2. Member States shall ensure that national regulatory authorities take utmost account of opinions, common positions <i>or decisions</i> adopted by BEREC when adopting their own decisions for their national markets.	2. Member States shall ensure that national regulatory authorities take utmost account of opinions and common positions adopted by BEREC when adopting their own decisions for their national markets.	<i>(Linked to BEREC decision powers)</i>
139	<i>2a. Member States shall ensure that national regulatory authorities apply Regulation 2015/2120 and BEREC Guidelines adopted pursuant to Article 5 (3) of the abovementioned Regulation and coordinate within BEREC with other national regulatory authorities when implementing it.</i>		<i>(Linked to Art 5)</i>
140	<i>Article 11</i>	<i>Article 11</i>	<i>Article 11</i>
141	Cooperation with national authorities	Cooperation with national authorities	Cooperation with national authorities
142	1. National regulatory authorities, other competent authorities under this Directive, and national competition authorities shall provide each other with the information necessary for the application of the provisions of this Directive. In respect of the information exchanged,	1. National regulatory authorities , other competent authorities under this Directive, and national competition authorities shall provide each other with the information necessary for the application of the provisions of this Directive . In respect of the	1. National regulatory authorities , other competent authorities under this Directive, and national competition authorities shall provide each other with the information necessary for the application of the provisions of this

² Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office.

³ Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office.

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	<i>Union data protection rules shall apply, and</i> the receiving authority shall ensure the same level of confidentiality as the originating authority.	information exchanged, the receiving authority shall ensure the same level of confidentiality as the originating authority.	Directive. In respect of the information exchanged, <i>Union data protection rules shall apply, and</i> the receiving authority shall ensure the same level of confidentiality as the originating authority.
143	CHAPTER II	CHAPTER II	CHAPTER II
144	General authorisation	General authorisation	General authorisation
145	Section 1 general part	Section 1 general part	Section 1 general part
146	Article 12	Article 12	Article 12
147	General authorisation of electronic communications networks and services	General authorisation of electronic communications networks and services	General authorisation of electronic communications networks and services
148	1. Member States shall ensure the freedom to provide electronic communications networks and services, subject to the conditions set out in this Directive. To this end, Member States shall not prevent an undertaking from providing electronic communications networks or services, except where this is necessary for the reasons set out in Article 52 (1) of the Treaty. Any such limitation to the freedom to provide electronic communications networks and services shall be duly reasoned, <i>shall be in compliance with the Charter of Fundamental Rights of the European Union</i> and shall be notified to the Commission.	1. Member States shall ensure the freedom to provide electronic communications networks and services, subject to the conditions set out in this Directive. To this end, Member States shall not prevent an undertaking from providing electronic communications networks or services, except where this is necessary for the reasons set out in Article 52 (1) of the Treaty. Any such limitation to the freedom to provide electronic communications networks and services shall be duly reasoned and shall be notified communicated to the Commission.	1. Member States shall ensure the freedom to provide electronic communications networks and services, subject to the conditions set out in this Directive. To this end, Member States shall not prevent an undertaking from providing electronic communications networks or services, except where this is necessary for the reasons set out in Article 52 (1) of the Treaty. Any such limitation to the freedom to provide electronic communications networks and services shall be duly reasoned, <i>shall be in compliance with the Charter of Fundamental Rights of the European Union</i> and shall be notified to the Commission.
149	2. The provision of electronic communications networks or the provision of electronic communications services may , without prejudice to the specific obligations referred to in Article 13(2) or rights of use referred to in Articles 46 and 88, only be subject to a general authorisation. <i>The undertaking may not be subject to prior authorisation or any other administrative act.</i>	2. The provision of electronic communications networks or the provision of electronic communications services other than number-independent interpersonal communications services may, without prejudice to the specific obligations referred to in Article 13(2) or rights of use referred to in Articles 46 and 88, only be subject to a general authorisation.	2. The provision of electronic communications networks or the provision of electronic communications services may shall , without prejudice to the specific obligations referred to in Article 13(2) or rights of use referred to in Articles 46 and 88, only be subject to a general authorisation. <i>The undertaking may not be subject to prior authorisation or any other administrative act.</i>
150	<i>2a. Where an undertaking providing electronic communication services in more than one Member State has a main establishment in the Union, it shall be</i>		

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	<i>subject to the general authorisation of that Member State and have the right to provide electronic communications services in all Member States.</i>		
151	<i>For the purposes of this Directive, the main establishment corresponds to the place where the undertaking meets all of the following criteria:</i>		
152	<i>a) it performs its substantial activities other than purely administrative such as business development, accounting and personnel departments;</i>		
153	<i>b) it takes its strategic business decisions as to the provision of electronic communications services in the Union; and</i>		
154	<i>c) it produces a significant part of its turnover.</i>		
155	<i>2b. The competent authority of the Member State of the main establishment, also acting on the request of the competent authorities of another Member State, shall undertake measures necessary to monitor and supervise compliance with the conditions of the general authorisation and provide information under Article 21. Where necessary, BEREC shall facilitate and coordinate that exchange of information.</i>		
156	<i>In the case of a demonstrated breach of the relevant rules in a Member State other than the one of the main establishment, the competent authorities of the Member State of the main establishment shall decide on the appropriate measures in accordance with Article 30.</i>		
157	<i>In the case of disagreement with the measures taken by the authorities of the Member State of main establishment or related to conflicting views as regards the main place of establishment, BEREC may act as mediator and, if necessary in the case of an unresolved dispute, issue a decision, acting by a two-thirds majority of members of the Board of Regulators.</i>		
158	3. Where a Member State deems that a notification requirement is justified, that Member State may only require undertakings to submit a notification to BEREC but it may not require them to obtain an explicit decision	3. Where a Member State deems that a notification requirement is justified for undertakings subject to general authorisation , that Member State may only require such undertakings to submit a notification to	

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	<p>or any other administrative act by the national regulatory authority or by any other authority before exercising the rights stemming from the authorisation. <i>Member States shall provide the Commission and the other Member States with a reasoned notification within 12 months after ... [transposition date] if they consider a notification requirement to be justified. The Commission shall examine the notification and, where appropriate, adopt a decision within three months of the date of notification requesting the Member State in question to revoke the notification requirement.</i></p>	<p>BEREC to the competent authority but it may not require them to obtain an explicit decision or any other administrative act by the national regulatory competent authority or by any other authority before exercising the rights stemming from the authorisation. Upon notification to BEREC, when required, an undertaking may begin activity, where necessary subject to the provisions on rights of use pursuant to this Directive . BEREC shall forward by electronic means and without delay each notification to the national regulatory authority in all Member States concerned by the provision of electronic communications networks or the provision of electronic communications services.</p>	
159		<p>Information in accordance with this paragraph on existing notifications already made to the national regulatory authority on the date of transposition of this Directive shall be provided to BEREC at the latest on [date of transposition].</p>	
160	<p><i>Member States requiring notification shall allow but shall not require a provider of electronic communications services offered in fewer than [three] Member States and with an aggregate group Union turnover of less than EUR [100] million to submit a notification.</i></p>	<p>4. The notification referred to in paragraph 3 shall not entail more than a declaration by a legal or natural person to the competent authority BEREC of the intention to commence the provision of electronic communications networks or services and the submission of the minimal information which is required to allow BEREC and the national regulatory competent authority to keep a register or list of providers of electronic communications networks and services. This information must be limited to shall include:</p>	
161	<p>Upon notification to BEREC, when required, an undertaking may begin activity, where necessary subject to the provisions on rights of use pursuant to this Directive. <i>If a notification does not identify one or more Member States concerned, it shall be deemed to cover all the Member States.</i> BEREC shall forward by electronic means and without delay each notification to the national regulatory authority in all Member States</p>		

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	concerned by the provision of electronic communications networks or the provision of electronic communications services.		
162	Information in accordance with this paragraph on existing notifications already made to the national regulatory authority on the date of transposition of this Directive shall be provided to BEREC at the latest on [date of transposition].		
163	4. The notification referred to in paragraph 3 shall not entail more than a declaration by a legal or natural person to BEREC of the intention to commence the provision of electronic communications networks or services and the submission of the minimal information which is required to allow BEREC and the national regulatory authority to keep a register or list of providers of electronic communications networks and services. This information must be limited to:		
164	(1) the name of the provider;	(1) the name of the provider;	
165	(2) THE PROVIDER'S LEGAL STATUS, FORM AND REGISTRATION NUMBER, WHERE THE PROVIDER IS REGISTERED IN A TRADE OR OTHER SIMILAR PUBLIC REGISTER IN THE EU;	(2) the provider's legal status, form and registration number, where the provider is registered in a trade or other similar public register in the EU;	
166	(3) THE GEOGRAPHICAL ADDRESS OF THE PROVIDER'S MAIN ESTABLISHMENT AND, WHERE APPLICABLE, ANY SECONDARY BRANCH IN A MEMBER STATE;⁴	<i>(3) the geographical address of the provider's main establishment in the EU and, where existing, any secondary branch in a Member State;</i>	
167	<i>(3A) THE PROVIDER'S WEBSITE, WHERE EXISTING, ASSOCIATED WITH THE PROVISION OF ELECTRONIC COMMUNICATIONS NETWORKS AND/OR SERVICES;</i>		
168	(4) A CONTACT PERSON AND CONTACT DETAILS;	(4) a contact person and contact details;	
169	<i>(5) a short description of the networks or services intended to be provided;</i>	(5) a short description of the networks or services intended to be provided;	

⁴ BEREC (as amended)

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
170	(6) the Member States concerned, and	(6) the Member States concerned, and	
171	(7) an estimated date for starting the activity.	(7) an estimated date for starting the activity.	
172	Member States may not impose any additional or separate notification requirements.	Member States may not impose any additional or separate notification requirements.	
173		In order to minimise duplication of notification requirements, BEREC shall publish guidelines for the notification template and maintain an EU database of the notifications transmitted to the competent authorities. To that end the competent authorities shall forward without undue delay to BEREC by electronic means each notification duly received. Notifications made to the competent authorities prior to the date referred to in Article 115(1), second subparagraph shall be forwarded to BEREC at the latest [twelve months after that date].	
174	<i>Article 13</i>	<i>Article 13</i>	<i>Article 13</i>
175	Conditions attached to the general authorisation and to the rights of use for radio spectrum and for numbers, and specific obligations	Conditions attached to the general authorisation and to the rights of use for radio spectrum and for numbers, and specific obligations	Conditions attached to the general authorisation and to the rights of use for radio spectrum and for numbers, and specific obligations
176	<i>-1. Unless otherwise provided in this Directive, providers of electronic communications services having a main establishment in a Member State and active in more than one Member State shall be subject only to the conditions attached to the general authorisation applicable in the Member State of their main establishment. The national regulatory authority of that Member State shall be responsible for exercising the enforcement powers related to the general authorisation conditions without prejudice to other obligations not covered by this Directive and to the provider's obligation to comply with the laws of the Member States where it provides electronic communication services.</i>		
177	1. The general authorisation for the provision of electronic communications networks or services and the rights of use for radio spectrum and rights of use for	1. The general authorisation for the provision of electronic communications networks or services and the rights of use for radio spectrum and rights of use for	1. The general authorisation for the provision of electronic communications networks or services and the rights of use for radio spectrum and

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	numbers may be subject only to the conditions listed in Annex I. Such conditions shall be non-discriminatory, adapted to the specifics of the network or service , proportionate and transparent and, in the case of rights of use for radio spectrum, shall be in accordance with Articles 45 and 51 in the case of rights of use for numbers, shall be in accordance with Article 88.	numbers may be subject only to the conditions listed in Annex I . Such conditions shall be non-discriminatory, proportionate and transparent and, in the case of rights of use for radio spectrum , shall ensure its effective and efficient use and be in accordance with Articles 45 and 51 . in the case of rights of use for numbers, shall be in accordance with Article 88 .	rights of use for numbers may be subject only to the conditions listed in Annex I. Such conditions shall be non-discriminatory, adapted to the specifics of the network or service , proportionate and transparent and, in the case of rights of use for radio spectrum, shall be in accordance with Articles 45 and 51 in the case of rights of use for numbers, shall be in accordance with Article 88.
178	2. Specific obligations which may be imposed on providers of electronic communications networks and services under Articles 36, 46(1), 48(2) and 59(1) or on those designated to provide universal service under this Directive shall be legally separate from the rights and obligations under the general authorisation. In order to achieve transparency for undertakings, the criteria and procedures for imposing such specific obligations on individual undertakings shall be referred to in the general authorisation.	2. Specific obligations which may be imposed on providers of electronic communications networks and services under Articles 13, 36, 46(1), 48(2), 59(1), 59(2), 59(4), 60 66 and 73 or on those designated to provide universal service under this Directive shall be legally separate from the rights and obligations under the general authorisation. In order to achieve transparency for undertakings, the criteria and procedures for imposing such specific obligations on individual undertakings shall be referred to in the general authorisation.	2. Specific obligations which may be imposed on providers of electronic communications networks and services under Articles 36, 46(1), 48(2) and 59(1) or on those designated to provide universal service under this Directive shall be legally separate from the rights and obligations under the general authorisation. In order to achieve transparency for undertakings, the criteria and procedures for imposing such specific obligations on individual undertakings shall be referred to in the general authorisation.
179	3. The general authorisation shall only contain conditions which are specific for that sector and are set out in Parts A, B and C of Annex I and shall not duplicate conditions which are applicable to undertakings by virtue of other national legislation.	3. The general authorisation shall only contain conditions which are specific for that sector and are set out in Parts A, B and C of Annex I and shall not duplicate conditions which are applicable to undertakings by virtue of other national legislation.	3. The general authorisation shall only contain conditions which are specific for that sector and are set out in Parts A, B and C of Annex I and shall not duplicate conditions which are applicable to undertakings by virtue of other national legislation.
180	4. Member States shall not duplicate the conditions of the general authorisation where they grant the right of use for radio frequencies or numbers.	4. Member States shall not duplicate the conditions of the general authorisation where they grant the right of use for radio frequencies or numbers.	4. Member States shall not duplicate the conditions of the general authorisation where they grant the right of use for radio frequencies or numbers.
181	<i>Article 14</i>	Article 14	
182	Declarations to facilitate the exercise of rights to install facilities and rights of interconnection	Declarations to facilitate the exercise of rights to install facilities and rights of interconnection	
183	BEREC shall issue standardised declarations, confirming, where applicable, that the undertaking has submitted a notification under Article 12(3) and detailing under what circumstances any undertaking providing	At the request of an undertaking, competent authorities BEREC shall, within one week, issue standardised declarations, confirming, where applicable, that the undertaking has submitted a	

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)		Final text (Green) and new compromise proposals
	electronic communications networks or services under the general authorisation has the right to apply for rights to install facilities, negotiate interconnection, and/or obtain access or interconnection in order to facilitate the exercise of those rights for instance at other levels of government or in relation to other undertakings. Those declarations shall be issued as an automatic reply following the notification referred to in Article 12(3).	notification under Article 12(32) and detailing under what circumstances any undertaking providing electronic communications networks or services under the general authorisation has the right to apply for rights to install facilities, negotiate interconnection, and/or obtain access or interconnection in order to facilitate the exercise of those rights for instance at other levels of government or in relation to other undertakings. Where appropriate such declarations may also be issued as an automatic reply following the notification referred to in Article 12(32).		
184				
185	Section 2 general authorisation rights and obligations	Section 2 general authorisation rights and obligations		
186	Article 15	Article 15		
187	Minimum list of rights derived from the general authorisation	Minimum list of rights derived from the general authorisation		
188	1. Undertakings authorised pursuant to Article 12, shall have the right to:	1. Undertakings authorised pursuant to Article 12, shall have the right to:		
189	(a) provide electronic communications networks and services;	(a) provide electronic communications networks and services;		
190	(b) have their application for the necessary rights to install facilities considered in accordance with Article 43 of this Directive	(b) have their application for the necessary rights to install facilities considered in accordance with Article 43 of this Directive .		
191	(c) use radio spectrum in relation to electronic communications services and networks subject to Articles 13, 46 and 54.	c) use radio spectrum in relation to electronic communications services and networks subject to Articles 13, 46 and 54.		
192	(d) have their application for the necessary rights of use for numbers considered in accordance with Article 88.	<i>d) have their application for the necessary rights of use for numbers considered in accordance with Article 88.</i>		
193	2. When such undertakings provide electronic communications networks or services to the public the general authorisation shall also give them the right to:	2. When such undertakings provide electronic communications networks or services to the public the general authorisation shall also give them the right to:		
194	(a) negotiate interconnection with and where applicable obtain access to or interconnection from other providers of publicly available communications networks and services covered by a general authorisation anywhere in the Union under the conditions of and in accordance with	(a) negotiate interconnection with and where applicable obtain access to or interconnection from other providers of publicly available communications networks and services covered by a general authorisation anywhere in the Union under the		

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	this Directive;	conditions of and in accordance with this Directive ;	
195	(b) be given an opportunity to be designated to provide different elements of a universal service and/or to cover different parts of the national territory in accordance with Article 81 or 82.	(b) be given an opportunity to be designated to provide different elements of a universal service and/or to cover different parts of the national territory in accordance with Article 81 or 82.	
196	<i>Article 16</i>	Article 16	
197	Administrative charges	Administrative charges	
198	1. Any administrative charges imposed on <i>providers of</i> a service or a network under the general authorisation or to whom a right of use has been granted shall:	1. Any administrative charges imposed on undertakings providing a service or a network under the general authorisation or to whom a right of use has been granted shall:	1. Any administrative charges imposed on undertakings providing providers of a service or a network under the general authorisation or to whom a right of use has been granted shall:
199	(a) in total, cover only the administrative costs which will be incurred in the management, control and enforcement of the general authorisation scheme and of rights of use and of specific obligations as referred to in Article 13(2), which may include costs for international cooperation, harmonisation and standardisation, market analysis, monitoring compliance and other market control, as well as regulatory work involving preparation and enforcement of secondary legislation and administrative decisions, such as decisions on access and interconnection; and	(a) in total, cover only the administrative costs which will be incurred in the management, control and enforcement of the general authorisation scheme and of rights of use and of specific obligations as referred to in Article 13(2), which may include costs for international cooperation, harmonisation and standardisation, market analysis, monitoring compliance and other market control, as well as regulatory work involving preparation and enforcement of secondary legislation and administrative decisions, such as decisions on access and interconnection; and	
200	(b) be imposed upon the individual undertakings in an objective, transparent and proportionate manner which minimises additional administrative costs and attendant charges. Member States may choose not to apply administrative charges to undertakings whose turnover is below a certain threshold or whose activities do not reach a minimum market share or have a very limited territorial scope. <i>Member States may not apply any administrative charges on providers of electronic communications services present in fewer than [three] Member States and with an aggregate Union turnover of less than EUR [100] million over and above a maximum one-off charge not exceeding EUR [10].</i>	(b) be imposed upon the individual undertakings in an objective, transparent and proportionate manner which minimises additional administrative costs and attendant charges. Member States may choose not to apply administrative charges to undertakings whose turnover is is below a certain threshold or whose activities do not reach a minimum market share or have a very limited territorial scope.	
201	2. Where national regulatory authorities or other competent authorities impose administrative charges,	2. Where national regulatory authorities or other competent authorities impose administrative charges,	

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	they shall publish a yearly overview of their administrative costs and of the total sum of the charges collected. In the light of the difference between the total sum of the charges and the administrative costs, appropriate adjustments shall be made.	they shall publish a yearly overview of their administrative costs and of the total sum of the charges collected. In the light of the difference between the total sum of the charges and the administrative costs, appropriate adjustments shall be made.	
202	<i>Article 17</i>	ARTICLE 17	
203	Accounting separation and financial reports	<i>Accounting separation and financial reports</i>	
204	1. Member States shall require providers of public communications networks or publicly available electronic communications services which have special or exclusive rights for the provision of services in other sectors in the same or another Member State to:	1. Member States shall require undertakings providing public communications networks or publicly available electronic communications services which have special or exclusive rights for the provision of services in other sectors in the same or another Member State to:	
205	(a) keep separate accounts for the activities associated with the provision of electronic communications networks or services, to the extent that would be required if these activities were carried out by legally independent companies, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to their activities associated with the provision of electronic communications networks or services including an itemised breakdown of fixed asset and structural costs, or	(a) keep separate accounts for the activities associated with the provision of electronic communications networks or services, to the extent that would be required if these activities were carried out by legally independent companies, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to their activities associated with the provision of electronic communications networks or services including an itemised breakdown of fixed asset and structural costs, or	
206	(b) have structural separation for the activities associated with the provision of electronic communications networks or services.	(b) have structural separation for the activities associated with the provision of electronic communications networks or services.	
207	Member States may choose not to apply the requirements referred to in the first subparagraph to undertakings the annual turnover of which in activities associated with electronic communications networks or services in the Member States is less than EUR 50 million.	Member States may choose not to apply the requirements referred to in the first subparagraph to undertakings the annual turnover of which in activities associated with electronic communications networks or services in the Member States is less than EUR 50 million.	
208	2. Where providers of public communications networks or publicly available electronic communications services are not subject to the requirements of company law and do not satisfy the small and medium-sized enterprise criteria of Union law accounting rules, their financial	2. Where undertakings providing public communications networks or publicly available electronic communications services are not subject to the requirements of company law and do not satisfy the small and medium-sized enterprise criteria of Union	2. Where undertakings providing providers of public communications networks or publicly available electronic communications services are not subject to the requirements of company law and do not satisfy the small and medium-

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	reports shall be drawn up and submitted to independent audit and published. The audit shall be carried out in accordance with the relevant Union and national rules.	law accounting rules, their financial reports shall be drawn up and submitted to independent audit and published. The audit shall be carried out in accordance with the relevant Union and national rules.	sized enterprise criteria of Union law accounting rules, their financial reports shall be drawn up and submitted to independent audit and published. The audit shall be carried out in accordance with the relevant Union and national rules.
209	<i>This requirement shall also apply to the separate accounts required under paragraph 1(a).</i>	This requirement shall also apply to the separate accounts required under paragraph 1(a).	
210			
211	Section 3 amendment and withdrawal	Section 3 amendment and withdrawal	
224	CHAPTER III	CHAPTER III	
225	Provision of information, surveys and consultation mechanism	<i>Provision of information, surveys and consultation mechanism</i>	
226	Article 20	Article 20	
227	Information request to undertakings	Information request to undertakings	
228	1. Member States shall ensure that <i>providers of</i> electronic communications networks and services, associated facilities, or associated services provide all the information, including financial information, necessary for national regulatory authorities, other competent authorities and BEREC to ensure conformity with the provisions of, or decisions made in accordance with, this Directive. In particular, national regulatory authorities shall have the power to require those undertakings to submit information concerning future network or service developments that could have an impact on the wholesale services that they make available to competitors. They may also require information on electronic communications networks and associated facilities which is disaggregated at local level and sufficiently detailed for the national regulatory authority to be able to conduct the geographical survey and to designate digital exclusion areas in accordance with Article 22. █	1. Member States shall ensure that undertakings providing electronic communications networks and services associated facilities, or associated services provide all the information, including financial information, necessary for national regulatory authorities, other competent authorities and BEREC to ensure conformity with the provisions of, or decisions made in accordance with, this Directive . In particular, national regulatory competent authorities shall have the power to require those undertakings to submit information concerning future network or service developments that could have an impact on the wholesale services that they make available to competitors. They may also require information on electronic communications networks and associated facilities which is disaggregated at local level and sufficiently detailed for the national regulatory authority competent authority to be able to conduct the geographical survey and to designate digital exclusion areas in accordance with Article 22. In accordance with Article 29, national regulatory competent authorities may sanction undertakings	1. Member States shall ensure that undertakings providing providers of electronic communications networks and services associated facilities, or associated services provide all the information, including financial information, necessary for national regulatory authorities, other competent authorities and BEREC to ensure conformity with the provisions of, or decisions made in accordance with, this Directive . In particular, national regulatory and/or other competent authorities shall have the power to require those undertakings to submit information concerning future network or service developments that could have an impact on the wholesale services that they make available to competitors. They may also require information on electronic communications networks and associated facilities which is disaggregated at local level and sufficiently detailed for the national regulatory and/or other competent authority to be able to conduct the geographical survey

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
		deliberately knowingly providing misleading, erroneous or incomplete information.	and to designate digital exclusion areas in accordance with Article 22. In accordance with Article 29, national regulatory and/or other competent authorities may sanction undertakings deliberately knowingly providing misleading, erroneous or incomplete information.
229		Where the information collected in accordance with the first subparagraph is insufficient for the competent authority to carry out their regulatory tasks, such information may be inquired from other relevant undertakings.	
230	Undertakings with significant market power on wholesale markets may also be required to submit accounting data on the retail markets that are associated with those wholesale markets.	Undertakings with significant market power on wholesale markets may also be required to submit accounting data on the retail markets that are associated with those wholesale markets.	
231	National regulatory authorities and other competent authorities may request information from the single information points established pursuant to Directive 2014/61/EU on measures to reduce the cost of high-speed electronic communications networks.	National regulatory authorities and other competent authorities may request information from the single information points established pursuant to Directive 2014/61/EU on measures to reduce the cost of high-speed electronic communications networks.	
232	Undertakings shall provide such information promptly upon request and in conformity with the timescales and level of detail required. The information requested shall be proportionate to the performance of that task. The competent authority shall give the reasons justifying its request for information and shall treat the information in accordance with paragraph 3.	Undertakings shall provide such information promptly upon request and in conformity with the timescales and level of detail required . The information requested shall be proportionate to the performance of that task. The competent authority shall give the reasons justifying its request for information and shall treat the information in accordance with paragraph 3.	
233	2. Member States shall ensure that national regulatory authorities and other competent authorities provide the Commission, after a reasoned request, with the information necessary for it to carry out its tasks under the Treaty. The information requested by the Commission shall be proportionate to the performance of those tasks. Where the information provided refers to information previously provided by undertakings at the request of the authority, such undertakings shall be	2. Member States shall ensure that national regulatory authorities and other competent authorities provide the Commission, after a reasoned request, with the information necessary for it to carry out its tasks under the Treaty. The information requested by the Commission shall be proportionate to the performance of those tasks. Where the information provided refers to information previously provided by undertakings at the request of the authority, such undertakings shall be	

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	informed thereof. To the extent necessary, and unless the authority that provides the information has made an explicit and reasoned request to the contrary, the Commission shall make the information provided available to another such authority in another Member State.	informed thereof. To the extent necessary, and unless the authority that provides the information has made an explicit and reasoned request to the contrary, the Commission shall make the information provided available to another such authority in another Member State.	
234	Subject to the requirements of paragraph 3, Member States shall ensure that the information submitted to one authority can be made available to another such authority in the same or different Member State and to BEREC, after a substantiated request, where necessary to allow either authority, or BEREC, to fulfil its responsibilities under Union law.	Subject to the requirements of paragraph 3, Member States shall ensure that the information submitted to one authority can be made available to another such authority in the same or different Member State and to BEREC , after a substantiated request, where necessary to allow either authority , or BEREC, to fulfil its responsibilities under Union law.	
235	3. Where information is considered confidential by a national regulatory or other competent authority in accordance with Union and national rules on business confidentiality, national security , or the protection of personal data, the Commission, BEREC and the authorities concerned shall ensure such confidentiality. In accordance with the principle of sincere cooperation, national regulatory authorities and other competent authorities shall not deny the provision of the requested information to the Commission, to BEREC or to another authority on the grounds of confidentiality or the need to consult with the parties which provided the information. When the Commission, BEREC or a competent authority undertake to respect the confidentiality of information identified as such by the authority holding it, the latter shall share the information on request for the identified purpose without having to further consult the parties who provided the information.	3. Where information is considered confidential by a national regulatory or other competent authority in accordance with Union and national rules on business confidentiality or the protection of personal data , the Commission , BEREC and any other competent the authorities concerned shall ensure such confidentiality. In accordance with the principle of sincere cooperation, national regulatory authorities and other competent authorities shall not deny the provision of the requested information to the Commission, to BEREC or to another authority on the grounds of confidentiality or the need to consult with the parties which provided the information. When the Commission, BEREC or a competent authority undertake to respect the confidentiality of information identified as such by the authority holding it, the latter shall share the information on request for the identified purpose without having to further consult the parties who provided the information. Business confidentiality shall not prevent the timely sharing of information between the competent authority, the Commission, BEREC and any other competent authorities concerned for the purposes of reviewing, monitoring and supervising the application of this Directive.	<i>Keep Council text (Aligned with wholesale roaming regulation)</i>

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236	4. Member States shall ensure that, acting in accordance with national rules on public access to information and subject to Union and national rules on business confidentiality and protection of personal data, national regulatory and other competent authorities publish such information as would contribute to an open and competitive market.	4. Member States shall ensure that, acting in accordance with national rules on public access to information and subject to Union and national rules on business confidentiality and protection of personal data, national regulatory and other competent authorities publish such information as would contribute to an open and competitive market.	
237	5. National regulatory and other competent authorities shall publish the terms of public access to information as referred to in paragraph 4, including procedures for obtaining such access.	5. National regulatory and other competent authorities shall publish the terms of public access to information as referred to in paragraph 4, including procedures for obtaining such access.	
238	Article 21	Article 21	
239	Information required under the general authorisation, for rights of use and for the specific obligations	Information required under the general authorisation, for rights of use and for the specific obligations	Linked to the developments on Art. 12
240	1. Without prejudice to <i>any information requested pursuant to Article 20 and</i> information and reporting obligations under national legislation other than the general authorisation, national regulatory and other competent authorities may require undertakings to provide information under the general authorisation, for rights of use or the specific obligations referred to in Article 13(2) that is proportionate and objectively justified for <i>in particular</i> :	1. Without prejudice to information and reporting obligations under national legislation other than the general authorisation, national regulatory and other competent authorities may only require undertakings to provide information under the general authorisation, for rights of use or the specific obligations referred to in Article 13(2) that is proportionate and objectively justified for:	
241	(a) systematic or case-by-case verification of compliance with condition 1 of Part A, conditions 2 and 6 of Part D and conditions 2 and 7 of Part E of Annex I and of compliance with obligations as referred to in Article 13 (2);	(a) systematic or case-by-case verification of compliance with condition 1 of Part A, conditions 2 and 6 of Part D and conditions 2 and 7 of Part E of Annex I and of compliance with obligations as referred to in Article 13 (2);	
242	(b) case-by-case verification of compliance with conditions as set out in Annex I where a complaint has been received or where the competent authority has other reasons to believe that a condition is not complied with or in case of an investigation by the competent authority on its own initiative;	(b) case-by-case verification of compliance with conditions as set out in Annex I where a complaint has been received or where the competent authority has other reasons to believe that a condition is not complied with or in case of an investigation by the competent authority on its own initiative;	
243	(c) procedures for and assessment of requests for granting rights of use;	(c) procedures for and assessment of requests for granting rights of use;	

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
244	(d) publication of comparative overviews of quality and price of services for the benefit of consumers;	(d) publication of comparative overviews of quality and price of services for the benefit of consumers;	
245	(e) clearly defined statistical, <i>reports or studies</i> purposes;	(e) clearly defined statistical purposes;	
246	(f) market analysis for the purposes of this Directive <i>including data on the downstream or retail markets associated with or related to the markets subjects to market analysis</i> ;	(f) market analysis for the purposes of this Directive ;	
247	(g) safeguarding the efficient use and ensuring the effective management of radio spectrum and of numbering resources;	(g) safeguarding the efficient use and ensuring the effective management of radio spectrum and of numbering resources ;	
248	(H) EVALUATING FUTURE NETWORK OR SERVICE DEVELOPMENTS THAT COULD HAVE AN IMPACT ON WHOLESALE SERVICES MADE AVAILABLE TO COMPETITORS, ON TERRITORIAL COVERAGE CONNECTIVITY AVAILABLE TO END-USERS OR ON THE DESIGNATION OF DIGITAL EXCLUSION AREAS ;	(h) evaluating future network or service developments that could have an impact on wholesale services made available to competitors , on connectivity available to end-users or on the designation of digital exclusion areas .	
249	<i>(HA) CONDUCTING GEOGRAPHICAL STUDIES;</i>		
250	<i>(HB) RESPONDING TO REASONED REQUESTS FOR INFORMATION BY BEREC.</i>		
251	THE INFORMATION REFERRED TO IN POINTS (A), (B), (D), (E), (F), (G) AND (H) OF THE FIRST SUBPARAGRAPH MAY NOT BE REQUIRED PRIOR TO, OR AS A CONDITION FOR, MARKET ACCESS.	The information referred to in points (a), (b), (d), (e), (f), (g) and (h) of the first subparagraph may not be required prior to, or as a condition for, market access.	
252	<i>BEREC SHALL, BY [DATE], DEVELOP STANDARDISED FORMATS FOR INFORMATION REQUESTS.</i>		
253	2. As regards the rights of use for radio spectrum, such information shall refer in particular to the effective and efficient use of radio spectrum as well as to compliance with the coverage and quality of service obligations attached to the rights of use for radio spectrum and their verification.	2. As regards the rights of use for radio spectrum, such information shall refer in particular to the effective and efficient use of radio spectrum as well as to compliance with the any coverage and quality of service obligations attached to the rights of use for radio spectrum and their verification.	
254	3. Where national regulatory or other competent authorities require undertakings to provide information as referred to in paragraph 1, they shall inform them of	3. Where national regulatory or other competent authorities require undertakings to provide information as referred to in paragraph 1, they shall inform them of	

Article Line #	Parliament Text (A8-0318/2017) Articles	Latest Council text (based on the partial mandates)	Final text (Green) and new compromise proposals
	the specific purpose for which this information is to be used.	the specific purpose for which this information is to be used.	
255	4. National regulatory or other competent authorities may not duplicate requests of information already made by BEREC pursuant to Article 30 of Regulation [xxxx/xxxx/EC (BEREC Regulation)] ⁵ .	4. <i>National regulatory or other competent authorities may not duplicate requests of information already made by BEREC pursuant to Article 30 of Regulation [xxxx/xxxx/EC (BEREC Regulation)]</i> ⁶ where BEREC has made the information received available to those authorities.	
256	<i>4a. Without prejudice to information and reporting obligations for rights of use and for specific obligations, where an undertaking provides electronic communication services in more than one Member State, and has a main establishment in the Union, only the national regulatory authority of the Member State of the main establishment may request the information referred to in paragraph 1. The national regulatory authorities of other Member States concerned may request information from the first national regulatory authority or from BEREC. BEREC shall facilitate the coordination and exchange of information between the national regulatory authorities concerned through the exchange of information established pursuant to Article 30 of Regulation [xxxx/xxxx/EC (BEREC Regulation)].</i>		
257	Article 22	Article 22	Article 22

⁵ Regulation (EC) No xxxx/xxxx of the European Parliament and of the Council of [] establishing the Body of European Regulators for Electronic Communications (BEREC) (OJ L. []).

⁶ Regulation (EC) No xxxx/xxxx of the European Parliament and of the Council of [] establishing the Body of European Regulators for Electronic Communications (BEREC) (OJ L. []).

258	Geographical surveys of network deployments	Geographical surveys of network deployments	Geographical surveys of network deployments
			[Below: Informal input provided for 15/12 techmeet. Linked to revised Rec 60-61] NOT AGREED YET
259	1. National regulatory authorities shall conduct a geographical survey of the reach of electronic communications networks capable of <i>at least</i> delivering broadband ("broadband networks") within three years from [deadline for transposition of the Directive] and shall update it at least every three years.	1. National regulatory authorities Competent authorities shall conduct a geographical survey of the reach of electronic communications networks capable of delivering broadband ("broadband networks") within three years from [deadline for transposition of the Directive] and shall update it at least every three years .	1. National regulatory authorities and/or other competent authorities shall conduct a geographical survey of the reach of electronic communications networks capable of <i>at least</i> delivering broadband ("broadband networks") within three years from [deadline for transposition of the Directive] and shall update it at least every three years.
260	This geographical survey shall consist of a survey of the current geographic reach of <i>such</i> networks within their territory, <i>as required</i> for the <i>tasks under this Directive and for</i> surveys for the application of State aid rules.	This geographical survey shall consist of :	This geographical survey shall include consist of :
261		a) include a survey of the current geographic reach of broadband networks within their territory, in particular for conducting the tasks required by Articles 62 and 65 and by Article 81, as well as for imposing obligations in accordance with Article 66 and for the surveys required for the application of State aid rules; and	a) a survey of the current geographic reach of such broadband networks within their territory, <i>as required in particular</i> for conducting the tasks <i>under this Directive required by Articles 62 and 65 and by Article 81, as well as for imposing obligations in accordance with Article 66</i> and for the surveys required for the application of State aid rules. ; and

262	<p>█</p> <p>[Cf EP line 275]</p>	<p>b) This geographical survey may also include a three-year forecast of up to three years of the reach of broadband networks within their territory, relying in particular on the information gathered in accordance with point (a) where this is available and relevant.</p>	<p>b) This geographical survey may also include a forecast of up to three years forecast of the reach of broadband networks within their territory, relying in particular on the information gathered in accordance with point (a), where this is available and relevant.</p>
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<p>263</p>	<p>█ [Cf EP line 276]</p>	<p>This forecast shall reflect the economic prospects of the electronic communications networks sector and investment intentions of operators at the time when the data is gathered, in order to allow the identification of available connectivity in different areas. This forecast shall include information on planned deployments by any undertaking or public authority, in particular to include very high capacity networks and significant upgrades or extensions of legacy broadband networks to at least the performance of next-generation access networks. For this purpose, national regulatory authorities competent authorities shall request undertakings to provide relevant information regarding planned deployments of such networks to the extent that it is available and can be provided with reasonable effort. The national regulatory authority shall decide to what extent it would be appropriate to rely on all or part of the information gathered in the context of such forecast for conducting the tasks required by Articles 62 and 65 and by Article 81, as well as for imposing obligations in accordance with Article 66.</p>	<p>This forecast shall reflect the economic prospects of the electronic communications networks sector and investment intentions of operators at the time when the data is gathered, in order to allow the identification of available connectivity in different areas. This forecast shall include information on planned deployments by any undertaking or public authority, in particular to include very high capacity networks and significant upgrades or extensions of legacy broadband networks to at least the performance of next-generation access networks. For this purpose, national regulatory authorities national regulatory and/or other competent authorities shall request undertakings to provide relevant information regarding planned deployments of such networks to the extent that it is available and can be provided with reasonable effort.</p> <p><u>The national regulatory authority shall decide to what extent it would be appropriate to rely on all or part of the information gathered in the context of such forecast for conducting the tasks required by Articles 62 and 65 and by Article 81, as well as for imposing obligations in accordance with Article 66.</u></p> <p><u>The extent to which it would be appropriate to rely on all or part of the information gathered in the context of such forecast shall be decided by the national regulatory authority for conducting the tasks required by Articles 62 and 65 as well as for imposing obligations in accordance with Article 66, and by the national regulatory and/or other competent authority for the tasks required by Article 81.</u></p>
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264	The information collected in the survey shall be at an appropriate level of local detail and shall include sufficient information on the quality of service and parameters thereof.	The information collected in the geographical survey shall be at an appropriate level of local detail and shall include sufficient information on the quality of service and parameters thereof. Competent authorities shall ensure that confidential information gathered in the context of a geographical survey are treated in accordance with Article 20.	The information collected in the geographical survey shall be at an appropriate level of local detail and shall include sufficient information on the quality of service and parameters thereof. National regulatory and/or other competent authorities shall ensure that confidential information gathered in the context of a geographical survey are is treated in accordance with Article 20.
265	<p>█</p> <p>[Cf EP line 278]</p>	<p>2. National regulatory authorities Competent authorities may designate a "digital exclusion area" corresponding to an area with clear territorial boundaries where, on the basis of the information gathered and forecast prepared pursuant to paragraph 1, it is determined that for the duration of the relevant forecast period defined by the competent authority, no undertaking or public authority has deployed or is planning to deploy a very high capacity network or has significantly upgraded or extended its network to a performance of at least 100 Mbps download speeds, or is planning to do so. National regulatory authorities Competent authorities shall publish the designated digital exclusion areas.</p>	<p>2. National regulatory and/or other competent authorities may designate a "digital exclusion area" corresponding to an area with clear territorial boundaries where, on the basis of the information gathered and forecast prepared pursuant to paragraph 1, it is determined that for the duration of the relevant forecast period defined by the National regulatory and/or other competent authorities no undertaking or public authority has deployed or is planning to deploy a very high capacity network or has significantly upgraded or extended its network to a performance of at least 100 Mbps download speeds, or is planning to do so. National regulatory and/or other competent authorities shall publish the designated digital exclusion areas.</p>

266	[Cf EP line 279]	<p>3. Within a designated digital exclusion area, national regulatory authorities competent authorities may invite issue a call open to any undertakings to declare their intention to deploy very high capacity networks over the duration of the relevant forecast period. In cases where this invitation results in a declaration by an undertaking to invest within the digital exclusion area, the competent authority may require other undertakings to declare any intention to deploy very high capacity networks in this area. The national regulatory authority competent authority shall specify the information to be included in such submissions, in order to ensure at least a similar level of detail as that taken into consideration in the forecast envisaged in paragraph 1(b). It shall also inform any undertaking expressing its interest whether the designated digital exclusion area is covered or likely to be covered by an NGA network offering download speeds below 100 Mbps on the basis of the information gathered pursuant to paragraph 1(b).</p>	<p>3. Within a designated digital exclusion area, National regulatory and/or other competent authorities may invite issue a call open to any undertakings to declare their intention to deploy very high capacity networks over the duration of the relevant forecast period. In cases where this invitation results in a declaration by an undertaking of its intention to invest within the digital exclusion area, the national regulatory and/or other competent authorities may require other undertakings to declare any intention to deploy very high capacity networks in this area. The national regulatory and/or other competent authorities shall specify the information to be included in such submissions, in order to ensure at least a similar level of detail as that taken into consideration in the forecast envisaged in paragraph 1(b). It shall also inform any undertaking expressing its interest whether the designated digital exclusion area is covered or likely to be covered by an NGA network offering download speeds below 100 Mbps on the basis of the information gathered pursuant to paragraph 1(b).</p>
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267	<p>█</p> <p>[Cf EP line 280]</p>	<p>4. When national regulatory authorities competent authorities take measures pursuant to paragraph 3, they shall do so according to an efficient, objective, transparent and non-discriminatory procedure, whereby no undertaking is a priori excluded. Failure to provide information pursuant to paragraph 1(b) or to respond to the call for interest pursuant to paragraph 3 may be considered as misleading information pursuant to Articles 20 or 21.</p>	<p>4. When national regulatory and/or other competent authorities take measures pursuant to paragraph 3, they shall do so according to an efficient, objective, transparent and non-discriminatory procedure, whereby no undertaking is a priori excluded <i>a priori</i>. Failure to provide information pursuant to paragraph 1(b) or to respond to the call for interest pursuant to paragraph 3 may be considered as misleading information pursuant to Articles 20 or 21.</p>
267a		<p>When imposing penalties, fines and periodic penalties pursuant to Article 29 for the provision of knowingly misleading, erroneous or incomplete information in the context of the procedure referred to in paragraph 3, competent authorities shall have regard to whether the behaviour of the operator has had a negative impact on competition, in particular because it:</p>	<p>When imposing penalties, fines and periodic penalties pursuant to Article 29 for provision of knowingly misleading, <u>erroneous or incomplete</u> information in the context of the procedure referred to in paragraph 3, national regulatory <u>and/or other competent authorities</u>] shall have regard to whether the behaviour of the operator has had a negative impact on competition, in particular because it:</p>
268		<p>(a) has subsequently deployed a very high capacity network in the same area, or has significantly upgraded or extended its network to a performance of at least 100 Mbps download speeds, in contradiction with its previously stated intentions, and cannot provide an objective justification for a change in its plans that occurred after the procedure referred to in paragraph 3; or</p>	<p>(a) has subsequently deployed a very high capacity network in the same area, or has significantly upgraded or extended its network to a performance of at least 100 Mbps download speeds, in contradiction with its previously stated intentions, and cannot provide an objective justification for a change in its plans that occurred after the procedure referred to in paragraph 3; or</p>

269	I	(b) has not deployed a network according to plans submitted, without an objective justification.	(b) has not deployed a network according to plans submitted, without an objective justification.
270	<p>5. Member States shall ensure that local, regional and national authorities with responsibility for the allocation of public funds for the deployment of electronic communications networks, for the design of national broadband plans, for defining coverage obligations attached to rights of use for radio spectrum and for verifying availability of services falling within the universal service obligation in their territory take into account the results of the <i>survey</i> conducted in accordance with <i>paragraph 1</i> and that national regulatory authorities supply such results subject to the receiving authority ensuring the same level of confidentiality and protection of business secrets as the originating authority and inform the parties which provided the information. These results shall also be made available to BEREC and the Commission upon their request and under the same conditions.</p>	<p>5. Member States shall ensure that national regulatory authorities, local, regional and national authorities with responsibility for the allocation of public funds for the deployment of electronic communications networks, for the design of national broadband plans, for defining coverage obligations attached to rights of use for radio spectrum and for verifying availability of services falling within the universal service obligation in their territory take into account the results of the geographical surveys and of the designated digital exclusion areas conducted in accordance with pursuant to paragraphs 1, 2 and 3, and that national regulatory authorities competent authorities supply such results subject to the receiving authority ensuring the same level of confidentiality and protection of business secrets as the originating authority. These results shall also be made available to BEREC and the Commission upon their request and under the same conditions.</p>	<p>5. Member States shall ensure that national regulatory and/or other competent authorities, local, regional and national authorities with responsibility for the allocation of public funds for the deployment of electronic communications networks, for the design of national broadband plans, for defining coverage obligations attached to rights of use for radio spectrum and for verifying availability of services falling within the universal service obligation in their territory take into account the results of the geographical surveys and of the designated digital exclusion areas conducted in accordance with pursuant to paragraphs 1, 2 and 3, and that national regulatory and/or other competent authorities supply such results subject to the receiving authority ensuring the same level of confidentiality and protection of business secrets as the originating authority and inform the parties which provided the information. These results shall also be made available to BEREC and the Commission upon their request and under the same conditions.</p>

271	<p>6. <i>If the relevant information is not available on the market, the national regulatory authorities shall make data from the geographical surveys which is not subject to confidentiality directly accessible online in an open and machine readable format to allow for its reuse. They shall also, where such tools are not available on the market, make available information tools enabling end-users to determine the availability of connectivity in different areas, with a level of detail which is useful to support their choice of operator or service provider, without prejudice to national regulatory authority's obligations regarding the protection of confidential information and business secrets.</i></p>	<p>6. National regulatory authorities Competent authorities may make available information tools to end-users, in order to assist them to determine the availability of connectivity in different areas, with a level of detail which is useful to support their choice in terms of connectivity services, in line with national regulatory authority's competent authorities' obligations regarding the protection of confidential information and business secrets.</p>	<p>6. <i>If the relevant information is not available on the market, national regulatory and/or other competent authorities shall make data from the geographical surveys which is not subject to confidentiality directly accessible online where possible and where appropriate in an open and machine readable format to allow for its reuse. They shall also, where such tools are not available on the market, make available information tools enabling end-users to determine the availability of connectivity in different areas, with a level of detail which is useful to support their choice in terms of connectivity services of operator or service provider, without prejudice to in line with national regulatory authority's and/or other competent authorities' obligations regarding the protection of confidential information and business secrets.</i></p>
272	<p>7. By [date] in order to contribute to the consistent application of geographical surveys and forecasts, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, issue guidelines to assist national regulatory authorities on the consistent implementation of their obligations under this Article.</p>	<p>7. By [date] in order to contribute to the consistent application of geographical surveys and forecasts, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, issue guidelines to assist national regulatory authorities competent authorities on the consistent implementation of their obligations under this Article.</p>	<p>7. By [date] in order to contribute to the consistent application of geographical surveys and forecasts, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, issue guidelines to assist national regulatory authorities and/or other competent authorities on the consistent implementation of their obligations under this Article.</p>
273	<p><i>Article 22a</i></p>		

274	<i>Geographical forecasts</i>		
275	<i>1. In conducting a geographical survey pursuant to Article 22, national regulatory authorities may include a three-year forecast of the reach of very high capacity networks within their territory.</i>	[Cf Council line 262]	
276	<i>That forecast may also include information on planned deployments by any undertaking or public authority, in particular to include very high capacity networks and significant upgrades or extensions of legacy broadband networks to at least the performance of next-generation access networks.</i>	[Cf Council line 263]	
277	<i>The information collected shall be at an appropriate level of local detail and include sufficient information on the quality of service and parameters thereof.</i>	[Cf Council line 264]	

278	<i>2. National regulatory authorities may designate a "digital exclusion area" corresponding to an area with clear territorial boundaries where, on the basis of the information gathered pursuant to paragraph 1, it is determined that for the duration of the relevant forecast period, no undertaking or public authority has deployed or is planning to deploy a very high capacity network or has significantly upgraded or extended its network to a performance of at least 100 Mbps download speeds, or is planning to do so. National regulatory authorities shall publish the designated digital exclusion areas.</i>	[Cf Council line 265]		
279	<i>3. Within a designated digital exclusion area, national regulatory authorities may issue a call open to any undertaking to declare their intention to deploy very high capacity networks over the duration of the relevant forecast period. The national regulatory authority shall specify the information to be included in such submissions, in order to ensure at least a similar level of detail as that taken into consideration in the forecast. It shall also inform any undertaking expressing its interest whether the designated digital exclusion area is covered or likely to be covered by an NGA network offering download speeds below 100 Mbps on the basis of the information gathered.</i>	[Cf Council line 266]		
280	<i>4. When national regulatory authorities take measures pursuant to paragraph 3, they shall do so according to an efficient, objective, transparent and non-discriminatory procedure, whereby no undertaking is excluded a priori.</i>	[Cf Council line 267]		
	Article 25	Article <u>25</u>	G	Article 25
295	Out-of-court dispute resolution	Out-of-court dispute resolution	G	Out-of-court dispute resolution

	<p>1. Member States shall ensure that consumers, <i>including persons with disabilities</i> have access to transparent, non-discriminatory, simple, fast, fair and inexpensive out-of-court procedures for their unresolved disputes with <i>providers of</i> publicly available electronic communications <i>networks and</i> services, arising under this Directive and relating to the contractual conditions and/or performance of contracts concerning the supply of those networks and/or services. <i>Providers of publicly available electronic communications networks and services shall not refuse consumer's request to resolve a dispute with the consumer through an out-of-court dispute resolution on the basis of clear and efficient procedures and guidelines.</i> Such procedures shall comply with the quality requirements set out in Chapter II of Directive 2013/11/EU. Member States may grant access to such procedures to other end-users, in particular micro and small enterprises.</p>	<p>1. Member States shall ensure that consumers have access to transparent, non-discriminatory, simple , fast, fair and inexpensive out-of-court procedures for their unresolved disputes with undertakings providing publicly available electronic communications services other than number-independent interpersonal communications services, arising under this Directive and relating to the contractual conditions and/or performance of contracts concerning the supply of those networks and/or services. Member States shall enable the national regulatory competent authority, or an Alternative Dispute Resolution entity as referred to in point (h) of Article 4(1) of Directive 2013/11/UE, to act as a dispute settlement entity. Such procedures shall comply with the quality requirements set out in Chapter II of Directive 2013/11/EU. Member States may grant access to such procedures to other end-users , in particular micro and small enterprises.</p>	<p>Y</p> <p>1. Member States shall ensure that consumers have access to transparent, non-discriminatory, simple , fast, fair and inexpensive out-of-court procedures for their unresolved disputes with undertakings providing publicly available electronic communications services other than number-independent interpersonal communications services, arising under this Directive and relating to the contractual conditions and/or performance of contracts concerning the supply of those networks and/or services. Member States shall enable the <u>national regulatory and/or other competent authorities responsible for the application of Articles 95 to 100 and Article 107, or which can also be an Alternative Dispute Resolution entity as referred to in point (h) of Article 4(1) of Directive 2013/11/UE</u>, to act as a dispute settlement entity. Such procedures shall comply with the quality requirements set out in Chapter II of Directive 2013/11/EU. Member States may grant access to such procedures to other end-users , in particular micro and small enterprises.</p> <p><u>If the dispute settlement entity is not the authority responsible for the application of articles 95 to 100 and article 107, it shall cooperate with the relevant responsible authority where necessary.</u></p>
	<p>2. Member States shall ensure that their legislation does not hamper the establishment of complaints offices and the provision of online services at the appropriate territorial level to facilitate access to dispute resolution by consumers and other end-users. <i>Where the national regulatory authority has been listed in accordance with Article 20(2) of Directive 2013/11/EU</i>, the provisions of Regulation (EU) 524/2013 shall apply to disputes as</p>	<p>2. Member States shall ensure that their legislation does not hamper the establishment of complaints offices and the provision of online services at the appropriate territorial level to facilitate access to dispute resolution by consumers and other end-users. For disputes involving consumers and falling within the scope of Regulation (EU) 524/2013, the provisions of that Regulation shall apply provided that the dispute</p>	<p>Y</p> <p>2. Member States shall ensure that their legislation does not hamper the establishment of complaints offices and the provision of online services at the appropriate territorial level to facilitate access to dispute resolution by consumers and other end-users. For disputes involving consumers and falling within the scope of Regulation (EU) 524/2013, the</p>

	<i>referred to in paragraph 1 of this Article that stem from online contracts.</i>	settlement entity concerned has been notified to the Commission under Article 20 of Directive 2013/11/EU.		provisions of that Regulation shall apply provided that the dispute settlement entity concerned has been notified to the Commission under Article 20 of Directive 2013/11/EU.
	3. Without prejudice to the provisions of Directive 2013/11/EU, where such disputes involve parties in different Member States, Member States shall coordinate their efforts with a view to bringing about a resolution of the dispute.	3. Without prejudice to the provisions of Directive 2013/11/EU, <u>where</u> such disputes involve parties in different Member States, Member States shall coordinate their efforts with a view to bringing about a resolution of the dispute.	G	
	4. This Article is without prejudice to national court procedures.	4. This Article is without prejudice to national court procedures.	G	GREEN
	<i>Article 26</i>	<i>Article 26</i>		
300	Dispute resolution between undertakings	Dispute resolution between undertakings		
301	1. In the event of a dispute arising in connection with existing obligations under this Directive between providers of electronic communications networks or services in a Member State, or between such undertakings and other undertakings in the Member State benefiting from obligations of access and/or interconnection or between providers of electronic communications networks or services in a Member State and providers of associated facilities, the national regulatory authority concerned shall, at the request of either party, and without prejudice to paragraph 2, issue a binding decision to resolve the dispute in the shortest possible time frame on the basis of clear and efficient procedures and guidelines and in any case within four months, except in exceptional circumstances. The Member State concerned shall require that all parties cooperate fully with the national regulatory authority.	1. In the event of a dispute arising in connection with existing obligations under this Directive between undertakings providing electronic communications networks or services in a Member State, or between such undertakings and other undertakings in the Member State benefiting from obligations of access and/or interconnection or between undertakings providing electronic communications networks or services in a Member State and providers of associated facilities, the national regulatory authority concerned shall, at the request of either party, and without prejudice to paragraph 2, issue a binding decision to resolve the dispute in the shortest possible time frame and in any case within four months, except in exceptional circumstances. The Member State concerned shall require that all parties cooperate fully with the national regulatory authority.		1. In the event of a dispute arising in connection with existing obligations under this Directive between undertakings providing providers of electronic communications networks or services in a Member State, or between such undertakings and other undertakings in the Member State benefiting from obligations of access and/or interconnection or between undertakings providing providers of electronic communications networks or services in a Member State and providers of associated facilities, the national regulatory authority concerned shall, at the request of either party, and without prejudice to paragraph 2, issue a binding decision to resolve the dispute in the shortest possible time frame [on the basis of clear procedures] and in any case within four months, except in exceptional circumstances. The Member State concerned shall require that all parties cooperate fully with the national regulatory authority.
302	2. Member States may make provision for national regulatory authorities to decline to resolve a dispute through a binding decision where other mechanisms,	2. Member States may make provision for national regulatory authorities to decline to resolve a dispute through a binding decision where other mechanisms,		

	including mediation, exist and would better contribute to resolution of the dispute in a timely manner in accordance with Article 3. The national regulatory authority shall inform the parties without delay. If after four months the dispute is not resolved, and if the dispute has not been brought before the courts by the party seeking redress, the national regulatory authority shall issue, at the request of either party, a binding decision to resolve the dispute in the shortest possible time frame and in any case within four months.	including mediation, exist and would better contribute to resolution of the dispute in a timely manner in accordance with Article 3. The national regulatory authority shall inform the parties without delay. If after four months the dispute is not resolved, and if the dispute has not been brought before the courts by the party seeking redress, the national regulatory authority shall issue, at the request of either party, a binding decision to resolve the dispute in the shortest possible time frame and in any case within four months.		
303	3. In resolving a dispute, the national regulatory authority shall take decisions aimed at achieving the objectives set out in Article 3. Any obligations imposed on an undertaking by the national regulatory authority in resolving a dispute shall respect the provisions of this Directive.	3. In resolving a dispute, the national regulatory authority shall take decisions aimed at achieving the objectives set out in Article 3. Any obligations imposed on an undertaking by the national regulatory authority in resolving a dispute shall respect the provisions of this Directive .		
304	4. The decision of the national regulatory authority shall be made available to the public, having regard to the requirements of business confidentiality. The parties concerned shall be given a full statement of the reasons on which it is based.	4. The decision of the national regulatory authority shall be made available to the public, having regard to the requirements of business confidentiality. The parties concerned shall be given a full statement of the reasons on which it is based.		
305	5. The procedure referred to in paragraphs 1, 3 and 4 shall not preclude either party from bringing an action before the courts.	5. The procedure referred to in paragraphs 1, 3 and 4 shall not preclude either party from bringing an action before the courts.		
306	<i>Article 27</i>	<i>Article 27</i>		
307	Resolution of cross-border disputes	Resolution of cross-border disputes		
308	1. In the event of a dispute arising under this Directive between undertakings in different Member States the provisions set out in paragraphs 2, 3 and 4 shall be applicable. Those provisions shall not apply to disputes relating to radio spectrum coordination covered by Article 28.	1. In the event of a dispute arising under this Directive between undertakings in different Member States the provisions set out in paragraphs 2, 3 and 4 shall be applicable. Those provisions shall not apply to disputes relating to radio spectrum coordination covered by Article 28.		
309	2. Any party may refer the dispute to the national regulatory authority or authorities concerned. The competent national regulatory authority or authorities shall notify the dispute to BEREC in order to bring about a consistent resolution of the dispute, in accordance with the objectives set out in Article 3.	2. Any party may refer the dispute to the national regulatory authority or authorities concerned. The competent national regulatory authority or authorities may shall notify the dispute to BEREC in order to bring about a consistent resolution of the dispute, in accordance with the objectives set out in Article 3.		
310	3. BEREC shall issue an opinion indicating to the	3. Where such a notification has been made , BEREC		

	national regulatory authority or authorities concerned to take specific action in order to solve the dispute or to refrain from action, in the shortest possible time frame and in any case within four months, except in exceptional circumstances.	shall issue an opinion indicating to inviting the national regulatory authority or authorities concerned to take specific action in order to solve the dispute or to refrain from action, in the shortest possible time frame and in any case within four months, except in exceptional circumstances.		
311	4. The national regulatory authority or authorities concerned shall await BEREC's opinion before taking any action to solve the dispute. In exceptional circumstances, where there is an urgent need to act, in order to safeguard competition or protect the interests of end-users, any of the competent national regulatory authorities may, either at the request of the parties or on its own initiative, adopt interim measures.	4. The national regulatory authority or authorities concerned shall await BEREC's opinion before taking any action to solve the dispute. In exceptional circumstances, where there is an urgent need to act, in order to safeguard competition or protect the interests of end-users, any of the competent national regulatory authorities may, either at the request of the parties or on its own initiative, adopt interim measures.		
312	<i>4a. In cases of crossborder disputes of which the resolution involves more than one national regulatory authority and where competent national regulatory authorities have not been able to reach an agreement within a period of 3 months, after the case in question was referred to the last of those regulatory authorities, BEREC shall be empowered to adopt binding decisions to ensure a consistent resolution of the dispute.</i>			
313	5. Any obligations imposed on an undertaking by the national regulatory authority as part of the resolution of the dispute shall comply with this Directive, take the utmost account of the opinion adopted by BEREC, and be adopted within one month from such opinion.	5. Any obligations imposed on an undertaking by the national regulatory authority as part of the resolution of the dispute shall comply with this Directive, take the utmost account of the opinion adopted by BEREC , and be adopted within one month from such opinion .		
314	6. The procedure referred to in paragraph 2 shall not preclude either party from bringing an action before the courts.	6. The procedure referred to in paragraph 2 shall not preclude either party from bringing an action before the courts.		
315	<i>Article 28</i>	Article 28		
316	Radio Spectrum Coordination among Member States	Radio Spectrum Coordination among Member States		
317	1. Member States and their competent authorities shall ensure that the use of radio spectrum is organised on their territory in a way that no other Member State is impeded from allowing on its territory the use of radio spectrum, in particular of harmonised radio spectrum, in accordance with Union legislation,	1. Member States and their competent authorities shall ensure that the use of radio spectrum is organised on their territory in a way that no other Member State is impeded, in particular due to cross-border harmful interference between Member States, from allowing on its territory the use of harmonised radio spectrum in		1. Member States and their national regulatory and/or other competent authorities shall ensure that the use of radio spectrum is organised on their territory in a way that no other Member State is prevented impeded, in

	<i>especially due to harmful cross-border interference between Member States.</i>	accordance with Union legislation.	particular due to cross-border harmful interference between Member States, from allowing on its territory the use of harmonised radio spectrum in accordance with Union law legislation, <i>especially due to harmful cross-border interference between Member States.</i>
318	They shall take all necessary measures to this effect without prejudice to their obligations under international law and relevant international agreements such as the ITU Radio Regulations.	They shall take all necessary measures to this effect without prejudice to their obligations under international law and relevant international agreements such as the ITU Radio Regulations and the ITU Radio Regional Agreements.	Member States They shall take all necessary measures to this effect without prejudice to their obligations under international law and relevant international agreements such as the ITU Radio Regulations and the ITU Radio Regional Agreements.
319	2. Member States shall cooperate with each other, <i>and</i> through the Radio Spectrum Policy Group <i>established pursuant to paragraph 4a</i> , in the cross-border coordination of the use of radio spectrum in order to:	2. <i>Member States shall cooperate with each other; and through the Radio Spectrum Policy Group where appropriate, in the cross-border coordination of the use of radio spectrum in order to:</i>	2. Member States shall cooperate with each other and through the Radio Spectrum Policy Group where appropriate , in the cross-border coordination of the use of radio spectrum in order to:
320	(a) ensure compliance with paragraph 1;	(a) ensure compliance with paragraph 1;	(a) ensure compliance with paragraph 1;
321	(b) solve any problem or dispute in relation to cross-border coordination or cross-border harmful interference;	(b) solve any problem or dispute in relation to cross-border coordination or cross-border harmful interference between Member States as well as with non-EU countries.	(b) solve any problem or dispute in relation to cross-border coordination or cross-border harmful interference between Member States as well as with non-EU countries which prevent Member States from using the harmonised radio spectrum in their territory.
322	<i>(ba) contribute to the development of the internal market.</i>		
323	<i>2a. Member States shall also cooperate with each other, and through the Radio Spectrum Policy Group, with respect to aligning their approaches to the assignment and authorisation of use of radio spectrum.</i>		
324	3. Any Member State concerned as well as the Commission may request the Radio Spectrum Policy Group to use its good offices and, where appropriate, to	3. In order to ensure compliance with paragraph 1, any Any Member State concerned as well as the Commission may request the Radio Spectrum Policy	3. In order to ensure compliance with paragraph 1, any Any Member State concerned as well as the Commission may

	propose a coordinated solution in an opinion, in order to assist Member States in complying with paragraphs 1 and 2, <i>including where the problem or dispute involves third countries. Member States shall refer any unresolved dispute between them to the Radio Spectrum Policy Group, in priority to any available dispute settlement process provided under international law.</i>	Group to use its good offices to address any problem or dispute in relation to cross-border coordination or cross border harmful interference. Where appropriate, the RSPG may and, where appropriate, to propose a coordinated solution in an opinion a coordinated solution regarding any such problem or dispute, in order to assist Member States in complying with paragraphs 1 and 2.	request the Radio Spectrum Policy Group to use its good offices to address any problem or dispute in relation to cross-border coordination or cross border harmful interference. Where appropriate, the Radio Spectrum Policy Group may and, where appropriate, to propose a coordinated solution in an opinion a coordinated solution regarding any such problem or dispute, in order to assist Member States in complying with paragraphs 1 and 2.
325	4. At the request of a Member State or upon its own initiative, the Commission may, taking utmost account of the opinion of the Radio Spectrum Policy Group, adopt implementing measures to resolve cross-border harmful interferences between two or several Member States which prevent them from using the harmonised radio spectrum in their territory. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 110(4).	4. Where no solution has been reached following the procedures set out in paragraphs 2 and 3 and at the request of a Member State affected or upon its own initiative, the Commission may, taking utmost account of the any opinion of the Radio Spectrum Policy Group recommending a coordinated solution pursuant to paragraph 3, adopt implementing measures decisions to resolve cross-border harmful interferences between two or several Member States which prevent them from using the harmonised radio spectrum in their territory. Those implementing acts decisions shall be adopted in accordance with the examination procedure referred to in Article 110(4) and shall be addressed to those Member States concerned by the unresolved harmful interference.	4. Where no solution has been reached following the procedures set out in actions pursuant to paragraphs 2 and 3 have not solved the problem or dispute, and at the request of any affected Member State or upon its own initiative, the Commission may, taking utmost account of the any opinion of the Radio Spectrum Policy Group recommending a coordinated solution pursuant to paragraph 3, adopt decisions implementing measures to resolve cross-border harmful interferences between two or several Member States which prevent them from using the harmonised radio spectrum in their territory. Those decisions implementing acts shall be adopted in accordance with the examination procedure referred to in Article 110(4) and shall be addressed to those Member States concerned by the unresolved harmful interference.
326	<i>4a. An advisory group on radio spectrum policy, called the Radio Spectrum Policy Group, consisting of one high level governmental expert from each Member State as well as of a high-level representative from the Commission is hereby established.</i>		<u>Proposal to include new recital:</u> <u>The Commission has indicated its intention to amend, before the entry into force of this Directive, Commission Decision 2002/622/EC</u>

			<u>of 26 July 2002 establishing a Radio Spectrum Policy Group in order to reflect the new tasks conferred on the RSPG by this Directive.</u>
327	<i>The group shall assist and advise Member States and the Commission on cross-border coordination of the use of radio spectrum, on aligning their approaches to the assignment and authorisation of use of radio spectrum and on other radio spectrum policy and coordination issues.</i>		
328	<i>The secretariat shall be provided by [the BEREC Office/BEREC].</i>		
329		5. The Union shall, upon request of an affected Member State, provide legal, political and technical support to resolve spectrum coordination issues with countries neighbouring the Union, including candidate and acceding countries, in such a way that the Member States concerned can observe their obligations under Union law.	5. The Union shall, upon request of any affected Member State, provide legal, political and technical support to resolve spectrum coordination issues with countries neighbouring the Union, including candidate and acceding countries, in such a way that the Member States concerned can observe their obligations under Union law. In the provision of such assistance, the Union shall promote the implementation of Union policies.
330	Title III: Implementation	<i>Title III: Implementation</i>	
331	Article 29	Article 29	
332	Penalties and compensation	Penalties	
333	<i>I. Member States shall lay down rules on penalties, including fines and periodic penalties, where necessary, in order to prevent infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. Without prejudice to Article 30, those rules shall ensure that the national regulatory authorities and other competent authorities have the power, if appropriate when imposing an obligation, to impose predetermined financial penalties to be paid to the relevant authority, to end-users, and/or to other undertakings for the infringement of the relevant obligation. The penalties provided for must be appropriate, effective,</i>	Member States shall lay down rules on penalties , fines and periodic penalties, where necessary, applicable to infringements of national provisions adopted pursuant to this Directive or of any relevant legally-binding decision of issued by the Commission , national regulatory or other competent authority pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. Within the limits of national constitutional law, national regulatory and other competent authorities shall have the power to impose such penalties. The penalties provided for must be appropriate, effective, proportionate and dissuasive. The Member States shall notify those provisions to the	Member States shall lay down rules on penalties , fines and periodic penalties, where necessary, applicable to infringements of national provisions adopted pursuant to this Directive or of any relevant legally-binding decision of issued by the Commission , national regulatory and/or other competent authority ies pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. Within the limits of national constitutional law, national regulatory and/or other competent authorities shall have the power to impose such penalties. The penalties

	proportionate and dissuasive. █	Commission by [date for transposition] and shall notify it without delay of any subsequent amendment affecting them.		provided for must be appropriate, effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by [date for transposition] and shall notify it without delay of any subsequent amendment affecting them.
334	<i>2. Member States shall ensure that any user who has suffered material or non-material damage as a result of an infringement of this Directive has the right to receive compensation from the infringer for the damage suffered, unless the infringer proves that it is not in any way responsible for the event giving rise to the damage. Any predetermined financial penalties payable to the user pursuant to paragraph 1 shall be deducted from the compensation referred to in this paragraph.</i>			
335	<i>3. A holder of rights of use for radio spectrum shall be compensated with regard to investments made following any amendment, restriction or withdrawal of such rights in infringement of Article 18 or 19.</i>			
350	<i>Article 31</i>	Article 31		
351	Right of appeal	Right of appeal		
352	1. Member States shall ensure that effective mechanisms exist at national level under which any user or undertaking providing electronic communications networks and/or services who is affected by a decision of a competent authority has the right of appeal against the decision to an appeal body that is completely independent of the parties involved and of any external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it. This body, which may be a court, shall have the appropriate expertise to enable it to carry out its functions effectively. Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.	1. Member States shall ensure that effective mechanisms exist at national level under which any user or undertaking providing electronic communications networks, and/or services and/or associated facilities who is affected by a decision of a competent authority has the right of appeal against the decision to an appeal body that is completely independent of the parties involved and of any external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it . This body, which may be a court, shall have the appropriate expertise to enable it to carry out its functions effectively. Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.		
353	Pending the outcome of the appeal, the decision of the competent authority shall stand, unless interim measures	Pending the outcome of the appeal, the decision of the competent authority shall stand, unless interim		

	are granted in accordance with national law.	measures are granted in accordance with national law.	
354	2. Where the appeal body referred to in paragraph 1 is not judicial in character, written reasons for its decision shall always be given. Furthermore, in such a case, its decision shall be subject to review by a court or tribunal within the meaning of Article 267 of the Treaty.	2. Where the appeal body referred to in paragraph 1 is not judicial in character, written reasons for its decision shall always be given. Furthermore, in such a case, its decision shall be subject to review by a court or tribunal within the meaning of Article 267 of the Treaty.	
355	3. Member States shall collect information on the general subject matter of appeals, the number of requests for appeal, the duration of the appeal proceedings and the number of decisions to grant interim measures. Member States shall provide such information, as well as the decisions or judgments to the Commission and BEREC after a reasoned request from either.	<i>3. Member States shall collect information on the general subject matter of appeals, the number of requests for appeal, the duration of the appeal proceedings and the number of decisions to grant interim measures. Member States shall provide such information, as well as the decisions or judgments to the Commission and BEREC after a reasoned request from either.</i>	
356	Title IV: Internal market procedures	Title IV: Internal market procedures	
357	Article 32	Article 32	Article 32
358	Consolidating the internal market for electronic communications	Consolidating the internal market for electronic communications	Consolidating the internal market for electronic communications
359	1. In carrying out their tasks under this Directive, national regulatory authorities shall take the utmost account of the objectives set out in Article 3, including in so far as they relate to the functioning of the internal market.	1. In carrying out their tasks under this Directive, national regulatory authorities shall take the utmost account of the objectives set out in Article 3, including in so far as they relate to the functioning of the internal market.	NOT FINALIZED YET 1. In carrying out their tasks under this Directive, national regulatory authorities shall take the utmost account of the objectives set out in Article 3, including in so far as they relate to the functioning of the internal market.

360	2. National regulatory authorities shall contribute to the development of the internal market by working with each other and with the Commission and BEREC in a transparent manner so as to ensure the consistent application, in all Member States, of the provisions of this Directive. To this end, they shall, in particular, work with the Commission and BEREC to identify the types of instruments and remedies best suited to address particular types of situations in the marketplace.	2. National regulatory authorities shall contribute to the development of the internal market by working with each other and with the Commission and BEREC in a transparent manner so as to ensure the consistent application, in all Member States, of the provisions of this Directive. To this end, they shall, in particular, work with the Commission and BEREC to identify the types of instruments and remedies best suited to address particular types of situations in the marketplace.		2. National regulatory authorities shall contribute to the development of the internal market by working with each other and with the Commission and BEREC in a transparent manner so as to ensure the consistent application, in all Member States, of the provisions of this Directive. To this end, they shall, in particular, work with the Commission and BEREC to identify the types of instruments and remedies best suited to address particular types of situations in the marketplace.
361	3. Except where otherwise provided in recommendations or guidelines adopted pursuant to Article 34 upon completion of the consultation referred to in Article 23, where a national regulatory authority intends to take a measure which:	3. Except where otherwise provided in recommendations or guidelines adopted pursuant to Article 34 upon completion of the consultation, if referred to in required, under Article 23, where a national regulatory authority intends to take a measure which:		3. Except where otherwise provided in recommendations or guidelines adopted pursuant to Article 34 upon completion of the consultation, if referred to in required, under Article 23, where a national regulatory authority intends to take a measure which:
362	(a) falls within the scope of Articles 59, 62, 65 or 66 of this Directive; and	(a) falls within the scope of Articles 59, 62, 65, or 66 or 86b of this Directive; and		(a) falls within the scope of Articles 59, 62, 65, or 66 or 86b of this Directive; and
363	(b) would affect trade between Member States;	(b) would affect trade between Member States;		(b) would affect trade between Member States;

364	it shall <i>publish</i> the draft measure <i>and make it</i> accessible to the Commission, BEREC, and the national regulatory authorities in other Member States, at the same time, together with the reasoning <i>and detailed analysis</i> on which the measure is based, in accordance with Article 20(3), and inform the Commission, BEREC and other national regulatory authorities thereof. National regulatory authorities, BEREC and the Commission may make comments to the national regulatory authority concerned only within one month. The one-month period may not be extended.	it shall make the draft measure accessible to the Commission, BEREC, and the national regulatory authorities in other Member States, at the same time, together with the reasoning on which the measure is based, in accordance with Article 20(3), and inform the Commission, BEREC and other national regulatory authorities thereof. National regulatory authorities, BEREC and the Commission may make comments to the national regulatory authority concerned only within one month. The one-month period may not be extended.		PRES: keep Council Position
365	4. Where an intended measure covered by paragraph 3 aims at:	4. Where an intended measure covered by paragraph 3 aims at:		4. Where an intended measure covered by paragraph 3 aims at:
366	(a) defining a relevant market which differs from those defined in the Recommendation in accordance with Article 62(1); or	(a) defining a relevant market which differs from those defined in the Recommendation in accordance with Article 62(1); or		(a) defining a relevant market which differs from those defined in the Recommendation in accordance with Article 62(1); or
367	(b) deciding whether or not to designate an undertaking as having, either individually or jointly with others, significant market power, under Article 65(3) or (4);	(B) DECIDING WHETHER OR NOT TO DESIGNATE AN UNDERTAKING AS HAVING, EITHER INDIVIDUALLY OR JOINTLY WITH OTHERS, SIGNIFICANT MARKET POWER, UNDER ARTICLE 65(3) OR (4);		(b) deciding whether or not to designate an undertaking as having, either individually or jointly with others, significant market power, under Article 65(3) or (4);

368	and would affect trade between Member States, and the Commission has notified the national regulatory authority that it considers that the draft measure would create a barrier to the single market or if it has serious doubts as to its compatibility with Union law and in particular the objectives referred to in Article 3, the draft measure shall not be adopted for a further two months. This period may not be extended. The Commission shall inform BEREC and national regulatory authorities of its reservations in such a case and simultaneously make them public.	and would affect trade between Member States, and the Commission has indicated to the national regulatory authority that it considers that the draft measure would create a barrier to the single market or if it has serious doubts as to its compatibility with Union law and in particular the objectives referred to in Article 3, the draft measure shall not be adopted for a further two months. This period may not be extended. The Commission shall inform other national regulatory authorities of its reservations in such a case.	PRES: keep Council Position
369	<i>4a. Within six weeks from the beginning of the two month period referred to in paragraph 4, BEREC shall issue an opinion on the Commission's notification referred to in paragraph 4, indicating whether it considers that the draft measure should be amended or withdrawn and shall, where appropriate, provide specific proposals to that end. The opinion shall be reasoned and made public.</i>		<i>[4a. Within six weeks from the beginning of the two month period referred to in paragraph 4, BEREC shall issue an opinion on the Commission's notification referred to in paragraph 4, indicating whether it considers that the draft measure should be <u>maintained</u>, amended or withdrawn and shall, where appropriate, provide specific proposals to that end. The opinion shall be reasoned and made public.]</i>
370	5. Within the two-month period referred to in paragraph 4, the Commission may:	5. Within the two-month period referred to in paragraph 4, the Commission may:	5. Within the two-month period referred to in paragraph 4, the Commission may:
371	(a) take a decision requiring the national regulatory authority concerned to withdraw the draft measure; and/or	(a) take a decision requiring the national regulatory authority concerned to withdraw the draft measure; and/or	(a) take a decision requiring the national regulatory authority concerned to withdraw the draft measure; and/or

372	(b) take a decision to lift its reservations in relation to a draft measure referred to in paragraph 4.	(b) take a decision to lift its reservations in relation to a draft measure referred to in paragraph 4.	(b) take a decision to lift its reservations in relation to a draft measure referred to in paragraph 4.
373	The Commission shall take utmost account of the opinion of BEREC before issuing a decision. The decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted, together with specific proposals for amending the draft measure.	The Commission shall take utmost account of the opinion of BEREC before issuing a decision. The decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted, together with specific proposals for amending the draft measure.	The Commission shall take utmost account of the opinion of BEREC before issuing a decision. The decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted, together with specific proposals for amending the draft measure.
374	6. Where the Commission has adopted a decision in accordance with paragraph 5, requiring the national regulatory authority to withdraw a draft measure, the national regulatory authority shall amend or withdraw the draft measure within six months of the date of the Commission's decision. When the draft measure is amended, the national regulatory authority shall undertake a public consultation in accordance with the procedures referred to in Article 23, and shall re-notify the amended draft measure to the Commission in accordance with the provisions of paragraph 3.	6. Where the Commission has adopted a decision in accordance with paragraph 5, requiring the national regulatory authority to withdraw a draft measure, the national regulatory authority shall amend or withdraw the draft measure within six months of the date of the Commission's decision. When the draft measure is amended, the national regulatory authority shall undertake a public consultation in accordance with the procedures referred to in Article 23, and shall re-notify the amended draft measure to the Commission in accordance with the provisions of paragraph 3.	6. Where the Commission has adopted a decision in accordance with paragraph 5, requiring the national regulatory authority to withdraw a draft measure, the national regulatory authority shall amend or withdraw the draft measure within six months of the date of the Commission's decision. When the draft measure is amended, the national regulatory authority shall undertake a public consultation in accordance with the procedures referred to in Article 23, and shall re-notify the amended draft measure to the Commission in accordance with the provisions of paragraph 3.
375	7. The national regulatory authority concerned shall take the utmost account of comments of other national regulatory authorities, BEREC and the Commission and may, except in cases covered by paragraphs 4 and 5(a), adopt the resulting draft measure and, where it does so, shall communicate it to the Commission.	7. The national regulatory authority concerned shall take the utmost account of comments of other national regulatory authorities, BEREC and the Commission and may, except in cases covered by paragraphs 4 and 5(a), adopt the resulting draft measure and, where it does so, shall communicate it to the Commission.	7. The national regulatory authority concerned shall take the utmost account of comments of other national regulatory authorities, BEREC and the Commission and may, except in cases covered by paragraphs 4 and 5(a), adopt the resulting draft measure and, where it does so, shall communicate it to the Commission.

376	8. The national regulatory authority shall communicate to the Commission and BEREC all adopted final measures which fall under paragraph (3)(a) and (b) of this Article.	8. The national regulatory authority shall communicate to the Commission and BEREC all adopted final measures which fall under paragraph (3)(a) and (b) of this Article.	8. The national regulatory authority shall communicate to the Commission and BEREC all adopted final measures which fall under paragraph (3)(a) and (b) of this Article.
377	9. In exceptional circumstances, where a national regulatory authority considers that there is an urgent need to act, in order to safeguard competition and protect the interests of users, by way of derogation from the procedure set out in paragraphs 3 and 4, it may immediately adopt proportionate and provisional measures. It shall, without delay, communicate those measures, with full reasons, to the Commission, the other national regulatory authority, and BEREC. A decision by the national regulatory authority to render such measures permanent or extend the time for which they are applicable shall be subject to the provisions of paragraphs 3 and 4.	9. In exceptional circumstances, where a national regulatory authority considers that there is an urgent need to act, in order to safeguard competition and protect the interests of users, by way of derogation from the procedure set out in paragraphs 3 and 4, it may immediately adopt proportionate and provisional measures. It shall, without delay, communicate those measures, with full reasons, to the Commission, the other national regulatory authority, and BEREC. A decision by the national regulatory authority to render such measures permanent or extend the time for which they are applicable shall be subject to the provisions of paragraphs 3 and 4.	9. In exceptional circumstances, where a national regulatory authority considers that there is an urgent need to act, in order to safeguard competition and protect the interests of users, by way of derogation from the procedure set out in paragraphs 3 and 4, it may immediately adopt proportionate and provisional measures. It shall, without delay, communicate those measures, with full reasons, to the Commission, the other national regulatory authority, and BEREC. A decision by the national regulatory authority to render such measures permanent or extend the time for which they are applicable shall be subject to the provisions of paragraphs 3 and 4.
378	<i>9a. A national regulatory authority may withdraw a draft measure at any time.</i>		<i>[9a. A national regulatory authority may withdraw a draft measure at any time.]</i>
379	Article 33	Article 33	Article 33
380	Procedure for the consistent application of remedies	Procedure for the consistent application of remedies	Procedure for the consistent application of remedies

381	<p>1. Where an intended measure covered by Article 32(3) aims at imposing, amending or withdrawing an obligation on an operator in application of Article 65 in conjunction with Article 59 and Articles 67 to 74, the Commission may, within the period of one month provided for by Article 32(3), notify the national regulatory authority concerned and BEREC of its reasons for considering that the draft measure would create a barrier to the single market or its serious doubts as to its compatibility with Union law. In such a case, the draft measure shall not be adopted for a further three months following the Commission's notification.</p>	<p>1. Where an intended measure covered by Article 32(3) aims at imposing, amending or withdrawing an obligation on an operator in application of Article 65 in conjunction with Article 59 and Articles 67 to 74, the Commission may, within the period of one month provided for by Article 32(3) , notify the national regulatory authority concerned and BEREC of its reasons for considering that the draft measure would create a barrier to the single market or its serious doubts as to its compatibility with Union law. In such a case, the draft measure shall not be adopted for a further three months following the Commission's notification.</p>	<p>NOT FINALIZED YET</p> <p>1. Where an intended measure covered by Article 32(3) aims at imposing, amending or withdrawing an obligation on an operator in application of Article 65 in conjunction with Article 59 and Articles 67 to 74, the Commission may, within the period of one month provided for by Article 32(3) , notify the national regulatory authority concerned and BEREC of its reasons for considering that the draft measure would create a barrier to the single market or its serious doubts as to its compatibility with Union law. In such a case, the draft measure shall not be adopted for a further three months following the Commission's notification.</p>
382	<p>In the absence of such notification, the national regulatory authority concerned may adopt the draft measure, taking utmost account of any comments made by the Commission, BEREC or any other national regulatory authority.</p>	<p>In the absence of such notification, the national regulatory authority concerned may adopt the draft measure, taking utmost account of any comments made by the Commission, BEREC or any other national regulatory authority.</p>	<p>In the absence of such notification, the national regulatory authority concerned may adopt the draft measure, taking utmost account of any comments made by the Commission, BEREC or any other national regulatory authority.</p>
383	<p>2. Within the three month period referred to in paragraph 1, the Commission, BEREC and the national regulatory authority concerned shall cooperate closely to identify the most appropriate and effective measure in the light of the objectives laid down in Article 3, whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice.</p>	<p>2. Within the three month period referred to in paragraph 1, the Commission, BEREC and the national regulatory authority concerned shall cooperate closely to identify the most appropriate and effective measure in the light of the objectives laid down in Article 3, whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice.</p>	<p>2. Within the three month period referred to in paragraph 1, the Commission, BEREC and the national regulatory authority concerned shall cooperate closely to identify the most appropriate and effective measure in the light of the objectives laid down in Article 3, whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice.</p>

384	3. Within six weeks from the beginning of the three month period referred to in paragraph 1, BEREC shall, acting by a <i>two-thirds</i> majority of ■ members <i>of the Board of Regulators</i> , issue an opinion on the Commission's notification referred to in paragraph 1, indicating whether it considers that the draft measure should be amended or withdrawn and, where appropriate, provide specific proposals to that end. This opinion shall be reasoned and made public.	3. Within six weeks from the beginning of the three month period referred to in paragraph 1, BEREC shall, acting by a majority of its component members, issue an opinion on the Commission's notification referred to in paragraph 1, indicating whether it considers that the draft measure should be amended or withdrawn and, where appropriate, provide specific proposals to that end. This opinion shall be reasoned and made public.	3. Within six weeks from the beginning of the three month period referred to in paragraph 1, BEREC shall, acting by a majority of its component members, issue an opinion on the Commission's notification referred to in paragraph 1, indicating whether it considers that the draft measure should be amended or withdrawn and, where appropriate, provide specific proposals to that end. This opinion shall be reasoned and made public.
385	4. If in its opinion, BEREC shares the serious doubts of the Commission, it shall cooperate closely with the national regulatory authority concerned to identify the most appropriate and effective measure. Before the end of the three month period referred in paragraph 1, the national regulatory authority may:	4. If in its opinion, BEREC shares the serious doubts of the Commission, it shall cooperate closely with the national regulatory authority concerned to identify the most appropriate and effective measure. Before the end of the three month period referred in paragraph 1, the national regulatory authority may:	4. If in its opinion, BEREC shares the serious doubts of the Commission, it shall cooperate closely with the national regulatory authority concerned to identify the most appropriate and effective measure. Before the end of the three month period referred in paragraph 1, the national regulatory authority may:
386	(a) amend or withdraw its draft measure taking utmost account of the Commission's notification referred to in paragraph 1 and of BEREC's opinion and advice;	(a) amend or withdraw its draft measure taking utmost account of the Commission's notification referred to in paragraph 1 and of BEREC's opinion and advice;	(a) amend or withdraw its draft measure taking utmost account of the Commission's notification referred to in paragraph 1 and of BEREC's opinion and advice;
387	(b) maintain its draft measure.	(b) maintain its draft measure.	(b) maintain its draft measure.

388	5. The Commission may, within one month following the end of the three month period referred to in paragraph 1 and taking utmost account of the opinion of BEREC if any:	5. Where BEREC does not share the serious doubts of the Commission or does not issue an opinion, or where the national regulatory authority amends or maintains its draft measure pursuant to paragraph 4, ¶the Commission may, within one month following the end of the three month period referred to in paragraph 1 and taking utmost account of the opinion of BEREC if any:	5. Where BEREC does not share the serious doubts of the Commission or does not issue an opinion, or where the national regulatory authority amends or maintains its draft measure pursuant to paragraph 4, ¶the Commission may, within one month following the end of the three month period referred to in paragraph 1 and taking utmost account of the opinion of BEREC if any:
389	(a) issue a recommendation requiring the national regulatory authority concerned to amend or withdraw the draft measure, including, <i>where relevant</i> , specific proposals for amending the draft measure and providing reasons justifying its recommendation, in particular where BEREC does not share the serious doubts of the Commission;	(a) issue a recommendation requiring inviting the national regulatory authority concerned to amend or withdraw the draft measure, including specific proposals to that end and providing reasons justifying its recommendation, in particular where BEREC does not share the serious doubts of the Commission;	(a) issue a recommendation requiring inviting the national regulatory authority concerned to amend or withdraw the draft measure, including specific proposals to that end and providing reasons justifying its recommendation, in particular where BEREC does not share the serious doubts of the Commission;
390	(b) take a decision to lift its reservations indicated in accordance with paragraph 1.	(b) take a decision to lift its reservations indicated in accordance with paragraph 1.	(b) take a decision to lift its reservations indicated in accordance with paragraph 1.

391	(c) take a decision requiring the national regulatory authority concerned to withdraw the draft measure, where BEREC shares the serious doubts of the Commission. The decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted, together with specific proposals for amending the draft measure. In this case, the procedure referred to in Article 32 (6) shall apply <i>mutatis mutandis</i> .	(c) take a decision requiring the national regulatory authority concerned to withdraw the draft measure, where BEREC shares the serious doubts of the Commission. The decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted, together with specific proposals for amending the draft measure. In this case, the procedure referred to in Article 32 (6) shall apply <i>mutatis mutandis</i>.	(c) take a decision requiring the national regulatory authority concerned to withdraw the draft measure, where BEREC shares the serious doubts of the Commission. The decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted, together with specific proposals for amending the draft measure. In this case, the procedure referred to in Article 32 (6) shall apply <i>mutatis mutandis</i> .
392	6. Within one month of the Commission issuing the recommendation in accordance with paragraph 5(a) or lifting its reservations in accordance with paragraph 5(b) of this Article, the national regulatory authority concerned shall <i>withdraw the draft measure or adopt, publish and</i> communicate to the Commission and BEREC the adopted final measure.	6. Within one month of the Commission issuing the recommendation in accordance with paragraph 5(a) or lifting its reservations in accordance with paragraph 5(b) of this Article, the national regulatory authority concerned shall communicate to the Commission and BEREC the adopted final measure.	6. Within one month of the Commission issuing the recommendation in accordance with paragraph 5(a) or lifting its reservations in accordance with paragraph 5(b) of this Article, the national regulatory authority concerned shall communicate to the Commission and BEREC the adopted final measure.
393	This period may be extended to allow the national regulatory authority to undertake a public consultation in accordance with Article 23.	This period may be extended to allow the national regulatory authority to undertake a public consultation in accordance with Article 23.	This period may be extended to allow the national regulatory authority to undertake a public consultation in accordance with Article 23.

394	7. Where the national regulatory authority decides not to amend or withdraw the draft measure on the basis of the recommendation issued under paragraph 5(a), it shall provide a reasoned justification.	7. Where the national regulatory authority decides not to amend or withdraw the draft measure on the basis of the recommendation issued under paragraph 5(a), it shall provide a reasoned justification.		7. Where the national regulatory authority decides not to amend or withdraw the draft measure on the basis of the recommendation issued under paragraph 5(a), it shall provide a reasoned justification.
395	8. The national regulatory authority may withdraw the proposed draft measure at any stage of the procedure.	8. The national regulatory authority may withdraw the proposed draft measure at any stage of the procedure.		8. The national regulatory authority may withdraw the proposed draft measure at any stage of the procedure.
449				
450	CHAPTER III	CHAPTER III		
451	harmonisation procedures	HARMONISATION PROCEDURES		
452	Article 38	Article 38		
453	Harmonisation procedures	Harmonisation procedures		
454	1. Without prejudice to Articles 37, 45, 46(3), 47(3), 53, where the Commission finds that divergences in the implementation by the national regulatory authorities or by other competent authorities of the regulatory tasks specified in this Directive may create a barrier to the internal market, the Commission may, taking the utmost account of the opinion of BEREC, issue a recommendation or a decision on the harmonised application of the provisions in this Directive and in order to further the achievement of the objectives set out in Article 3.	1. Without prejudice to Articles 37, 45, 46(3), 47(3), 53, where the Commission finds that divergences in the implementation by the national regulatory authorities or by other competent authorities of the regulatory tasks specified in this Directive may create a barrier to the internal market, the Commission may, taking the utmost account of the opinion of BEREC, issue a recommendation or a decision on the harmonised application of the provisions in this Directive and in order to further the achievement of the objectives set out in Article 3.		1. Without prejudice to Articles 37, 45, 46(3), 47(3), 53, where Where the Commission finds that divergences in the implementation by the national regulatory authorities or by other competent authorities of the regulatory tasks specified in this Directive may create a barrier to the internal market, the Commission may, taking the utmost account of the opinion of BEREC, or of the RSPG where relevant, issue a recommendation or, <u>in accordance with paragraph 3,</u> a decision on the harmonised application of the provisions in this Directive and in order to further the achievement of the objectives set out in Article 3.
455	2. Member States shall ensure that national regulatory and other competent authorities take the utmost account of recommendations pursuant to paragraph 1 in carrying out their tasks. Where a national regulatory authority or	2. Member States shall ensure that national regulatory and other competent authorities take the utmost account of recommendations pursuant to paragraph 1 in carrying out their tasks. Where a national regulatory		

	other competent authority chooses not to follow a recommendation, it shall inform the Commission, giving the reasons for its position.	authority or other competent authority chooses not to follow a recommendation, it shall inform the Commission, giving the reasons for its position.		
456	3. The decisions adopted pursuant to paragraph 1 may include only the identification of a harmonised or coordinated approach for the purposes of addressing the following matters:	3. The decisions adopted pursuant to paragraph 1 may include only the identification of a harmonised or coordinated approach for the purposes of addressing the following matters:		
457	(a) the inconsistent implementation of general regulatory approaches by national regulatory authorities on the regulation of electronic communications markets in the application of Articles 62 and 65, where it creates a barrier to the internal market. Such decisions shall not refer to specific notifications issued by the national regulatory authorities pursuant to Article 33;	(a) the inconsistent implementation of general regulatory approaches by national regulatory authorities on the regulation of electronic communications markets in the application of Articles 62 and 65, where it creates a barrier to the internal market. Such decisions shall not refer to specific notifications issued by the national regulatory authorities pursuant to Article 33;		
458	In such a case, the Commission shall propose a draft decision only:	In such a case, the Commission shall propose a draft decision only:		
459	– after at least two years following the adoption of a Commission Recommendation dealing with the same matter, and	– after at least two years following the adoption of a Commission Recommendation dealing with the same matter, and		
460	– taking utmost account of an opinion from BEREC on the case for adoption of such a decision, which shall be provided by BEREC within three months of the Commission's request;	– taking utmost account of an opinion from BEREC on the case for adoption of such a decision, which shall be provided by BEREC within three months of the Commission's request;		
461	(b) numbering, including number ranges, portability of numbers and identifiers, number and address translation systems, and access to 112 emergency services.	(b) numbering, including number ranges, portability of numbers and identifiers, number and address translation systems, and access to 112 emergency services.		
462	4. The decision referred to in paragraph 1, shall be adopted in accordance with the examination procedure referred to in Article 110(4).	4. The decision referred to in paragraph 1, shall be adopted in accordance with the examination procedure referred to in Article 110(4).		
463	5. BEREC may on its own initiative, including following a complaint lodged by an undertaking providing electronic communications networks or services , advise the Commission on whether a measure should be adopted pursuant to paragraph 1.	5. BEREC may on its own initiative advise the Commission on whether a measure should be adopted pursuant to paragraph 1.		
464	5a. Without prejudice to the Commission's powers under paragraphs 1, 2 and 3 and the Treaty on the Functioning of the European Union, where BEREC			

	<i>adopts an opinion indicating the existence of divergences in the implementation by the national regulatory authorities or by other competent authorities of the regulatory tasks specified in this Directive, and such divergences could create a barrier to the internal market, the Commission shall either adopt a recommendation pursuant to paragraph 1 or, where it has adopted a recommendation on the same matter more than two years earlier, adopt a decision in accordance with paragraph 3, without requesting a further opinion from BEREC.</i>			
465	<i>If the Commission has not, pursuant to the first subparagraph, either adopted a recommendation or a decision within one year from the date of adoption of the opinion by BEREC, it shall inform the European Parliament and the Council of its reasons for not doing so, and make those reasons public.</i>			
466	<i>Where the Commission has adopted a recommendation but the inconsistent implementation creating barriers to the internal market persists for two years thereafter, the Commission shall either, within a further year, adopt a decision in accordance with paragraph 3 or, where the Commission chooses not to adopt a decision, shall inform the European Parliament and the Council of its reasons for not doing so, and make those reasons public.</i>			
467	<i>Article 39</i>	Article 39		
468	Standardisation	Standardisation		
469	1. The Commission shall draw up and publish in the <i>Official Journal of the European Union</i> a list of non-compulsory standards and/or specifications to serve as a basis for encouraging the harmonised provision of electronic communications networks, electronic communications services and associated facilities and services. Where necessary, the Commission may, following consultation of the Committee established by Directive 2015/1535/EU, request that standards be drawn up by the European standards organisations (European Committee for Standardisation (CEN), European	1. The Commission shall draw up and publish in the <i>Official Journal of the European Union</i> a list of non-compulsory standards and/or specifications to serve as a basis for encouraging the harmonised provision of electronic communications networks, electronic communications services and associated facilities and services. Where necessary, the Commission may, following consultation of the Committee established by Directive 2015/1535/EU, request that standards be drawn up by the European standards organisations (European Committee for Standardisation (CEN),		

	Committee for Electrotechnical Standardisation (CENELEC), and European Telecommunications Standards Institute (ETSI)).	European Committee for Electrotechnical Standardisation (CENELEC), and European Telecommunications Standards Institute (ETSI)).		
470	2. Member States shall encourage the use of the standards and/or specifications referred to in paragraph 1, for the provision of services, technical interfaces and/or network functions, to the extent strictly necessary to ensure interoperability and interconnectivity of services, end-to-end connectivity, facilitation of switching in order to improve freedom of choice for users.	2. Member States shall encourage the use of the standards and/or specifications referred to in paragraph 1, for the provision of services, technical interfaces and/or network functions, to the extent strictly necessary to ensure interoperability of services and to improve freedom of choice for users.		
471	As long as standards and/or specifications have not been published in accordance with paragraph 1, Member States shall encourage the implementation of standards and/or specifications adopted by the European standards organisations.	As long as standards and/or specifications have not been published in accordance with paragraph 1, Member States shall encourage the implementation of standards and/or specifications adopted by the European standards organisations.		
472	In the absence of such standards and/or specifications, Member States shall encourage the implementation of international standards or recommendations adopted by the International Telecommunication Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT), the International Organisation for Standardisation (ISO) and the International Electrotechnical Commission (IEC).	In the absence of such standards and/or specifications, Member States shall encourage the implementation of international standards or recommendations adopted by the International Telecommunication Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT), the International Organisation for Standardisation (ISO) and the International Electrotechnical Commission (IEC).		
473	Where international standards exist, Member States shall encourage the European standards organisations to use them, or the relevant parts of them, as a basis for the standards they develop, except where such international standards or relevant parts would be ineffective.	Where international standards exist, Member States shall encourage the European standards organisations to use them, or the relevant parts of them, as a basis for the standards they develop, except where such international standards or relevant parts would be ineffective.		
474	<i>Any standards referred to in paragraph 1 or this paragraph shall facilitate access as may be required under this Directive where feasible.</i>			
475	3. If the standards and/or specifications referred to in paragraph 1 have not been adequately implemented so that interoperability of services in one or more Member States cannot be ensured, the implementation of such standards and/or specifications may be made compulsory	3. If the standards and/or specifications referred to in paragraph 1 have not been adequately implemented so that interoperability of services in one or more Member States cannot be ensured, the implementation of such standards and/or specifications may be made		

	under the procedure laid down in paragraph 4, to the extent strictly necessary to ensure such interoperability and to improve freedom of choice for users.	compulsory under the procedure laid down in paragraph 4, to the extent strictly necessary to ensure such interoperability and to improve freedom of choice for users.	
476	4. Where the Commission intends to make the implementation of certain standards and/or specifications compulsory, it shall publish a notice in the <i>Official Journal of the European Union</i> and invite public comment by all parties concerned. The Commission shall take appropriate implementing measures and make implementation of the relevant standards compulsory by making reference to them as compulsory standards in the list of standards and/or specifications published in the <i>Official Journal of the European Union</i> .	4. Where the Commission intends to make the implementation of certain standards and/or specifications compulsory, it shall publish a notice in the <i>Official Journal of the European Union</i> and invite public comment by all parties concerned. The Commission shall take appropriate implementing measures and make implementation of the relevant standards compulsory by making reference to them as compulsory standards in the list of standards and/or specifications published in the <i>Official Journal of the European Union</i> .	
477	5. Where the Commission considers that standards and/or specifications referred to in paragraph 1 no longer contribute to the provision of harmonised electronic communications services, or that they no longer meet consumers' needs or are hampering technological development, it shall remove them from the list of standards and/or specifications referred to in paragraph 1.	5. Where the Commission considers that standards and/or specifications referred to in paragraph 1 no longer contribute to the provision of harmonised electronic communications services, or that they no longer meet consumers' needs or are hampering technological development, it shall remove them from the list of standards and/or specifications referred to in paragraph 1.	
478	6. Where the Commission considers that standards and/or specifications referred to in paragraph 4 no longer contribute to the provision of harmonised electronic communications services, or that they no longer meet consumers' needs or are hampering technological development, it shall take the appropriate implementing measures and remove those standards and/or specifications from the list of standards and/or specifications referred to in paragraph 1.	6. Where the Commission considers that standards and/or specifications referred to in paragraph 4 no longer contribute to the provision of harmonised electronic communications services, or that they no longer meet consumers' needs or are hampering technological development, it shall take the appropriate implementing measures and remove those standards and/or specifications from the list of standards and/or specifications referred to in paragraph 1.	
479	7. The implementing measures referred to in paragraphs 4 and 6, shall be adopted in accordance with the examination procedure referred to in Article 110(4).	7. The implementing measures referred to in paragraphs 4 and 6, shall be adopted in accordance with the examination procedure referred to in Article 110(4).	
480	8. This Article does not apply in respect of any of the essential requirements, interface specifications or harmonised standards to which the provisions of Directive 2014/53/EU apply.	8. This Article does not apply in respect of any of the essential requirements, interface specifications or harmonised standards to which the provisions of Directive 2014/53/EU apply.	

481			
482	Title V: Security and integrity	Title V: Security and integrity	Title V : Security
483	Article 40	Article 40	Article 40
484	Security of networks and services	Security of networks and services	Security of networks and services
485	<p>1. Member States shall ensure that <i>providers of</i> public communications networks or publicly available electronic communications services take appropriate <i>and proportionate</i> technical and organisational measures to appropriately manage the risks posed to security of networks and services. Having regard to the state of the art, these measures shall ensure a level of security appropriate to the risk presented. In particular, measures shall be taken to <i>ensure that, when necessary for confidentiality, electronic communications content is encrypted from end-to-end by default, in order to</i> prevent and minimise the impact of security incidents on users, other networks <i>or</i> services.</p>	<p>1. Member States shall ensure that undertakings providing providers of public communications networks or publicly available electronic communications services take appropriate and proportionate technical and organisational measures to appropriately manage the risks posed to security of networks and services. Having regard to the state of the art, these measures shall ensure a level of security appropriate to the risk presented. In particular, measures shall be taken to prevent and minimise the impact of security incidents on users and on other networks and services.</p>	<p>1. Member States shall ensure that undertakings providing providers of public communications networks or publicly available electronic communications services take appropriate and proportionate technical and organisational measures to appropriately manage the risks posed to security of networks and services. Having regard to the state of the art, these measures shall ensure a level of security appropriate to the risk presented. In particular, measures, including encryption where appropriate, shall be taken to prevent and minimise the impact of security incidents on users and on other networks and services.</p> <p><u>New recital 91b</u> <u>(91b) In order to safeguard security and integrity of networks and services, and without prejudice to the Member States' powers to ensure the protection of their essential security interests and public security, and to permit the investigation, detection and prosecution of criminal offences, of lawful interception in accordance with the Charter of Fundamental Rights, the use of encryption where appropriate should be promoted and, where necessary, should be mandatory in accordance with the principles of security and privacy by default and design;</u></p>
486	<p><i>1a. Member States shall not impose any obligation on providers of public communications networks or publicly available electronic communications services that would result in a weakening of the security of their networks or services.</i></p>		

487	<i>Where Member States impose additional security requirements on providers of public communications networks or publicly available electronic communications services in more than one Member State, they shall notify those measures to the Commission and the European Network and Information Security Agency (ENISA). ENISA shall assist Member States in coordinating the measures taken to avoid duplication or diverging requirements that may create security risks and barriers to the internal market.</i>		<i>Where Member States impose additional security requirements on providers of public communications networks or publicly available electronic communications services active in more than one Member State, they shall notify those measures to the Commission and the European Network and Information Security Agency (ENISA). ENISA shall assist facilitate the coordination of Member States in coordinating the measures taken to avoid diverging national requirements that may create security risks and barriers to the internal market.</i>
488	2. Member States shall ensure that <i>providers of</i> public communications networks take all appropriate steps to guarantee the integrity of their networks, and thus ensure the continuity of supply of services provided over those networks.	2. Member States shall ensure that undertakings providing public communications networks take all appropriate steps to guarantee the integrity of their networks, and thus ensure the continuity of supply of services provided over those networks.	
489	3. Member States shall ensure that <i>providers of</i> public communications networks or publicly available electronic communications services notify without undue delay the competent authority of a security incident or loss of integrity that has had a significant impact on the operation of networks or services.	3. Member States shall ensure that undertakings providing providers of public communications networks or of publicly available electronic communications services notify without undue delay the competent authority of a breach of security incident that has had a significant impact on the operation of networks or services.	
490	In order to determine the significance of the impact of a security incident, the following parameters shall, in particular, be taken into account:	In order to determine the significance of the impact of a security incident, where available the following parameters shall, in particular, be taken into account:	
491	(a) the number of users affected by the <i>incident</i> ;	(a) the number of users affected by the breach incident ;	(a) the number of users affected by the breach incident ;
492	(b) the duration of the <i>incident</i> ;	(b) the duration of the breach incident ;	(b) the duration of the breach incident ;
493	(c) the geographical spread of the area affected by the <i>incident</i> ;	(c) <i>the geographical spread of the area affected by the breach incident</i> ;	(c) the geographical spread of the area affected by the breach incident ;
494	(d) the extent to which the functioning of the <i>network or</i> service is <i>affected</i> ;	(d) the extent to which the functioning of the service is disrupted affected ;	
495	(e) the impact on economic and societal activities.	(e) the extent of impact on economic and societal activities.	
496	Where appropriate, the competent authority concerned shall inform the competent authorities in other Member	Where appropriate, the competent authority concerned shall inform the competent authorities in other Member	[Linguistic]

	States and ENISA. The competent authority concerned may inform the public or require the <i>providers</i> to do so, where it determines that disclosure of the <i>incident</i> is in the public interest.	States and the European Network and Information Security Agency (ENISA). The competent authority concerned may inform the public or require the undertakings <i>providers</i> to do so, where it determines that disclosure of the breach <i>incident</i> is in the public interest.	Where appropriate, the competent authority concerned shall inform the competent authorities in other Member States and ENISA. The competent authority concerned may inform the public or require the <i>providers</i> to do so, where it determines that disclosure of the <i>incident</i> is in the public interest.
497	Once a year, the competent authority concerned shall submit a summary report to the Commission and ENISA on the notifications received and the action taken in accordance with this paragraph.	<i>Once a year, the competent authority concerned shall submit a summary report to the Commission and ENISA on the notifications received and the action taken in accordance with this paragraph.</i>	Once a year, the competent authority concerned shall submit a summary report to the Commission and ENISA on the notifications received and the action taken in accordance with this paragraph.
498	<i>MEMBER STATES SHALL ENSURE THAT, IN THE CASE OF A PARTICULAR RISK OF A SECURITY INCIDENT IN PUBLIC COMMUNICATIONS NETWORKS OR PUBLICLY AVAILABLE ELECTRONIC COMMUNICATIONS SERVICES, PROVIDERS OF SUCH NETWORKS OR SERVICES INFORM THEIR USERS OF SUCH A RISK AND OF ANY POSSIBLE PROTECTIVE MEASURES OR REMEDIES WHICH CAN BE TAKEN BY THE USERS.</i>	3a. Member States shall ensure that in case of a particular and significant threat of a security incident in public communications networks or publicly available electronic communications services, providers of such networks or services shall inform their users potentially affected by such a threat of any possible protective measures or remedies which can be taken by the users. Where appropriate, providers should inform their users also of the threat itself.	
499	4. THIS ARTICLE IS WITHOUT PREJUDICE TO REGULATION (EU) 2016/679 ON THE PROTECTION OF NATURAL PERSONS WITH REGARD TO THE PROCESSING OF PERSONAL DATA AND ON THE FREE MOVEMENT OF SUCH DATA AND DIRECTIVE 2002/58/EC CONCERNING THE PROCESSING OF PERSONAL DATA AND THE PROTECTION OF PRIVACY IN THE ELECTRONIC COMMUNICATIONS SECTOR.	4. This Article is without prejudice to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector.	4. This Article is without prejudice to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector.
500	<i>5. The Commission, shall be empowered to adopt delegated acts in accordance with Article 109 with a view to specifying the measures referred to in paragraphs 1 and 2, including measures defining the circumstances, format and procedures applicable to notification requirements. The delegated acts shall be based on European and international standards to the</i>	5. The Commission, taking utmost account of the opinion of ENISA, shall may be empowered to adopt delegated acts in accordance with Article 109 with a view to specifying decisions detailing the technical and organisational measures referred to in paragraphs 1 and 2, including measures defining as well as the circumstances, format and procedures	

	<i>greatest extent possible, and shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in paragraphs 1 and 2. The first such delegated acts shall be adopted by [insert date].</i>	applicable to notification requirements pursuant to paragraph 3. The delegated Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 110(4). They shall be based on European and international standards to the greatest extent possible, and shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in paragraphs 1 and 2.	
501	<i>5a. In order to contribute to the consistent application of measures for the security of networks and services, ENISA shall, by...[date], after consulting stakeholders and in close cooperation with the Commission and BEREC, issue guidelines on minimum criteria and common approaches for the security of networks and services and the promotion of the use of end-to-end encryption.</i>		<i>See cover note</i>
502	<i>Article 41</i>	Article 41	
503	Implementation and enforcement	Implementation and enforcement	
504	1. Member States shall ensure that in order to implement Article 40, the competent authorities have the power to issue binding instructions, including those regarding the measures required to prevent or remedy an incident and time-limits for implementation, to providers of public communications networks or publicly available electronic communications services.	1. Member States shall ensure that in order to implement Article 40, the competent authorities have the power to issue binding instructions, including those regarding the measures required to remedy a breach security incident or prevent one from occurring when a significant threat has been identified and time-limits for implementation, to undertakings providing providers of public communications networks or publicly available electronic communications services.	
505	2. Member States shall ensure that competent authorities have the power to require providers of public communications networks or publicly available electronic communications services to:	2. Member States shall ensure that competent authorities have the power to require undertakings providing providers of public communications networks or publicly available electronic communications services to:	2. Member States shall ensure that competent authorities have the power to require providers of public communications networks or publicly available electronic communications services to:
506	(a) provide information needed to assess the security and/or integrity of their services and networks, including documented security policies; and	(A) PROVIDE INFORMATION NEEDED TO ASSESS THE SECURITY AND/OR INTEGRITY OF THEIR SERVICES AND NETWORKS, INCLUDING DOCUMENTED SECURITY POLICIES; AND	(a) provide information needed to assess the security and/or integrity of their services and networks, including documented security policies; and
507	(b) submit to a security audit carried out by a qualified independent body or a competent	(B) SUBMIT TO A SECURITY AUDIT CARRIED OUT BY A QUALIFIED INDEPENDENT BODY OR A	(b) submit to a security audit carried out by a qualified independent body or a competent

	authority and make the results thereof available to the competent authority. The cost of the audit shall be paid by the undertaking.	COMPETENT AUTHORITY AND MAKE THE RESULTS THEREOF AVAILABLE TO THE COMPETENT AUTHORITY. THE COST OF THE AUDIT SHALL BE PAID BY THE UNDERTAKING PROVIDER.	authority and make the results thereof available to the competent authority. The cost of the audit shall be paid by the provider undertaking .
508	3. Member States shall ensure that the competent authorities have all the powers necessary to investigate cases of non-compliance and the effects thereof on the security of the networks and services.	<i>3. Member States shall ensure that the competent authorities have all the powers necessary to investigate cases of non-compliance and the effects thereof on the security of the networks and services .</i>	3. Member States shall ensure that the competent authorities have all the powers necessary to investigate cases of non-compliance and the effects thereof on the security of the networks and services.
509	4. Member States shall ensure that, in order to implement Article 40, the competent authorities have the power to obtain the assistance of Computer Security Incident Response Teams ('CSIRTs') under Article 9 of Directive (EU) 2016/1148/EU in relation to issues falling within the tasks of the CSIRTs pursuant to Annex I, point 2 of that Directive.	4. Member States shall ensure that, in order to implement Article 40, the competent authorities have the power to obtain the assistance of a Computer Security Incident Response Teams ('CSIRTs') designated under Article 9 of Directive (EU) 2016/1148/EU in relation to issues falling within the tasks of the CSIRTs pursuant to Annex I, point 2 of that Directive.	<i>[Linguistic]</i> 4. Member States shall ensure that, in order to implement Article 40, the competent authorities have the power to obtain the assistance of a Computer Security Incident Response Teams ('CSIRTs') designated under Article 9 of Directive (EU) 2016/1148/EU in relation to issues falling within the tasks of the CSIRTs pursuant to Annex I, point 2 of that Directive.
510	5. The competent authorities shall, whenever appropriate and in accordance with national law, consult and cooperate with the relevant national law enforcement authorities, the competent authorities as defined in Article 8 (1) of Directive (EU) 2016/1148 and the national data protection authorities.	5. The competent authorities shall, whenever appropriate and in accordance with national law, consult and cooperate with the relevant national law enforcement authorities, the competent authorities as defined in Article 8 (1) of Directive (EU) 2016/1148 and the national data protection authorities.	
511	Part II. NETWORKS	Part II. NETWORKS	Part II. NETWORKS
512	Title I: Market entry and deployment	Title I: Market entry and deployment	Title I: Market entry and deployment
633	<i>Article 50</i>	Article 50	
634	Renewal of rights	Renewal of rights	
			Still to be confirmed
635	1. <i>Without prejudice to renewal clauses applicable to existing rights</i> , competent authorities shall <i>consider</i> the renewal of individual rights of use for harmonised radio spectrum, at their own initiative or upon request by the right holder █ .	1. Competent authorities shall take a decision on the renewal of individual rights of use for harmonised radio spectrum in a timely manner at least 3 years before the expiry of those rights . They shall may consider such renewal, whether at their own initiative or upon request by the right holder, in the latter case not earlier than 5 years prior to expiry of the rights concerned. This shall be without prejudice to renewal clauses applicable to existing rights.	1. National regulatory and/or other competent authorities shall take a decision on the renewal of individual rights of use for harmonised radio spectrum in a timely manner and at least 2 years before the expiry of the rights for rights of use for radio spectrum for which technical conditions have been harmonised to enable use for wireless broadband electronic

			<p><u>communications services.</u> They shall may consider such renewal, whether at their own initiative or upon request by the right holder, in the latter case not earlier than 5 years prior to expiry of the rights concerned. This shall be without prejudice to renewal clauses applicable to existing rights.</p> <p>+ changes to recitals <i>(120) In deciding whether to renew already granted rights of use for radio spectrum, competent authorities should take into account the extent to which renewal would further the objectives of the regulatory framework and other objectives under national and Union law. Any such decision should be subject to an open, non-discriminatory and transparent procedure and based on a review of how the conditions attached to the rights concerned have been fulfilled. When assessing the need to renew rights of use, Member States should weigh the competitive impact of extending already assigned rights against the promotion of more efficient exploitation or of innovative new uses that might result if the band were opened to new users. Competent authorities may make their determination in this regard by allowing for only a limited extension duration for the renewal in order to prevent severe disruption of established use. While decisions on whether to extend renew rights assigned prior to the applicability of this Directive should respect any rules already applicable, Member States should equally ensure that they do not prejudice the objectives of this Directive.</i></p> <p><i>(122) Effective management of radio spectrum can be ensured by facilitating the continued</i></p>
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				<p><i>efficient use of spectrum that has already been assigned. In order to ensure legal certainty to rights holders, the possibility of renewal of rights of use should be considered within an appropriate time-span prior to the expiry of the rights concerned, <u>for example at least 2 years before the expiry of the rights when these have been assigned for 15 years or more.</u> In the interest of continuous resource management, competent authorities should be able to undertake such consideration at their own initiative as well as in response to a request from the assignee. The renewal of the right to use may not be granted contrary to the will of the assignee.</i></p>
636	2. █	2. In taking a decision pursuant to paragraph 1, competent authorities shall have regard to the following considerations consider, inter alia:		2. In taking a decision pursuant to paragraph 1, competent authorities shall have regard to the following considerations consider, inter alia:
637		(a) fulfilment of the objectives of Articles 3, 45(2) and 48(2), as well as public policy objectives under national or Union law;		(a) fulfilment of the objectives of Articles 3, 45(2) and 48(2), as well as public policy objectives under national or Union law;
638		(b) implementation of a measure adopted pursuant to Article 4 of Decision No 676/2002/EC;		(b) implementation of a measure adopted pursuant to Article 4 of Decision No 676/2002/EC;
639		(c) review of the appropriate implementation of the conditions attached to the right concerned;		(c) review of the appropriate implementation of the conditions attached to the right concerned;
640		(d) the need to promote, or avoid any distortion of, competition in line with Article 52;		(d) the need to promote, or avoid any distortion of, competition in line with Article 52;

641		(e) rendering the use of radio spectrum more efficient in light of technological or market evolution;	(e) rendering the use of radio spectrum more efficient in light of technological or market evolution;
642		(f) the need to avoid severe service disruption.	(f) the need to avoid severe service disruption.
643	3. When considering possible renewal of individual rights of use for <i>harmonised</i> radio spectrum, competent authorities:	3. When considering possible renewal of individual rights of use for harmonised radio spectrum for which the number of rights of use is limited pursuant to paragraph 2 , competent authorities shall conduct an open, transparent and non-discriminatory procedure to examine the criteria in paragraph 2 , and shall, in particular , inter alia :	3. When considering possible renewal of individual rights of use for harmonised radio spectrum for which the number of rights of use is limited pursuant to paragraph 2 , competent authorities shall conduct an open, transparent and non-discriminatory procedure to examine the criteria in paragraph 2 , and shall, in particular , inter alia :
644	(a) give all interested parties, including users and consumers, the opportunity to express their views through a public consultation in accordance with article 23; and	(a) give all interested parties, including users and consumers , the opportunity to express their views through a public consultation in accordance with article 23; and	(a) give all interested parties, including users and consumers , the opportunity to express their views through a public consultation in accordance with article 23; and
645		(b) clearly state the reasons for such possible renewal.	(b) clearly state the reasons for such possible renewal.
646		If as a result of the consultation pursuant to the first subparagraph, there is evidence of market demand from undertakings other than those holding rights of use for spectrum in the band concerned, the competent authority shall grant the rights decide whether to renew or to organise a new selection procedure in order to grant the rights of use pursuant to Article 54.	The national regulatory and/or other competent authority shall take into account any If as a result of the consultation pursuant to the first subparagraph, there is evidence arising from the consultation pursuant to the first subparagraph of market demand from undertakings other than those holding rights of use for spectrum in the band concerned when deciding , the competent authority shall decide whether to renew the rights of use or to organise a new selection

				procedure in order to grant the rights of use pursuant to Article 54.
647	<i>(b) have regard to the following considerations:</i>			Deleted
648	<i>i. fulfilment of the objectives of Articles 3, 45(2) and 48(2), as well as public policy objectives under national or Union law;</i>			Deleted
649	<i>ii. implementation of a measure adopted pursuant to Article 4 of Decision No 676/2002/EC;</i>			Deleted
650	<i>iii. review of the appropriate implementation of the conditions attached to the right concerned;</i>			Deleted
651	<i>iv. the need to promote, or avoid any distortion of, competition pursuant to Article 52;</i>			Deleted
652	<i>v. rendering the use of radio spectrum more efficient in light of technological or market evolution;</i>			Deleted
653	<i>vi. the need to avoid severe service disruption;</i>			Deleted
654	<i>vii. existence of market demand from undertakings other than those holding rights of use for spectrum in the band concerned;</i>			Deleted
655	<i>viii. the need to limit the number of rights in line with article 46.</i>			Deleted
656		4. A decision to grant a renewal of rights of use for harmonised radio spectrum shall may be accompanied by a review of the fees attached thereto. Where appropriate, competent authorities may adjust the fees for the rights of use in compliance with the principles set out in Article 42(1) and (2).		4. A decision to grant a renewal of rights of use for harmonised radio spectrum shall may be accompanied by a review of the fees as well as of the other terms and conditions attached thereto. Where appropriate, national regulatory and/or other competent authorities may adjust the fees for the rights of use in compliance with the principles set out in Article 42(1) and (2).
657	<i>At least 3 years before expiry of the rights involved, the competent authority shall decide whether to renew the existing rights based on the outcome of the public consultation and the review of the considerations under sub-paragraph 3(b) and shall provide reasons for its decision accordingly.</i>			Deleted
658	<i>Where the competent authority decides that the spectrum rights are not to be renewed, and that the</i>			Deleted

	<i>number of rights has to be limited, the competent authority shall grant the rights pursuant to Article 54.</i>		
769	CHAPTER II	CHAPTER II	
770	<i>ACCESS AND INTERCONNECTION</i>	<i>ACCESS AND INTERCONNECTION</i>	
771	Article 59	Article 59	
772	Powers and responsibilities of the national regulatory authorities with regard to access and interconnection	Powers and responsibilities of the national regulatory authorities and other competent authorities with regard to access and interconnection	
773	1. National regulatory authorities shall, acting in pursuit of the objectives set out in Article 3, <i>including media pluralism and cultural diversity</i> , encourage and where appropriate ensure, in accordance with the provisions of this Directive, adequate access and interconnection, and the interoperability of services, exercising their responsibility in a way that promotes efficiency, sustainable competition, the deployment of very high capacity networks, efficient investment and innovation, and gives the maximum benefit to end-users. They shall provide guidance and make publicly available the procedures applicable to gain access and interconnection to ensure that small and medium-sized enterprises and operators with a limited geographical reach can benefit from the obligations imposed.	1. National regulatory authorities and other competent authorities shall, acting in pursuit of the objectives set out in Article 3, encourage and where appropriate ensure, in accordance with the provisions of this Directive, adequate access and interconnection, and the interoperability of services, exercising their responsibility in a way that promotes efficiency, sustainable competition, the deployment of very high capacity networks, efficient investment and innovation, and gives the maximum benefit to end-users. They shall provide guidance and make publicly available the procedures applicable to gain access and interconnection to ensure that small and medium-sized enterprises and operators with a limited geographical reach can benefit from the obligations imposed.	1. National regulatory authorities shall, acting in pursuit of the objectives set out in Article 3, encourage and where appropriate ensure, in accordance with the provisions of this Directive, adequate access and interconnection, and the interoperability of services, exercising their responsibility in a way that promotes efficiency, sustainable competition, the deployment of very high capacity networks, efficient investment and innovation, and gives the maximum benefit to end-users. They shall provide guidance and make publicly available the procedures applicable to gain access and interconnection to ensure that small and medium-sized enterprises and operators with a limited geographical reach can benefit from the obligations imposed.
774	In particular, without prejudice to measures that may be taken regarding undertakings with significant market power in accordance with Article 66, national regulatory authorities shall be able to impose, <i>while not undermining security standards</i> :	In particular, without prejudice to measures that may be taken regarding undertakings with significant market power in accordance with Article 66, national regulatory authorities shall be able to impose:	
775	(a) to the extent that is necessary to ensure end-to-end connectivity, obligations on those undertakings that are subject to general authorisation, <i>except number-independent interpersonal communications services</i> , and that control access to end-users, including in justified cases the obligation to interconnect their networks where this is not already the case;	(a) to the extent that is necessary to ensure end-to-end connectivity, obligations on those undertakings that are subject to general authorisation and that control access to end-users, including in justified cases the obligation to interconnect their networks where this is not already the case;	
776	(b) in justified cases and to the extent that is	(b) in justified cases and to the extent that is	

	necessary, obligations on those undertakings that are subject to general authorisation, except number-independent interpersonal communications services , and that control access to end-users to make their services interoperable;	necessary, obligations on those undertakings that are subject to general authorisation and that control access to end-users to make their services interoperable;	
777	(c) in justified cases, where the reach, coverage, quality of service and user uptake corresponds to that of number-based services and as strictly necessary in order to ensure end-to-end connectivity between end-users, obligations on relevant categories of providers of number-independent interpersonal communications services to make their services interoperable;	(c) — in justified cases, obligations on providers of number-independent interpersonal communications services to make their services interoperable, namely where access to emergency services or end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services.	
778	(d) to the extent that is necessary to ensure accessibility for end-users to digital radio and television broadcasting services and related complementary services specified by the Member State, obligations on operators to provide access to the other facilities referred to in Annex II, Part II on fair, reasonable and non-discriminatory terms	(d) to the extent that is necessary to ensure accessibility for end-users to digital radio and television broadcasting services specified by the Member State, obligations on operators to provide access to the other facilities referred to in Annex II, Part II on fair, reasonable and non-discriminatory terms.	
779		In addition, competent authorities shall be able to impose:	In addition, national regulatory and/or other competent authorities shall be able to impose:
780		(a) in justified cases and to the extent that is necessary, obligations on those undertakings that are subject to general authorisation and that control access to end-users to make their services interoperable;	
781		(b) in justified cases, obligations on providers of number-independent interpersonal communications services to make their services interoperable, namely where access to emergency services or end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services.	
782	The obligations referred to in point (c) of the second subparagraph may only be imposed:	The obligations referred to in point (c) (b) of the second third subparagraph may only be imposed:	
783	(i) to the extent necessary to ensure interoperability of interpersonal communications services and may include proportionate obligations on the provider of the interpersonal communications service to publish and	(i) to the extent necessary to ensure interoperability of interpersonal communications services and may include obligations relating to the use and implementation of standards or specifications listed	

	<i>allow the use, modification and redistribution of any relevant information or an obligation to use or implement standards or specifications listed in Article 39(1) or of any other relevant European or international standards; and</i>	in Article 39(1) or of any other relevant European or international standards; and		
784	(ii) where the Commission, after consulting BEREC and taking the utmost account of its opinion , has found an appreciable threat to end-to-end connectivity between end-users throughout the European Union and has adopted implementing measures specifying the nature and scope of any obligations that may be imposed, in accordance with the examination procedure referred to in Article 110(4). Member States shall not impose obligations with respect to the nature and scope of any obligations going beyond those implementing measures.	(ii) where the Commission, on the basis taking utmost account of a report that it had requested from BEREC, has found an appreciable threat to effective access to emergency services or to end-to-end connectivity between end-users within one or several Member States or throughout the European Union and has adopted implementing measures specifying the nature and scope of any obligations that may be imposed, in accordance with the examination procedure referred to in Article 110(4).		
785	2. Without prejudice to Article 59(1) , national regulatory authorities shall impose obligations to meet reasonable requests for access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable and access to such elements is necessary to foster sustainable competition . The access conditions imposed shall be objective, transparent, non-discriminatory, proportionate, consistent with Directive 2014/61 and may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, taking into account risk factors.	2. In particular, and without prejudice to paragraph 1, n National regulatory authorities may shall impose obligations upon reasonable request to grant access to wiring and cables and associated facilities inside buildings or up to the first concentration or distribution point as determined by the national regulatory authority , where that point is located outside the building. Such obligations may be imposed on providers of electronic communications networks the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables , where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. National regulatory authorities may also impose such obligations on the owners of such wiring and cable, where the undertakings are not providers of electronic communications networks, on the same grounds. The access conditions imposed may include specific rules on access to such network elements and to associated facilities , transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into		

		account risk factors.	
786	National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.	Member States may decide that where the obligations imposed in accordance with the previous subparagraph do not sufficiently address an existing or emerging market situation significantly limiting competitive outcomes for end-users, and to the extent that a national regulatory authority, in consistency with the results of the market analysis process, considers necessary to address economic or physical barriers to replication, National regulatory authorities it may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point, to a point that it determines to be the closest to end-users capable of hosting to a concentration point as close as possible to end-users a sufficient number of end-user connections to be commercially viable for access seekers. In determining the extent of the extension beyond the first concentration or distribution point, the national regulatory authority shall have regard to relevant BEREC guidelines., to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density. If justified on physical and/or economic grounds, national regulatory authorities may impose active or virtual access obligations.	
787	National regulatory authorities shall not impose obligations in accordance with the second subparagraph where <i>either</i> :	National regulatory authorities shall not impose obligations in accordance with the second subparagraph on an undertaking where they determine that:	
788	(a) a viable alternative means of access to end users, <i>suitable for the provision of very high capacity networks</i> , is provided <i>by the network operator, provided that such access is offered on fair and reasonable terms and conditions; or</i>	(a) the undertaking meets the criteria listed in Article 77 paragraphs (a) and (b) makes available a viable and similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair, non-discriminatory and reasonable terms and conditions to a very high capacity network. Member States may extend this exemption to other undertakings offering, on fair, non-discriminatory and reasonable terms and	

		conditions, access to a very high capacity network; by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and or	
789	(b) in the case of recently deployed network elements, in particular by smaller local projects <i>where</i> the granting of that access would compromise the economic or financial viability of their deployment.	(b) in the case of recently deployed network elements, in particular by smaller local projects, the granting imposition of that access obligations would compromise the economic or financial viability of their a new network deployment in particular by smaller local projects.	
790		As an exception to (a), Member States may allow national regulatory authorities to impose obligations on undertakings fulfilling the criteria laid down in (a) where the network concerned is publicly funded.	
791		2a. BEREC shall publish guidelines to foster a consistent application of paragraph 2, in particular addressing the relevant criteria for determining the point, beyond the first concentration or distribution point, at which a sufficient number of end-user connections is commercially viable for access seekers, and for determining which network deployments can be considered new and which projects considered small.	
806	4. Obligations and conditions imposed in accordance with paragraph 1,2 and 3 shall be objective, transparent, proportionate and non-discriminatory, they shall be implemented in accordance with the procedures referred to in Articles 23, 32 and 33. National regulatory authorities shall assess the results of such obligations and conditions within five years from the adoption of the previous measure adopted in relation to the same operators and whether it would be appropriate to withdraw or amend them in the light of evolving conditions. National regulatory authorities shall notify the outcome of their assessment in accordance with the same procedures.	4. Obligations and conditions imposed in accordance with paragraph 1-,2 and 3 shall be objective, transparent, proportionate and non-discriminatory, they shall be implemented in accordance with the procedures referred to in Articles 23, 32 and 33 . National regulatory authorities and competent authorities which have imposed such obligations shall assess the results of such these obligations and conditions within five years from the adoption of the previous measure adopted in relation to the same operators and whether it would be appropriate to withdraw or amend them in the light of evolving conditions. National regulatory Competent authorities shall notify the outcome of their assessment in accordance with the same procedures .	
807	5. With regard to access and interconnection referred to in paragraph 1, Member States shall ensure that the national regulatory authority is empowered to intervene	5. With regard to access and interconnection referred to in paragraph 1, Member States shall ensure that the national regulatory authority is empowered to intervene	

	at its own initiative where justified in order to secure the policy objectives of Article 3, in accordance with the provisions of this Directive and the procedures referred to in Articles 23 and 32, 26 and 27.	at its own initiative where justified in order to secure the policy objectives of Article 3, in accordance with the provisions of this Directive and the procedures referred to in Articles 23 and 32, 26 and 21-27 .		
808	6. By [entry into force plus 18 months] in order to contribute to a consistent definition of the location of network termination points by national regulatory authorities, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, adopt guidelines on common approaches to the identification of the network termination point in different network topologies. National regulatory authorities shall take utmost account of those guidelines when defining the location of network termination points.	6. By [entry into force plus 18 months] in order to contribute to a consistent definition of the location of network termination points by national regulatory authorities, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, adopt guidelines on common approaches to the identification of the network termination point in different network topologies. National regulatory authorities shall take utmost account of those guidelines when defining the location of network termination points.		
823	CHAPTER III	CHAPTER III		
824	MARKET ANALYSIS AND SIGNIFICANT MARKET POWER	MARKET ANALYSIS AND SIGNIFICANT MARKET POWER		
825	Article 61	Article 61		
826	Undertakings with significant market power	Undertakings with significant market power		
827	1. Where this Directive requires national regulatory authorities to determine whether operators have significant market power in accordance with the procedure referred to in Article 65, paragraph 2 of this Article shall apply.	1. Where this Directive requires national regulatory authorities to determine whether operators have significant market power in accordance with the procedure referred to in Article 65, paragraphs 2 and 3 of this Article shall apply.		
828	2. An undertaking shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.	2. An undertaking shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.		
829	In particular, national regulatory authorities shall, when assessing whether two or more undertakings are in a joint dominant position in a market, act in accordance with Union law and take into the utmost account the guidelines on market analysis and the assessment of significant market power published by the Commission pursuant to Article 62.	In particular, national regulatory authorities shall, when assessing whether two or more undertakings are in a joint dominant position in a market, act in accordance with Union law and take into the utmost account the guidelines on market analysis and the assessment of significant market power published by the Commission pursuant to Article 62.		
830	<i>Two or more undertakings may be found in a joint</i>			

	<i>dominant position, even in the absence of structural or other links between them, when the market structure enables them to behave to an appreciable extent independently of competitors, customers and ultimately consumers. This is likely to be the case where the market exhibits a number of characteristics such as:</i>			
831	<i>(a) a high degree of concentration,</i>			
832	<i>(b) a high degree of market transparency providing incentives for parallel or aligned anti-competitive behaviour,</i>			
833	<i>(c) the existence of high barriers to entry,</i>			
834	<i>(d) the foreseeable reaction of competitors and consumers would not jeopardise parallel or aligned anti-competitive behaviour.</i>			
835	<i>National regulatory authorities shall evaluate such market characteristics in light of relevant principles of competition law while taking into account the specific context of ex ante regulation and the objectives set out in Article 3.</i>			
836	<i>3. Where an undertaking has significant market power on a specific market (the first market), it may also be designated as having significant market power on a closely related market (the second market), where the links between the two markets are such as to allow the market power held in the first market to be leveraged into the second market, thereby strengthening the market power of the undertaking. Consequently, remedies aiming to prevent such leverage may be applied in the second market pursuant to this Directive.</i>			
844	<i>Article 63</i>	Article 63		
845	Procedure for the identification of transnational markets	Procedure for the identification of transnational markets		
846	1. After consulting stakeholders and in close cooperation with the Commission, BEREC may adopt, <i>acting by a two-thirds majority of members of the Board of Regulators</i> , a Decision identifying transnational markets in accordance with the principles of competition law and taking utmost account of the Recommendation and SMP Guidelines adopted in accordance with Article 62.	1. If the Commission or at least two national regulatory authorities concerned submit a reasoned request including supporting evidence BEREC shall conduct an analysis of a potential transnational market. After consulting stakeholders and taking utmost account of the analysis carried out by BEREC, in close cooperation with the Commission;		

	BEREC shall conduct an analysis of a potential transnational market if the Commission or at least two national regulatory authorities concerned submit a reasoned request providing supporting evidence.	BEREC may adopt a Decisions identifying transnational markets in accordance with the principles of competition law and taking utmost account of the Recommendation and SMP Guidelines adopted in accordance with Article 62. BEREC shall conduct an analysis of a potential transnational market if the Commission or at least two national regulatory authorities concerned submit a reasoned request providing supporting evidence.	
847	2. In the case of transnational markets identified in accordance with paragraph 1, the national regulatory authorities concerned shall jointly conduct the market analysis taking the utmost account of the SMP Guidelines and, in a concerted fashion, shall decide on any imposition, maintenance, amendment or withdrawal of regulatory obligations referred to in Article 65(4). The national regulatory authorities concerned shall jointly notify to the Commission with their draft measures regarding the market analysis and any regulatory obligations pursuant to Articles 32 and 33.	2. In the case of transnational markets identified in accordance with paragraph 1, the national regulatory authorities concerned shall jointly conduct the market analysis taking the utmost account of the SMP Guidelines and, in a concerted fashion, shall decide on any imposition, maintenance, amendment or withdrawal of regulatory obligations referred to in Article 65(4). The national regulatory authorities concerned shall jointly notify to the Commission with their draft measures regarding the market analysis and any regulatory obligations pursuant to Articles 32 and 33.	
848	Two or more national regulatory authorities may also jointly notify their draft measures regarding the market analysis and any regulatory obligations in the absence of transnational markets, where they consider that market conditions in their respective jurisdictions are sufficiently homogeneous.	Two or more national regulatory authorities may also jointly notify their draft measures regarding the market analysis and any regulatory obligations in the absence of transnational markets, where they consider that market conditions in their respective jurisdictions are sufficiently homogeneous.	
877	CHAPTER IV	CHAPTER IV	
878	ACCESS REMEDIES AND SIGNIFICANT MARKET POWER	ACCESS REMEDIES AND SIGNIFICANT MARKET POWER	
879	Article 66	Article 66	
880	Imposition, amendment or withdrawal of obligations	Imposition, amendment or withdrawal of obligations	
881	1. Member States shall ensure that national regulatory authorities are empowered to impose the obligations identified in Articles 67 to 78.	1. Member States shall ensure that national regulatory authorities are empowered to impose the obligations identified in Articles 67 to 72 and 74 to 78 .	1. Member States shall ensure that national regulatory authorities are empowered to impose the obligations identified in Articles 67 to 72 and 74 to 78 .

882	2. Where an operator is designated as having significant market power on a specific market as a result of a market analysis carried out in accordance with Article 65 of this Directive, national regulatory authorities shall impose any of the obligations set out in Articles 67 to 75 and 77 of this Directive as appropriate. <i>In accordance with the principle of proportionality, a national regulatory authority shall not impose obligations involving a higher degree of intervention if less burdensome obligations are sufficient to address problems identified in the market analysis.</i>	2. Where an operator is designated as having significant market power on a specific market as a result of a market analysis carried out in accordance with Article 65 of this Directive-, national regulatory authorities shall be able to impose any of the obligations set out in Articles 67 to 72 and 74 , 75 and 77 of this Directive as appropriate.	2. Where an operator is designated as having significant market power on a specific market as a result of a market analysis carried out in accordance with Article 65 of this Directive, national regulatory authorities shall be able to impose any of the obligations set out in Articles [67 to 72 and 74 , 75 and 77] of this Directive as appropriate. <i>In accordance with the principle of proportionality, a national regulatory authority shall not impose additional obligations involving a higher degree of intervention if less burdensome obligations are sufficient if other remedies offerchoose the least intrusive way of addressing the problems identified in the market analysis.</i>
883	3. Without prejudice to:	3. Without prejudice to:	3. Without prejudice to:
884	– the provisions of Articles 59 and 60,	– the provisions of Articles 59 and 60,	– the provisions of Articles 59 and 60,
885	– the provisions of Articles 44 and 17 of this Directive, Condition 7 in Part D of Annex I as applied by virtue of Article 13(1) of this Directive, Articles 91 and 99 of this Directive and the relevant provisions of Directive 2002/58/EC ⁷ containing obligations on undertakings other than those designated as having significant market power, or	– the provisions of Articles 44 and 17 of this Directive, Condition 7 in Part D of Annex I as applied by virtue of Article 13(1) of this Directive, Articles 91 and 99 of this Directive and the relevant provisions of Directive 2002/58/EC ⁸ containing obligations on undertakings other than those designated as having significant market power, or	– the provisions of Articles 44 and 17 of this Directive, Condition 7 in Part D of Annex I as applied by virtue of Article 13(1) of this Directive, Articles 91 and 99 of this Directive and the relevant provisions of Directive 2002/58/EC ⁹ containing obligations on undertakings other than those designated as

⁷ OJ L 201, 31.7.2002, p. 37.

⁸ OJ L 201, 31.7.2002, p. 37.

⁹ OJ L 201, 31.7.2002, p. 37.

			having significant market power, or
886	– the need to comply with international commitments,	– the need to comply with international commitments,	– the need to comply with international commitments,
887	national regulatory authorities shall not impose the obligations set out in Articles 67 to 75 and 77 on operators that have not been designated in accordance with paragraph 2.	national regulatory authorities shall not impose the obligations set out in Articles 67 to 72 and 74 , 75 and 77 on operators that have not been designated in accordance with paragraph 2.	national regulatory authorities shall not impose the obligations set out in Articles [67 to 72 and 74 , 75 and 77] on operators that have not been designated in accordance with paragraph 2.
888	In exceptional circumstances, when a national regulatory authority intends to impose on operators with significant market power obligations for access or interconnection other than those set out in Articles 67 to 75 and 77, it shall submit this request to the Commission. The Commission shall take utmost account of the opinion of BEREC. The Commission, acting in accordance with the procedure referred to in Article 110(3), shall take a decision authorising or preventing the national regulatory authority from taking such measures.	In exceptional circumstances, when a national regulatory authority intends to impose on operators with significant market power obligations for access or interconnection other than those set out in Articles 67 to 72 and 74 , 75 and 77, it shall submit this request to the Commission. The Commission shall take utmost account of the opinion of BEREC. The Commission, acting in accordance with the procedure referred to in Article 110(3), shall take a decision authorising or preventing the national regulatory authority from taking such measures.	In exceptional circumstances, when a national regulatory authority intends to impose on operators with significant market power obligations for access or interconnection other than those set out in Articles [67 to 72 and 74 , 75 and 77], it shall submit this request to the Commission. The Commission shall take utmost account of the opinion of BEREC. The Commission, acting in accordance with the procedure referred to in Article 110(3), shall take a decision authorising or preventing the national regulatory authority from taking such measures.
889	4. Obligations imposed in accordance with this Article shall be based on the nature of the problem identified <i>in the relevant markets to safeguard long term sustainable competition</i> and where appropriate taking into account the identification of transnational demand pursuant to Article 64. They shall be proportionate, have regard to	4. Obligations imposed in accordance with this Article shall be:	4. Obligations imposed in accordance with this Article shall be:

	the costs and benefits, and be justified in the light of the objectives laid down in Article 3 of this Directive. Such obligations shall only be imposed following consultation in accordance with Articles 23 and 32.		
890		a) based on the nature of the problem identified by a national regulatory authority in its market analysis , in particular at retail level and where appropriate taking into account the identification of transnational demand pursuant to Article 64;	a) based on the nature of the problem identified by a national regulatory authority in its market analysis , in particular at retail level and where appropriate taking into account the identification of transnational demand pursuant to Article 64;
891		b) They shall be proportionate, having regard to the costs and benefits;	b) They shall be proportionate, having regard, where possible, the costs and benefits;
892		c) , and justified in the light of the objectives laid down in Article 3 of this Directive; and	c) , and justified in the light of the objectives laid down in Article <u>3</u> of this Directive; and
893		d) 2002/21/EC (Framework Directive). Such obligations shall only be imposed following consultation in accordance with Articles 23 and 32.	d) 2002/21/EC (Framework Directive). Such obligations shall only be imposed following consultation in accordance with Articles <u>23</u> and <u>32</u>.
894	5. In relation to the third indent of the first subparagraph of paragraph 3, national regulatory authorities shall notify decisions to impose, amend or withdraw obligations on market players to the Commission, in accordance with the procedure referred to in Article 32.	5. In relation to the third indent of the first subparagraph of paragraph 3, national regulatory authorities shall notify decisions to impose, amend or withdraw obligations on market players to the Commission, in accordance with the procedure referred to in Article 32.	5. In relation to the third indent of the first subparagraph of paragraph 3, national regulatory authorities shall notify decisions to impose, amend or withdraw obligations on market players to the Commission, in accordance with the procedure referred to in Article 32.

895	6. National regulatory authorities shall consider the impact of new market developments <i>which are reasonably likely to affect competitive dynamics</i> .	6. National regulatory authorities shall consider the impact of new market developments, such as in relation to commercial agreements influencing competitive dynamics , including co-investment agreements, which have been concluded, or unforseeably breached, or terminated, or have effects that diverge from the national regulatory authorities' expectations at the time of the market analysis affecting competitive dynamics.	6. National regulatory authorities shall consider the impact of new market developments, such as in relation to commercial agreements, including co-investment agreements, influencing competitive dynamics which have been concluded, or unforseeably breached, or terminated, or have effects that diverge from the national regulatory authorities' expectations at the time of the market analysis affecting competitive dynamics.
896	<i>If the</i> developments are not sufficiently important in order to require a new market analysis in accordance with Article 65, the national regulatory authority shall assess without delay whether it is necessary to review the obligations and amend any previous decision, including by withdrawing obligations or imposing new obligations on operators designated with significant market power in order to ensure that such obligations continue to meet the requirements of this Directive, and, following a consultation in accordance with Articles 23 and 32, whether to impose no, fewer or less onerous obligations .	If these developments are not sufficiently important in order to determine the need to undertake a new market analysis in accordance with Article 65, the national regulatory authority shall assess whether it is necessary to review the obligations imposed on operators designated with significant market power in order to ensure that such obligations continue to meet the conditions in paragraph 4. Such amendments shall only be imposed following consultation in accordance with Articles 23 and 32.	If these developments are not sufficiently important in order to determine the need to undertake require a new market analysis in accordance with Article 65, the national regulatory authority shall assess without delay whether it is necessary to review the obligations imposed on operators designated with significant market power and amend any previous decision, including by withdrawing obligations or imposing new obligations , in order to ensure that such obligations continue to meet the conditions in paragraph 4. Such amendments shall only be imposed following consultation in accordance with Articles 23 and 32.
			<p>Proposal for amendment to recital 166:</p> <p>Reviews of obligations imposed on operators designated as having significant market power during the timeframe of a market analysis should allow national regulatory authorities to take into account the impact on competitive conditions of new developments, for instance of newly concluded voluntary agreements between</p>

			<p>operators, such as access and co-investment agreements, thus providing the flexibility which is particularly necessary in the context of longer regulatory cycles. A similar logic should apply in case of unforeseeable breach or termination of commercial agreements, or if they have effects that diverge from the national regulatory authorities' expectations set out at the time of in the market analysis. If the termination of an existing agreement occurs in a deregulated market, a new market analysis may be necessary. <u>In the absence of a single important change in the market but in the case of dynamic markets, it may exceptionally be necessary to conduct a market analysis more often than every five years, for example not earlier than every three years as was the case before the implementation of this Directive. Markets should be considered dynamic if the technological evolution and end-user demand patterns are likely to evolve in such a way that the conclusions of the analysis would be superseded within the medium term for a significant group of geographic areas or of end users within the geographic and product market defined by the national regulatory authority.</u></p>
950	<i>Article 72</i>	Article 72	
951	Price control and cost accounting obligations	Price control and cost accounting obligations	
952	1. A national regulatory authority may, in accordance with the provisions of Article 66, impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means	1. A national regulatory authority may, in accordance with the provisions of Article 66, impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the	1. A national regulatory authority may, in accordance with the provisions of Article 66, impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the

	that the operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users.	operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users.		operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users.
953	In determining whether or not price control obligations would be appropriate, national regulatory authorities shall take into account long-term end-user interests related to the deployment and take-up of next-generation networks, and in particular of very high capacity networks. In particular, to encourage investments by the operator, including in next-generation networks, national regulatory authorities shall take into account the investment made by the operator. Where the national regulatory authorities deem price controls appropriate, they shall allow the operator a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.	In determining whether or not price control obligations would be appropriate, national regulatory authorities shall take into account the need to promote competition and long-term end-user interests related to the deployment and take-up of next-generation networks, and in particular of very high capacity networks. In particular, to encourage investments by the operator, including in next-generation networks, national regulatory authorities shall take into account the investment made by the operator. Where the national regulatory authorities deem price controls appropriate, they shall allow the operator a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.		In determining whether or not price control obligations would be appropriate, national regulatory authorities shall take into account the need to promote competition and long-term end-user interests related to the deployment and take-up of next-generation networks, and in particular of very high capacity networks. In particular, to encourage investments by the operator, including in next-generation networks, national regulatory authorities shall take into account the investment made by the operator. Where the national regulatory authorities deem price controls appropriate, they shall allow the operator a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.
954	National regulatory authorities shall not impose or maintain obligations pursuant to this Article, where they establish that a demonstrable retail price constraint is present and that any obligations imposed in accordance with Articles 67 to 71, including in particular any economic replicability test imposed in accordance with Article 68 ensures effective and non discriminatory access.	National regulatory authorities shall not impose or maintain obligations pursuant to this Article, w Where they national regulatory authorities establish that a demonstrable retail price constraint is present and that any obligations imposed effective and non-discriminatory access is ensured in accordance with Articles 67 to 71, they shall consider whether imposing or maintaining obligations pursuant to this Article may be inappropriate including in particular any economic replicability test imposed in accordance with Article 68 ensures effective and non discriminatory access.		National regulatory authorities shall consider not to impose or maintain obligations pursuant to this Article, where they establish that a demonstrable retail price constraint is present and that any obligations imposed effective and non-discriminatory access is ensured in accordance with Articles 67 to 71, including in particular any economic replicability test imposed in accordance with Article 68 ensures effective and non discriminatory access. <i>Amended recital</i> <i>(178) Due to uncertainty regarding the rate of materialisation of demand for the provision of next-generation broadband services it is important in order to promote efficient investment and innovation to allow those operators investing in new or upgraded networks</i>

			<p><i>a certain degree of pricing flexibility. As stated in Commission Recommendation 2013/466/EU of 11 September 2013 on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment, national regulatory authorities can decide not to impose or maintain regulated wholesale access prices on next generation networks if sufficient competition safeguards are present. More specifically, to to prevent excessive prices in markets where there are operators designated as having significant market power, pricing flexibility should be accompanied by additional safeguards to protect competition and end-user interests, such as strict non-discrimination obligations, measures to ensure technical and economic replicability of downstream products, and a demonstrable retail price constraint resulting from infrastructure competition or a price anchor stemming from other regulated access products, or both. Those competitive safeguards do not prejudice the identification by national regulatory authorities of other circumstances under which it would be appropriate not to impose regulated access prices for certain wholesale inputs, such as where high price elasticity of end-user demand makes it unprofitable for the operator with significant market power to charge prices appreciably above the competitive level or where lower population density reduces the incentives for the development of very high capacity networks and the national regulatory authority establishes that effective and non-discriminatory access is ensured through obligations imposed in accordance with this directive.</i></p>
955	When national regulatory authorities consider it appropriate to impose price controls on access to existing network elements, they shall also take account of the benefits of predictable and stable wholesale prices in ensuring efficient entry and sufficient incentives for all operators to deploy new	When national regulatory authorities consider it appropriate to impose price controls on access to existing network elements, they shall also take account of the benefits of predictable and stable wholesale prices in ensuring efficient entry and sufficient	When national regulatory authorities consider it appropriate to impose price controls on access to existing network elements, they shall also take account of the benefits of predictable and stable wholesale prices in ensuring efficient entry and sufficient

	and enhanced networks.	incentives for all operators to deploy new and enhanced networks.	incentives for all operators to deploy new and enhanced networks.
956	2. National regulatory authorities shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote the deployment of new and enhanced networks, efficiency and sustainable competition and maximise sustainable consumer benefits. In this regard national regulatory authorities may also take account of prices available in comparable competitive markets.	2. National regulatory authorities shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote the deployment of new and enhanced networks, efficiency and sustainable competition and maximise sustainable consumer benefits. In this regard national regulatory authorities may also take account of prices available in comparable competitive markets.	2. National regulatory authorities shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote the deployment of new and enhanced networks, efficiency and sustainable competition and maximise sustainable consumer end user benefits. In this regard national regulatory authorities may also take account of prices available in comparable competitive markets.
957	3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, national regulatory authorities may use cost accounting methods independent of those used by the undertaking. National regulatory authorities may require an operator to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.	3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, national regulatory authorities may use cost accounting methods independent of those used by the undertaking. National regulatory authorities may require an operator to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.	3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, national regulatory authorities may use cost accounting methods independent of those used by the undertaking. National regulatory authorities may require an operator to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.
958	4. National regulatory authorities shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall be verified by a qualified independent body. A statement concerning compliance shall be published annually.	4. National regulatory authorities shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall be verified by a qualified independent body. A statement concerning compliance shall be published annually.	4. National regulatory authorities shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall be verified by a qualified independent body. A statement concerning compliance shall be published annually.

959	ARTICLE 73	ARTICLE 73	ARTICLE 73
960	TERMINATION RATES	Termination rates	
961	<i>1. By [transposition date] the Commission shall, after consulting BEREC, adopt delegated acts in accordance with Article 109 concerning single maximum termination rates to be imposed by national regulatory authorities on undertakings designated as having significant market power in fixed and mobile voice termination markets respectively in the Union.</i>	1. Where a national regulatory authority imposes obligations relating to cost recovery and price controls on operators designated as having significant market power on a market for wholesale voice call termination, it shall set maximum symmetric termination rates based on the costs incurred by an efficient operator. The evaluation of efficient costs shall be based on current cost values. The cost methodology to calculate efficient costs shall be based on a bottom-up modelling approach using long-run incremental traffic-related costs of providing the wholesale voice call termination service to third parties.	1. Where a national regulatory authority imposes obligations relating to cost recovery and price controls on operators designated as having significant market power on a market for wholesale voice call termination, it shall set maximum symmetric termination rates based on the costs incurred by an efficient operator. The evaluation of efficient costs shall be based on current cost values. The cost methodology to calculate efficient costs shall be based on a bottom-up modelling approach using long-run incremental traffic-related costs of providing the wholesale voice call termination service to third parties.
962		The details of the cost methodology shall be set by a Commission decision, adopted pursuant to Article 38.	The details of the cost methodology shall be set by a Commission decision, adopted pursuant to Article 38.
963	<i>2. The termination rates referred to in paragraph 1 shall be set as maximum symmetric termination rates based on the costs incurred by an efficient operator and shall comply with the criteria and parameters set out in Annex III. The evaluation of efficient costs shall be based on current cost values. The cost methodology to calculate efficient costs shall be based on a bottom-up modelling approach using long-run incremental traffic-related costs of providing the wholesale voice call termination service to third parties. When adopting such delegated acts the Commission shall take into account national circumstances which result in significant differences between Member States. The maximum termination rates in the first delegated</i>	2. By [date of transposition] the Commission shall, after having consulted taking utmost account of the opinion of BEREC , adopt a Decision setting: delegated acts in accordance with Article 109 concerning	2. By [date of transposition 31 December 2020] the Commission shall, after having consulted taking utmost account of the opinion of BEREC , adopt an [Decision implementing act/ delegated act] setting: delegated acts in accordance with Article 109 concerning

	<i>acts shall not be higher than the highest rates in force in any Member State, after any necessary adjustment for exceptional national circumstances, [six] months before the adoption of delegated acts.</i>		
964	█	a single maximum EU-wide mobile voice termination rate and a single maximum EU-wide fixed voice termination rate, which is imposed on any operator active on each of the markets of mobile voice termination and fixed voice termination respectively in any Member State. to be imposed by national regulatory authorities;	a single maximum EU-wide mobile voice termination rate and a single maximum EU-wide fixed voice termination rate, which is imposed on any operator active on each of the markets of mobile voice termination and fixed voice termination respectively in any Member State. to be imposed by national regulatory authorities;
965	█	on undertakings designated as having significant market power in fixed and mobile voice termination markets respectively in the Union.	on undertakings designated as having significant market power in fixed and mobile voice termination markets respectively in the Union.
966	█	When adopting these delegated acts, the Commission	When adopting these delegated acts, the Commission
967	█	To that end the Commission shall:	To that end the Commission shall:
968		- follow the principles laid down in the first subparagraph of paragraph 1 and shall comply with the principles criteria and parameters provided in Annex III;-	- follow the principles laid down in the first subparagraph of paragraph 1 and shall comply with the principles, criteria and parameters provided in Annex III;-

969		4. In applying paragraph 2, the Commission shall ensure that the single voice call termination rate in mobile networks shall not exceed 1.23 €cent per minute and the single voice call termination rate in fixed networks shall not exceed 0.14 €cent per minute. The Commission shall	4. In applying paragraph 2, the Commission shall ensure that the single voice call termination rate in mobile networks shall not exceed 1.23 €cent per minute and the single voice call termination rate in fixed networks shall not exceed 0.14 €cent per minute. The Commission shall
970		- when setting the single maximum termination rate for the first time, take into account the weighted average of maximum termination rates in fixed and mobile networks established in accordance with the principles provided in Annex III the first subparagraph of paragraph 1 applied across the Union; when setting the single maximum termination rate for the first time.	- when setting the single maximum EU-wide fixed voice termination rate and mobile voice termination rate for the first time, take into account the weighted average of <u>efficient costs maximum termination rates</u> in fixed and mobile networks established in accordance with the principles provided in Annex III the first subparagraph of article 1 paragraph 1 applied across the Union. The single maximum EU-wide fixed voice termination rate and mobile voice termination rate in the first delegated act shall not be higher than the highest rates in force in any Member State, after any necessary adjustment for exceptional national circumstances, [six] months before the adoption of the [delegated/implementing] act; when setting the single maximum termination rate for the first time.
971		5. When adopting delegated acts pursuant to paragraph 2, the Commission shall	5. When adopting delegated acts pursuant to paragraph 2, the Commission shall
972		- take into account the total number of end-users in each Member State, in order to ensure a proper	- take into account the total number of end-users in each Member State, in order to ensure a proper

		weighting of the maximum termination rates, as well as national circumstances which result in significant differences between Member States when determining the maximum termination rates in the Union;		weighting of the maximum termination rates, as well as national circumstances which result in significant differences between Member States when determining the maximum termination rates in the Union;
973		6. The Commission may request BEREC to develop an economic model in order to assist the Commission in determining the maximum termination rates in the Union. The Commission shall		6. The Commission may request BEREC to develop an economic model in order to assist the Commission in determining the maximum termination rates in the Union. The Commission shall
974		- take into account market information provided by BEREC, national regulatory authorities or, directly, by undertakings providing electronic communications networks and services; and-		- take into account market information provided by BEREC, national regulatory authorities or, directly, by undertakings providing electronic communications networks and services; and-
975		- consider the need to allow for a transition period so as to allow adjustments in Member States where this is necessary on the basis of rates previously imposed.		- consider the need to allow for a transition period so no longer than [12 months] as to allow adjustments in Member States where this is necessary on the basis of rates previously imposed.
976	7. The Commission shall review the delegated acts adopted pursuant this Article every five years.	7. The decision referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 110(4). Taking utmost account of the opinion of BEREC, t The Commission shall review its decision the delegated acts adopted pursuant this Article every five years and shall consider on that occasion, by application of the criteria listed in Article 65(1), whether EU wide maximum mobile voice termination rates or fixed voice termination rates continue to be necessary.		7. The [decision implementing/delegated act] referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in [Article 110(4)/ 109]. Taking utmost account of the opinion of BEREC, t The Commission shall review its decision the delegated acts adopted pursuant this Article every five years and shall consider on that occasion, by application of the criteria listed in Article 65(1), whether EU wide maximum mobile voice termination rates or fixed

		Where the Commission decides in accordance with this subparagraph not to impose a maximum mobile voice termination rate or a maximum fixed termination rate, or both, national regulatory authorities may conduct market analyses of voice termination markets in accordance with Article 65, to assess whether the imposition of regulatory obligations is necessary. If a national regulatory authority imposes as a result of such analysis cost oriented termination rates in a relevant market, it shall follow the principles, criteria and parameters provided in Annex III and shall be implemented in accordance with the procedures referred to in Articles 23, 32 and 33.		voice termination rates continue to be necessary. Where the Commission decides in accordance with this subparagraph not to impose a maximum mobile voice termination rate or a maximum fixed termination rate, or both, national regulatory authorities may conduct market analyses of voice termination markets in accordance with Article 65, to assess whether the imposition of regulatory obligations is necessary. If a national regulatory authority imposes as a result of such analysis cost oriented termination rates in a relevant market, it shall follow the principles, criteria and parameters provided in Annex III and its draft measure shall be implemented in accordance with the procedures referred to in Articles 23, 32 and 33.
977		3. National regulatory authorities shall monitor the application of the single maximum EU-wide mobile and fixed voice termination rates by providers of termination services. National regulatory authorities may at any time require a provider of voice termination services to amend the rate it charges to other undertakings if it does not comply with the Decision referred to in paragraph 1. National regulatory authorities shall annually report to BEREC and the Commission concerning the application of this Article.		3. National regulatory authorities shall closely monitor and ensure compliance with the application of the single maximum EU-wide mobile and fixed voice termination rates by providers of termination services. National regulatory authorities may at any time require a provider of voice termination services to amend the rate it charges to other undertakings if it does not comply with the <u>Decision [implementing/delegated] act</u> referred to in paragraph 1. National regulatory authorities shall annually report to BEREC and the Commission concerning the application of this Article.
978	Article 74	Article 74		Article 74
979	Regulatory treatment of new <i>very high capacity</i> network elements	Regulatory treatment of new network elements		Regulatory treatment of new network elements
980	1. <i>Without prejudice to the assessment by national regulatory authorities of co-investment in other types of networks, a national regulatory authority may determine not to impose obligations as regards new very high capacity networks which, if fixed,</i>	1. A national regulatory authority shall not impose obligations as regards new network elements that are part of the relevant market on which it intends to impose or maintain obligations in accordance with Articles 66 and Articles 67 to 72 and that the operator		<u>1. Undertakings which have been designated as having significant market power in one or several relevant markets in accordance with Article 65 of this Directive may offer commitments in accordance with the procedure set out in Article 76bis to open</u>

	<i>extend to the premises or, if mobile, to the base station</i> , that are part of the relevant market on which it intends to impose or maintain obligations in accordance with Articles 70, 71 and 72 and that a <i>relevant</i> operator has deployed or is planning to deploy, if <i>it concludes that</i> the following cumulative conditions are met:	designated as having significant market power on that relevant market has deployed or is planning to deploy, if it determines that the following cumulative conditions are met:	<u>the deployment of a new very high capacity network to co-investment, for example, by offering co-ownership, long term risk sharing and/or purchase commitments [which could lead to future co-ownership] by other providers of electronic communications networks and/or services.</u> <u>When the national regulatory authority assesses these proposed commitments, it shall determine in particular whether the offer to co-invest meets the following cumulative conditions:</u>
981	(a) the deployment of the new network elements is open to co-investment <i>at any point during their lifetime by any operator</i> according to a transparent process and on terms which <i>ensure</i> sustainable competition in the long term including inter alia fair, reasonable and non-discriminatory terms offered to potential co-investors; flexibility in terms of the value and timing of the commitment provided by each co-investor; possibility to increase such commitment in the future; reciprocal rights awarded by the co-investors after the deployment of the co-invested infrastructure;	(a) the deployment of the new network elements is open to co-investment offers from any operator over the lifetime of the network , according to a transparent process and on terms which the national regulatory authority considers capable of ensuring favour sustainable competition in the long term including inter alia fair, reasonable and non-discriminatory terms offered to potential co-investors; flexibility in terms of the value and timing of the commitment provided by each co-investor; possibility to increase such commitment in the future; reciprocal rights awarded by the co-investors after the deployment of the co-invested infrastructure. Such co-investments offers shall be made public at least 6 months before the marketing of end-user services based on the new network elements;	(a) <u>it is open at any point during the lifetime of the network to any provider of electronic communications services and/or networks,</u> <u>(b) it would allow other co-investors which are providers of electronic communications services and/or networks, to compete effectively and sustainably in the long term in downstream markets in which the operator designated with significant market power is active, on terms which include inter alia</u> fair, reasonable and non-discriminatory terms offered to potential co-investors <u>allowing access to the full capacity of the network full capacity of the network to the extent it is subject to co-investment;</u> flexibility in terms of the value and timing of the participation of each co-investor; a possibility to increase such participation in the future; and reciprocal rights awarded by the co-investors after the deployment of the co-invested infrastructure; <u>(c) it is made public by the operator in a timely manner and, if the operator provides services on the retail market, at least 6 months before the marketing of end-user services based on the new networks; and</u>
982	<i>(aa) at least one co-investment agreement based on an offer made pursuant to (a) has been concluded and the co-investors are or intend to be service</i>		Deleted

	<i>providers, or to host such providers, in the relevant retail market and have a reasonable prospect of competing effectively;</i>		
983		(b) the deployment of the new network elements contributes significantly to the deployment of very high capacity networks; and	Deleted
984	(c) access seekers not participating in the co-investment can benefit from <i>fair, reasonable and non-discriminatory access conditions, taking appropriate account of the risk incurred by the co-investors</i> either through commercial agreements based on fair and reasonable terms or by means of regulated access maintained or adapted by the national regulatory authority;	(c) access seekers not participating in the co-investment can benefit from the same quality, speed, conditions and end-user reach as was available before the deployment, either through commercial agreements based on fair and reasonable terms or by means of regulated access maintained or adapted by the national regulatory authority;	(d) access seekers not participating in the co-investment can benefit from the outset from the same quality, speed, conditions and end-user reach as was available before the deployment, <u>subject to a mechanism of adaptation over time in the light of developments on the related retail markets, that maintains the incentives to participate in the co-investment. To that end, such mechanism shall ensure that access seekers have access to the very high capacity elements of the network at a time and on the basis of transparent and non-discriminatory terms which reflect appropriately the degrees of risk incurred by the respective co-investors at different stages of the deployment;</u> either through commercial agreements based on fair and reasonable terms or by means of regulated access maintained or adapted by the national regulatory authority
985	<i>National regulatory authorities shall determine whether the conditions above are met, including by consulting with relevant market participants in accordance with the provisions of Article 65(1) and (2).</i>		Deleted
986	When assessing co-investment offers, processes and agreements referred to in ■ the first subparagraph, national regulatory authorities shall ensure that those offers, processes and agreements comply with the criteria set out in Annex IV.	When assessing co-investment offers and processes referred to in point (a) of the first subparagraph, national regulatory authorities shall ensure that those offers and processes at a minimum comply with the criteria set out in Annex IV and are made in good faith. To that end, national regulatory authorities may in particular:	(e) it complies When assessing co-investment offers and processes referred to in point (a) of the first subparagraph, national regulatory authorities shall ensure that those offers and processes [at a minimum] comply with the criteria set out in Annex IV and is made in good faith.
987		(a) request an offer of commitments, including changes to the co-investment offer, from the operator designated as having significant market	<u>2. If the national regulatory authority concludes, taking into account the results of the market test conducted in accordance with the provisions of</u>

		power, that they may make binding;	<u>Article 76bis(2), that the proposed co-investment commitment satisfies the criteria in the first paragraph it shall make the commitments binding pursuant to Article 76bis(3), and decide not to impose any additional obligations pursuant to Article 66 as regards the elements of the new very high capacity network that are subject to the commitments.</u>
987a			<u>This is without prejudice to the regulatory treatment of circumstances that do not satisfy the criteria in the first paragraph, taking into account the results of any market test conducted in accordance with the provisions in Article 76bis(2), but which have an impact on competition and are taken into account in the market analysis procedure pursuant to Articles 65 and 66.</u>
988		(b) conduct a market test by consulting stakeholders and interested parties, in particular on the offered terms. Such consultation shall allow potential co-investors to provide a counter-offer, identifying where they deem the initial offer not to be in line with the requirements in point (a) or in Annex IV and to determine whether the initial offer is accepted by market participants.	Deleted
989		National regulatory authorities shall continuously monitor compliance with the requirements set out in this paragraph and Annex IV and may require the operator designated as having significant market power to provide it with annual compliance statements. BEREC, after consulting stakeholders and in close cooperation with the Commission, shall publish guidelines to foster the consistent application by national regulatory authorities of the criteria set out in this paragraph, in Annex IV and any additional criteria that may be required.	National regulatory authorities shall continuously monitor compliance with the requirements set out in this the first paragraph ² and Annex IV and may require the operator designated as having significant market power to provide it with annual compliance statements.
990		1a. In the absence of an offer pursuant to paragraph 1, where a national regulatory authority	Deleted

		is considering to impose obligations as regards new network elements that are part of the relevant market in accordance with Articles 66 to 72, it may decide not to do so if the operator designated as having significant market power on that relevant market offers commercial access agreements to any operator over the lifetime of the new network which in the specific circumstances are reasonably likely to result in effectively and sustainably competitive related retail markets. In so doing, it shall take into account whether:	
991		(a) a transparent process is in place and on terms which the national regulatory authority considers capable of ensuring sustainable competition in the long term including inter alia fair, reasonable and non-discriminatory terms offered to potential access seekers;	Deleted
992		(b) the deployment of the new network element contributes significantly to the deployment of very high capacity networks;	Deleted
993		(c) the offer to enter into such commercial access agreements is publicly available [in a timely manner at least 6 months before the launch of end-user products based on such new network elements];	Deleted
994		(d) the commercial access agreement in question is accepted by market participants representing the majority of the market and sustainable service competition is safeguarded; and	Deleted
995		(e) access seekers not accepting the commercial access agreement can benefit from the same quality, speed, conditions and end-user reach as was available before the deployment, either through commercial agreements based on fair and reasonable terms or by means of regulated access maintained or adapted by the national regulatory authority.	Deleted
996		In order to assess the commercial access agreement, the NRA shall publicly consult stakeholders and interested parties.	Deleted

997		2. National regulatory authorities shall review, after having concluded their assessment pursuant to paragraphs 1 and 1a, and in the context of subsequent market analyses pursuant to Article 65, which obligations may be imposed in accordance with Articles 66 to 72, where they conclude that, absent their intervention, effective competition in one or more retail markets would not be achieved by the continued application of the conditions set out in paragraph 1 and of the criteria set out in Annex IV.	Deleted
998	<i>2. Paragraph 1 is without prejudice to the power of a national regulatory authority to take decisions pursuant to the first paragraph of Article 26 in the event of a dispute arising between undertakings in connection with a co-investment agreement deemed by it to comply with the conditions set out in that paragraph and with the criteria set out in Annex IV.</i>		<i>This Article Paragraph is without prejudice to the power of a national regulatory authority to take decisions pursuant to the first paragraph of Article 26 in the event of a dispute arising between undertakings in connection with a co-investment agreement deemed by it to comply with the conditions set out in that the <u>the first paragraph and with the criteria set out in Annex IV.</u></i>
999		2a. Member States may specify a minimum duration not longer than 7 years during which the NRA shall not impose obligations after the assessment referred to in paragraph 2.	Deleted
1000		3. By way of an exception to paragraph 1, Member States may decide that a national regulatory authority may, in duly justified circumstances, impose, maintain or adapt remedies in accordance with Articles 66 and Articles 67 to 72 obligations as regards new network elements referred to under paragraph 1 in order to address significant competition problems on specific markets, where the national regulatory authority establishes that given the specific characteristics of these markets, these competition problems could not be addressed by the application of the requirements set out in paragraph 1 and in Annex IV, or by the existence of viable and similar means of access, including offers proposed on a	3.-By way of an exception to paragraph 1 2 , <u>first sub-paragraph</u> , Member States may decide that a national regulatory authority may, in duly justified circumstances, impose, maintain or adapt remedies in accordance with Articles 66 to 72 as regards new network elements <u>very high capacity networks referred to under paragraph 1 in order to address significant competition problems on specific markets that have arisen since its decision to make the commitments falling within paragraph 1 binding in accordance with paragraph 2, where the national regulatory authority establishes that given the specific characteristics of these markets, these competition problems would not otherwise be addressed by the application of the requirements set</u>

		commercial basis. Before adopting a decision pursuant to this paragraph, the national regulatory authority shall submit a request to the Commission. The Commission, taking utmost account of the opinion of BEREC and acting in accordance with the procedure referred to in Article 110(3), shall take a decision within three months of the request, authorising or preventing the national regulatory authority from taking such measures.	out in paragraph 1 and in Annex IV, or by the existence of viable and similar means of access, including offers proposed on a commercial basis. Before adopting a decision pursuant to this paragraph, the national regulatory authority shall submit a request to the Commission. The Commission, taking utmost account of the opinion of BEREC and acting in accordance with the procedure referred to in Article 110(3), shall take a decision within three months of the request, authorising or preventing the national regulatory authority from taking such measures.
1000a			<u>3a.</u> <u>When a national regulatory authority intends to take a decision pursuant to the second-third paragraph it shall submit this request to the Commission, together with the reasoning on which the request is based.</u> The Commission, taking utmost account of the opinion of BEREC and acting in accordance with the procedure referred to in Article 110(3), shall take a decision authorising or preventing the national regulatory authority from taking such measures within three months of the request.
1000 b			4. BEREC, after consulting stakeholders and in close cooperation with the Commission, shall publish guidelines to foster the consistent application by national regulatory authorities of the criteria set out in the first paragraph, and in Annex IV.
1001		4. In the event of a dispute arising in connection with co-investment or commercial access agreements, the national regulatory authority concerned shall, at the request of either party, provide dispute resolution in accordance with Article 26(1).	Deleted
			New recital 183a

			Proposed Amendment to recital 184a
1030a			Article 76bis
			Commitments procedure
			<u>1. Undertakings designated as having significant market power may propose to the national regulatory authority commitments regarding access or co-investment conditions that will apply to their networks, or both, in relation to <i>inter alia</i>:</u>
			<u>(a) cooperative arrangements relevant to the assessment of appropriate and proportionate obligations pursuant to Article 66;</u>
			<u>(b) cooperative arrangements on the basis of co-investment commitments in very high capacity networks pursuant to Article 74; or</u>
			<u>(c) effective and non-discriminatory access by third parties pursuant to Article 76, respectively during an implementation period of voluntary separation by a vertically integrated undertaking and after the proposed form of separation is implemented..</u>
			<u>National regulatory authorities may request that undertakings designated with significant market power make such a proposal.</u>
			<u>The proposal for commitments shall be sufficiently detailed including as to the timing and scope of their implementation and their duration, to allow the national regulatory authority to undertake its assessment pursuant to paragraph 2. Such commitments may extend beyond the periods for carrying out market analysis provided in Article</u>

			65(5).
			<p><u>2. In order to assess any commitments offered by an undertaking pursuant to paragraph 1, the national regulatory authority shall, unless justified, perform a market test, in particular on the offered terms, by conducting a public consultation of stakeholders and interested parties, including <i>inter alia</i> those third parties which are directly affected by the intended transaction. Potential co-investors or access seekers may provide views on the compliance of the initial proposed commitment with the conditions or criteria provided in Article 66, 74 or 76, as applicable, and may propose changes to that offer. As regards the commitments proposed under Article 66</u>this article, the national regulatory authority shall have particular regard when assessing obligations pursuant to Article 66 (4) to evidence regarding the fair and reasonable character of the proposed commitments, the openness of the commitments to all market operators, the timely availability of access under fair, reasonable and non-discriminatory access conditions, including to very high capacity networks, in advance of launch of related retail services, and the proposed commitments' overall adequacy to enable sustainable competition on downstream markets and to facilitate cooperative deployment and take-up of very high capacity networks in the interest of end-users. Taking into account all the views expressed in the consultation, and the extent to which such views are representative of different stakeholders, the national regulatory authority shall communicate to the undertaking designated as having significant market power its preliminary conclusions whether the commitments satisfy the objectives, criteria and procedures with the criteria-set out in this Article and in Articles 66, 74 or 76, as applicable, and</p>

			<u>under which conditions it may consider to make the commitments binding. The undertaking may revise its initial offer to take account of the preliminary conclusions of the national regulatory authority and with a view to satisfying the criteria set out in this Article and in Articles 66, 74 or 76, as applicable.</u>
			<u>Unless the specific provisions of Article 74 apply, this Article is without prejudice to the application of the market analysis procedure pursuant to Article 65 and the imposition of obligations pursuant to Article 66.</u>
			<u>3. Without prejudice to Article 74(2), first sub-paragraph, the national regulatory authority may issue a decision to make the commitments binding, wholly or in part. By way of exception to Article 65(5), the national regulatory authority may make some or all commitments binding for a specific period of time, which may be the entire period for which they are offered, and in the case of co-investment commitments made binding pursuant to Article 74(2), 1st sub-paragraph, it shall make them binding for a minimum of seven years.</u>
			<u>If the national regulatory authority concludes, taking into account the results of the market test conducted in accordance with the provisions of paragraph two of this article, that the proposed co-investment commitment satisfies the criteria in the first paragraph of Article 74, it shall make the commitments binding pursuant to this paragraph and decide not to impose any additional obligations pursuant to Article 66 as regards the parts of the new very high capacity network that are subject to the commitments.</u>

			<p><u>Unless the specific provisions of Article 74 apply, this Article is without prejudice to the application of the market analysis procedure pursuant to Article 65 and the imposition of obligations pursuant to Article 66.</u></p> <p><u>Where the national regulatory authority makes commitments binding pursuant to this Article, it shall consider under Article 66 the consequences of that decision for market development and the appropriateness of any obligations that it has imposed or would otherwise have intended to be imposed pursuant to that Article and Articles 67 to 72.</u></p>
			<p><u>4. The national regulatory authority shall monitor, supervise and ensure compliance with the commitments offered by the undertakings that it has made binding in accordance with paragraph 3 of this Article in the same way it monitors, supervises and ensures compliance with obligations imposed under Article 66 and shall consider their extension when the period of time for which they are initially offered has expired.</u></p>
1048	<i>Article 78a</i>		
1049	<i>Demand aggregation</i>		
1050	<i>Member States shall not impose more onerous provisions, whether with respect to duration, interest rates or otherwise, on operator financing of the deployment of a very high capacity physical connection to the premises of an end-user than they do on financial institutions, including where such operator financing is by way of an instalment contract.</i>		
1054			
1055	Part III. SERVICES	Part III. SERVICES	
1056	Title I: Universal service obligations	Title I: Universal service obligations	
1057	Article 79	Article 79	Article 79

1058	Affordable universal service	Affordable universal service	Affordable universal service
1059	1. Member States shall ensure that all <i>consumers</i> in their territory have access at an affordable price, in the light of specific national conditions, to <i>an</i> available <i>broadband</i> internet access and voice communications services at the quality specified in their territory, including the underlying connection, at least at a fixed location.	1. Member States shall ensure that all end-users in their territory have access at an affordable price, in the light of specific national conditions, to available functional internet access and voice communications services at the quality specified in their territory, including the underlying connection, at least at a fixed location.	1. Member States shall ensure that all <i>consumers</i> in their territory have access at an affordable price, in the light of specific national conditions, to <i>an</i> available <i>functional adequate broadband</i> internet access <i>service</i> and to voice communications services at the quality specified in their territory, including the underlying connection, at least at a fixed location.
	<i>In addition, Member States may also ensure affordability of services not provided at a fixed location, where they deem this to be necessary to ensure a consumer's full social and economic participation in society.</i>		<i>1a. In addition, Member States may also ensure affordability of services referred to in paragraph 1 not provided at a fixed location, where they deem this to be necessary to ensure <u>a</u> consumers' <u>s</u> full social and economic participation in society.</i>
1060	2. <i>In accordance with BEREC guidelines, national regulatory authorities shall define the <u>minimum capability of the</u> internet access service referred to in paragraph 1 with a view to <u>reflect the</u> services used by the majority of <i>consumers at a fixed location</i> in their territory <i>or relevant parts of their territory, which are indispensable to ensure social and economic participation in society.</i> To that end, the <u>internet access service shall be capable of delivering the bandwidth necessary for</u> supporting <i>at least</i> the minimum set of services set out in Annex V.</i>	2. Member States shall, in the light of national conditions , define the functional internet access service referred to in paragraph 1 with a view to adequately reflect services used by the majority of end-users in their territory. To that end, the functional internet access service shall at least be capable of supporting the minimum set of services set out in Annex V.	2. Each Member States shall, in the light of national conditions, and taking into account the BEREC report on best practices , define the <u>functional broadband</u> internet access service referred to in for the purposes of paragraph 1 with a view to adequately reflecting at least the minimum bandwidth of available broadband internet access necessary for supporting the services used by the majority of end-users consumers within in their the territory of that Member State which are indispensable to ensure social and economic participation in society. To that end, the functional That broadband internet access service shall at least be and capable of <i>delivering the bandwidth necessary for</i> supporting <i>at least</i> the minimum set of services set out in Annex V.
1061	<i>By ... [18 months after the date of entry into force of this Directive], BEREC shall, in order to contribute towards a consistent application of this Article, after consulting stakeholders and in close cooperation with the Commission, taking into account available Commission (Eurostat) data, adopt guidelines which allow national regulatory authorities to define the minimum quality of service requirements, including minimum bandwidth, to support at least</i>		<i>By ... [18 months after the date of entry into force of this Directive], BEREC shall, in order to contribute towards a consistent application of this Article, after consulting stakeholders and in close cooperation with the Commission, taking into account available Commission (Eurostat) data, adopt <u>guidelines</u> a report on Member States' best practices which allow national regulatory authorities on how to define the minimum quality of service requirements, including minimum bandwidth, to</i>

	<i>the minimum set of services set out in Annex V and reflecting the average bandwidth availability to the majority of the population in each Member State. Those guidelines shall be updated every two years to reflect technological advances and changes in consumer usage patterns.</i>			<i>support at least the minimum set of services set out in Annex V and reflecting the average bandwidth availability to the majority of the population in each Member State in respect of defining the adequate broadband internet access service pursuant to the first subparagraph. This That report shall be updated every two years regularly to reflect technological advances and changes in consumer usage patterns.</i>
1062	3. When a consumer so requests, the connection referred to in paragraphs 1 and 1a may be limited to support voice communications only.	3. When an end-user so requests, the connection referred to in paragraph 1 may be limited to support voice communications only.		3. When an end-user consumer so requests, the connection referred to in paragraph 1 and, where applicable, in paragraph 1a may be limited to support voice communications only.
1063	3a. Member States may extend the provisions of this Article to micro and small enterprises and not-for-profit organisations as end-users.			3a. Member States may extend the provisions of this Article to micro, small and medium enterprises and not-for-profit organisations as end-users.
1064	<i>Article 80</i>	Article 80		
1065	Provision of affordable universal service	Provision of affordable universal service		
1066.	1. National regulatory authorities shall monitor the evolution and level of retail tariffs of services identified in Article 79(1) available on the market, in particular in relation to national prices and national consumer income.	1. [National regulatory/competent] authorities shall monitor the evolution and level of retail tariffs of services identified in Article 79(1) available on the market, in particular in relation to national prices and national end-user consumer income.	G	1. [National regulatory and/or competent] authorities shall monitor the evolution and level of retail tariffs of services identified in Article 79(1) available on the market, in particular in relation to national prices and national end-user consumer income.
1067.	2. Where Member States establish that, in the light of national conditions, retail prices for services identified in Article 79(1) are not affordable, because low-income or special social needs consumers are prevented from accessing such services, they shall require providers of such services to offer to those consumers tariff options or packages different from those provided under normal commercial conditions.	2. Where Member States establish that, in the light of national conditions, retail prices for services identified in Article 79(1) are not affordable, because low-income or special social needs end-users / consumers are prevented from accessing such services, they shall, in view of ensuring affordability of functional broadband internet access and voice communications services at least at a fixed location, take measures for such consumers. may	G	2. Where Member States establish that, in the light of national conditions, retail prices for services identified in Article 79(1) are not affordable, because low-income or special social needs end-users consumers are prevented from accessing such services, they shall take measures to ensure affordability for such consumers, in view of ensuring affordability of functional adequate broadband internet access and voice communications services at least at a fixed location, take measures for such consumers.
1068.	To that end, Member States shall require such undertakings to apply common tariffs, including geographic averaging, throughout the territory. Member States shall ensure that consumers entitled to	For example, Member States may either ensure that support is provided to those end-users such consumers or they may require undertakings which		For example, [In particular,] Member States may either ensure that support is provided to those end-users such consumers or they may require undertakings which provide

	<p>such tariff options or packages have a right to contract with an undertaking providing the services identified in Article 79(1). Member States shall also ensure that such undertaking provides them with an adequate period of availability of a number and avoid unwarranted disconnection of service.</p>	<p>provide such services to offer to those end-users tariff options or packages different from those provided under normal commercial conditions. To that end, Member States may require such undertakings to apply common tariffs, including geographic averaging, throughout the territory. Member States may decide to limit the obligation to offer those specific tariff options and packages only by designated undertakings. To this effect, they may designate one or more undertakings to offer tariff options or packages different from those provided under normal commercial conditions to ensure affordability of universal service to all end-users with low income or special social needs. Article 81 shall apply to such designations mutatis mutandis. Member States shall ensure that end-users entitled to such tariff options or packages have a right to contract either with an undertaking providing the services identified in Article 79(1), or with a provider designated in accordance with this paragraph, and that such undertaking provides them with an adequate period of availability of a number and avoid unwarranted disconnection of service.</p>	<p>such services to offer to those end-users tariff options or packages different from those provided under normal commercial conditions. To that end, Member States may require such undertakings to apply common tariffs, including geographic averaging, throughout the territory. Member States may decide to limit the obligation to offer those specific tariff options and packages only by designated undertakings. To this effect, when they may designate the provision of affordable universal service, and where possible, Member States shall may ensure that all consumers with low income or special social needs benefit from choice of one or more undertakings to offered tariff options or packages. Article 81 shall apply to such designations mutatis mutandis. Member States shall ensure that end-users consumers entitled to such tariff options or packages have a right to contract either with an undertaking providing the services identified in Article 79(1), or with a provider designated in accordance with this paragraph, and that such undertaking provides them with an adequate period of availability of a number and avoid unwarranted disconnection of service.</p>
1069.	<p>3. Member States shall ensure that undertakings which provide tariff options or packages to low-income or special social needs consumers pursuant to paragraph 2, keep the national regulatory authorities informed of the details of such offers. Without prejudice to the freedom of the consumers to choose any provider, national regulatory authorities shall ensure that the conditions under which undertakings provide tariff options or packages pursuant to paragraph 2 are fully transparent and are published and applied in accordance with Article 92 and with the principle of non-discrimination. National regulatory authorities may require that specific schemes be modified or</p>	<p>3. Member States shall ensure that undertakings which provide tariff options or packages to low-income or special social needs end-users consumers pursuant to paragraph 2, keep the national regulatory competent authorities informed of the details of such offers. National regulatory authorities competent authorities shall ensure that the conditions under which undertakings provide tariff options or packages pursuant to paragraph 2 are fully transparent and are published and applied in accordance with the principle of non-discrimination. National regulatory authorities authorities Competent authorities may require that specific schemes be modified or withdrawn.</p>	<p>Y 3. Member States shall ensure that undertakings which provide tariff options or packages to low-income or special social needs end-users consumers pursuant to paragraph 2, keep the national regulatory and/or other competent authorities informed of the details of such offers. National regulatory authorities and/or other competent authorities shall ensure that the conditions under which undertakings provide tariff options or packages pursuant to paragraph 2 are fully transparent and are published and applied in accordance with the principle of non-discrimination. National regulatory authorities and/or other competent authorities may require that specific schemes be modified or withdrawn.</p>

	withdrawn.	Where possible, MS shall aim at ensuring that consumers have a choice of providers.		
1070.	4. Member States may, in the light of national conditions, ensure that further support is provided to low-income or special social needs consumers in view of ensuring affordability of functional internet access and voice communications services at least at a fixed location. <i>In addition, Member States may also ensure support is provided to low-income or special social needs consumers for mobile services, where they deem this to be necessary to ensure a consumer's full social and economic participation in society.</i>	4. Member States may, in the light of national conditions, ensure that support is provided to low-income or special social needs end-users in view of ensuring affordability of functional internet access and voice communications services at least at a fixed location.	Y	
1071.	5. Member States shall ensure, in the light of national conditions, that support is provided as appropriate to consumers with disabilities, and that other specific measures are taken, in view of ensuring that related terminal equipment is accessible for persons with disabilities, and specific equipment and specific services enhancing equivalent access are available and affordable. <i>The average cost of the relay services for consumers with disabilities shall be equivalent to that of voice communication services pursuant to Article 79.</i>	5. Member States shall ensure, in the light of national conditions, that either support is provided as appropriate to end-users consumers with disabilities, or that other specific measures are taken, in view of ensuring that related terminal equipment is accessible for persons with disabilities, and specific equipment and specific services, including where necessary total conversation services and relay services enhancing equivalent access are available and affordable.	Y	5. Member States shall ensure, in the light of national conditions, that either support is provided as appropriate to end-users consumers with disabilities, or that other specific measures are taken, in view of ensuring that related terminal equipment is accessible for persons with disabilities, and specific equipment and specific services, including where necessary total conversation services and relay services enhancing equivalent access are available and affordable. + additional recitals: The cost to consumers with disabilities of relay services should be equivalent to the average cost of voice communication services referred to in Article 79. Relay services refer to services which enable two-way communication between (remote) end-users of different modes of communication (e.g. text, sign, speech) by providing conversion between those modes of communication, normally by a human operator.
1072.	6. When applying this Article, Member States shall	6. When applying this Article, Member States shall	G	6. When applying this Article, Member States shall seek to

	seek to minimise market distortions.	seek to minimise market distortions.		minimise market distortions.
1073.	<i>6a. Member States may extend the provisions of this Article to micro and small enterprises and not-for-profit organisations as end-users.</i>	<i>6a. Member States may extend the provisions of this Article to micro, small and medium enterprises and not-for-profit organisations as end-users.</i>	Y	<i>6a. Member States may extend the provisions of this Article to micro, small and medium enterprises and not-for-profit organisations as end-users.</i>
1073	Article 81	Article 81		
1074	Availability of universal service	Availability of universal service		
1074.	1. Where a Member State has <i>established, taking into account taken of the results of the geographical survey, where available,</i> conducted in accordance with Article 22(1), <i>or where the national regulatory authority is satisfied with alternative evidence,</i> that the availability at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service cannot be ensured under normal commercial circumstances or through other potential public policy tools <i>in its national territory or different parts thereof,</i> it may impose appropriate universal service obligations to meet all reasonable requests for accessing those services in <i>the relevant parts of</i> its territory.	1. Where a Member State has duly demonstrated established, account taken of taking into account the results, where available, of the geographical survey conducted in accordance with Article 22(1), that the availability at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service cannot be ensured under normal commercial circumstances or through other potential public policy tools in its national territory or different parts thereof, it may impose appropriate universal service obligations to meet all reasonable requests for accessing those services in the relevant parts of its territory.	Y	1. Where a Member State has established, taking into account taken of the results [, where available,] of the geographical survey conducted in accordance with Article 22(1), and any additional evidence where necessary, that the availability at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service cannot be ensured under normal commercial circumstances or through other potential public policy tools in its national territory or different parts thereof, it may impose appropriate universal service obligations to meet all reasonable requests by end-users for accessing those services in the relevant parts of its territory.
1075.	2. Member States shall determine the most efficient and appropriate approach for ensuring the availability at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. <i>This may include making available internet access service and voice communications service through wired or wireless technologies.</i> They shall seek to minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest.	2. Member States shall determine the most efficient and appropriate approach for ensuring the availability at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. They shall seek to minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest.	Y	COREPER not taking on board EP addition - they deem it to be covered in recital 209 2. Member States shall determine the most efficient and appropriate approach for ensuring the availability at a fixed location of functional adequate] broadband internet access service as defined in accordance with Article 79(2) and of voice communications service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. They shall seek to minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest.

1076.	3. In particular, where Member States decide to impose obligations to ensure the availability at a fixed location of ■ internet access service as defined in accordance with Article 79(2) and of voice communications service, they may designate one or more undertakings to guarantee the availability at a fixed location of functional internet access service as identified in accordance with Article 79(2) and of voice communications service in order to cover all the national territory. Member States may designate different undertakings or sets of undertakings to provide ■ internet access and voice communications services at a fixed location and/or to cover different parts of the national territory.	3. In particular, where Member States decide to impose obligations to ensure the availability at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service, they may designate one or more undertakings to guarantee the availability at a fixed location of functional internet access service as identified in accordance with Article 79(2) and of voice communications service in order to cover all the national territory. Member States may designate different undertakings or sets of undertakings to provide functional internet access and voice communications services at a fixed location and/or to cover different parts of the national territory.	G	3. In particular, where Member States decide to impose obligations to ensure for end-users the availability at a fixed location of [functional adequate broadband] internet access service as defined in accordance with Article 79(2) and of voice communications service, they may designate one or more undertakings to guarantee the availability at a fixed location of [functional adequate broadband] internet access service as identified in accordance with Article 79(2) and of voice communications service in order to cover all the national territory. Member States may designate different undertakings or sets of undertakings to provide [functional adequate broadband] internet access and voice communications services at a fixed location and/or to cover different parts of the national territory.
1077.	4. When Member States designate providers in part or all of the national territory as providers having the obligation to ensure the availability at a fixed location of ■ internet access service as defined in accordance with Article 79(2) and of voice communications service, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no provider is a priori excluded from being designated. Such designation methods shall ensure that ■ internet access and voice communications services at a fixed location are provided in a cost-effective manner and may be used as a means of determining the net cost of the universal service obligation in accordance with Article 84.	4. When Member States designate undertakings in part or all of the national territory as undertakings having the obligation to ensure the availability at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no undertaking is a priori excluded from being designated. Such designation methods shall ensure that functional internet access and voice communications services at a fixed location are provided in a cost-effective manner and may be used as a means of determining the net cost of the universal service obligation in accordance with Article 84.	G	[Green apart from horizontal issues in brackets] 4. When Member States designate undertakings providers in part or all of the national territory as undertakings providers having the obligation to ensure the availability at a fixed location of [functional adequate broadband] internet access service as defined in accordance with Article 79(2) and of voice communications service, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no [undertaking provider] is a priori excluded from being designated. Such designation methods shall ensure that [functional adequate] broadband internet access and voice communications services at a fixed location are provided in a cost-effective manner and may be used as a means of determining the net cost of the universal service obligation in accordance with Article 84.
1078.	5. When a provider designated in accordance with paragraph 3 intends to dispose of a substantial part or all of its local access network assets to a separate legal entity under different ownership, it shall inform in	5. When an undertaking designated in accordance with paragraph 3 intends to dispose of a substantial part or all of its local access network assets to a separate legal entity under different ownership, it shall inform in	G	[Green apart from horizontal issues in brackets] 5. When an undertaking a provider designated in accordance with paragraph 3 intends to dispose of a

	advance the national regulatory authority in a timely manner, in order to allow that authority to assess the effect of the intended transaction on the provision at a fixed location of ■ internet access service as defined in accordance with Article 79(2) and of voice communications service. The national regulatory authority may impose, amend or withdraw specific obligations in accordance with Article 13(2).	advance the national regulatory competent authority in a timely manner, in order to allow that authority to assess the effect of the intended transaction on the provision at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service. The national regulatory competent authority may impose, amend or withdraw specific obligations in accordance with Article 13(2).		substantial part or all of its local access network assets to a separate legal entity under different ownership, it shall inform in advance the [national regulatory and/or other competent authority] in a timely manner, in order to allow that authority to assess the effect of the intended transaction on the provision at a fixed location of [functional adequate] broadband internet access service as defined in accordance with Article 79(2) and of voice communications service. The [national regulatory and/or other competent authority] may impose, amend or withdraw specific obligations in accordance with Article 13(2).
1079.	<i>Article 82</i>	Article 82	G	Article 82
1080.	Status of existing universal services	Status of existing universal services	G	Status of existing universal services
1081.	I. Member States may continue to ensure the availability or affordability of other services than ■ internet access service as defined in accordance with Article 79(2) and voice communications service at a fixed location that were in force prior to [set date], if the need for such services is established in the light of national circumstances. When Member States designate providers in part or all of the national territory for the provision of those services, Article 81 shall apply. Financing of these obligations shall comply with Article 85.	Member States may continue to ensure the availability or affordability of other services than functional internet access service as defined in accordance with Article 79(2) and voice communications service at a fixed location that were in force prior to [set date], if the need for such services is duly demonstrated established in the light of national circumstances. When Member States designate undertakings in part or all of the national territory for the provision of those services, Article 81 shall apply. Financing of these obligations shall comply with Article 85.	G	[Green apart from horizontal issues in brackets] I. Member States may continue to ensure the availability or affordability of other services than [functional adequate] broadband internet access service as defined in accordance with Article 79(2) and voice communications service at a fixed location that were in force prior to [set date], if the need for such services is established in the light of national circumstances. When Member States designate [providers/undertakings] in part or all of the national territory for the provision of those services, Article 81 shall apply. Financing of these obligations shall comply with Article 85.
1082.	2. Member States shall review the obligations imposed pursuant to this Article by ... /3 years after the entry into force of this Directive/ and thereafter at least once every three years.	Member States shall review the obligations imposed pursuant to this Article at the latest 3 years after the entry into force of this Directive and thereafter once every year 3 years .	G	Member States shall review the obligations imposed pursuant to this Article at the latest 3 years after the entry into force of this Directive and thereafter once every 3 years.
1083.	<i>Article 83</i>	Article <u>83</u>	G	Article <u>83</u>
1084.	Control of expenditure	Control of expenditure	G	Control of expenditure

1085.	1. Member States shall ensure that in providing facilities and services additional to those referred to in Article 79, providers of the voice communications and internet access services in accordance with Article 79, 81 and 82 establish terms and conditions in such a way that the end-user is not obliged to pay for facilities or services which are not necessary or not required for the service requested.	1. Member States shall ensure that in providing facilities and services additional to those referred to in Article 79, those undertakings providing providers of the services in accordance with Article 79, 81 and to 82 establish terms and conditions in such a way that the end-user is not obliged to pay for facilities or services which are not necessary or not required for the service requested.	Y	1. Member States shall ensure that in providing facilities and services additional to those referred to in Article 79, providers of voice communications and internet access services in accordance with Article 79 to 82 establish terms and conditions in such a way that the end-user is not obliged to pay for facilities or services which are not necessary or not required for the service requested.
1086.	2. Member States shall ensure that those providers of voice communications services referred to in Article 79 and implemented pursuant to Article 80 provide the specific facilities and services set out in Annex VI, Part A, in order that consumers can monitor and control expenditure and put in place a system to avoid unwarranted disconnection of voice communications service for the consumers who are entitled thereto, including an appropriate mechanism to check continued interest in using the service.	2. Member States shall ensure that those undertakings providing providers of the functional internet access and/or voice communications services referred to in Article 79 and implemented providing services pursuant to Article 80 provide offer the specific facilities and services set out in Annex <u>VI</u> , Part A, as applicable , in order that end-users can monitor and control expenditure and put in place a system to avoid unwarranted disconnection of voice communications service or of functional internet access service for the end-users who are entitled thereto, including an appropriate mechanism to check continued interest in using the service.	Y	2. Member States shall ensure that those undertakings providing providers of the functional adequate broadband internet access and/or voice communications services referred to in Article 79 and implemented providing services pursuant to Article 80 provide offer the specific facilities and services set out in Annex VI, Part A, as applicable , in order that end-users consumers can monitor and control expenditure and put in place a system to avoid unwarranted disconnection of voice communications service or of functional adequate broadband internet access service for the end-users consumers who are entitled thereto, including an appropriate mechanism to check continued interest in using the service. Member States may extend the provisions of this paragraph to micro, small and medium enterprises and not-for-profit organisations as end-users.
1087.	3. Member States shall ensure that the competent authority is able to waive the requirements of paragraph 2 in all or part of its national territory if it is satisfied that the facility is widely available.	3. Member States shall ensure that the competent authority is able to waive the requirements of paragraph 2 in all or part of its national territory if it is satisfied that the facility is widely available.	G	3. Member States shall ensure that the competent authority is able to waive the requirements of paragraph 2 in all or part of its national territory if it is satisfied that the facility is widely available.
1089	<i>Article 84</i>	Article 84		Article 84
1090	Costing of universal service obligations	Costing of universal service obligations		Costing of universal service obligations
1088.	1. Where national regulatory authorities consider that the provision of internet access service as defined in accordance with Article 79(2) and of voice	1. Where national regulatory authorities competent authorities consider that the provision of functional internet access service as defined in accordance with	G	1. Where national regulatory competent authorities consider that the provision of [functional adequate broadband] internet access service as defined in

	communications service; as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82 may represent an unfair burden on providers of providing such services and requesting for compensation, they shall calculate the net costs of its provision.	Article 79(2) and of voice communications service; as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82 may represent an unfair burden on undertakings providing providers of such services and which requesting for compensation, they shall calculate the net costs of its provision.		accordance with Article 79(2) and of voice communications service; as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82 may represent an unfair burden on providers of such services that request compensation, they shall calculate the net costs of its provision.
1089.	For that purpose, national regulatory authorities shall:	For that purpose, national regulatory authorities competent authorities shall:	G	For that purpose, national regulatory/ competent authorities shall:
1090.	(a) calculate the net cost of the universal service obligation, taking into account any market benefit which accrues to a provider of internet access service as defined in accordance with Article 79(2) and voice communications service; as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82, in accordance with Annex VII; or	(a) calculate the net cost of the universal service obligation, taking into account any market benefit which accrues to an undertaking providing functional internet access service as defined in accordance with Article 79(2) and voice communications service; as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82, in accordance with Annex VII; or	G	(a) calculate the net cost of the universal service obligation, taking into account any market benefit which accrues to a [provider/undertaking] of [functional] adequate broadband internet access service as defined in accordance with Article 79(2) and voice communications service; as set out in Articles 79, 80 and 81 or the continuation of existing universal services as set out in Article 82, in accordance with Annex VII; or
1091.	(b) make use of the net costs of providing universal service identified by a designation mechanism in accordance with Article 81(3), 81(4) and 81(5).	(b) make use of the net costs of providing universal service identified by a designation mechanism in accordance with Article 81(3), 81(4) and 81(5) .	G	(b) make use of the net costs of providing universal service identified by a designation mechanism in accordance with Article [81(3)] , 81(4) [and 81(5)] .
1092.	2. The accounts and/or other information serving as the basis for the calculation of the net cost of universal service obligations under paragraph 1(a) shall be audited or verified by the national regulatory authority or a body independent of the relevant parties and approved by the national regulatory authority. The results of the cost calculation and the conclusions of the audit shall be publicly available.	2. The accounts and/or other information serving as the basis for the calculation of the net cost of universal service obligations under paragraph 1(a) shall be audited or verified by the national regulatory authority competent authority or a body independent of the relevant parties and approved by the national regulatory authority competent authority . The results of the cost calculation and the conclusions of the audit shall be publicly available.	G	2. The accounts and/or other information serving as the basis for the calculation of the net cost of universal service obligations under paragraph 1(a) shall be audited or verified by the national regulatory authority or a body independent of the relevant parties and approved by the national regulatory authority competent authority . The results of the cost calculation and the conclusions of the audit shall be publicly available.
1093.	<i>Article 85</i>	Article <u>85</u>	G	Article <u>85</u>
1094.	Financing of universal service obligations	Financing of universal service obligations	G	Financing of universal service obligations
1095.	Where, on the basis of the net cost calculation referred	<i>I.</i> Where, on the basis of the net cost calculation referred	Y	<i>I.</i> Where, on the basis of the net cost calculation referred

	to in Article 84, national regulatory authorities find that an undertaking is subject to an unfair burden, Member States shall, upon request from the undertaking concerned, decide to introduce a mechanism to compensate that undertaking for the determined net costs under transparent conditions from public funds ■ .	to in Article 84 , national regulatory competent authorities find that an undertaking is subject to an unfair burden, Member States shall, upon request from the undertaking concerned , decide		to in Article 84 , national regulatory competent authorities find that an undertaking is subject to an unfair burden, Member States shall, upon request from the undertaking concerned , decide
1096.		<i>(a)</i> to introduce a mechanism to compensate that undertaking for the determined net costs under transparent conditions from public funds-; <i>and/or</i> Only the net cost, as determined in accordance with Article 84, of the obligations laid down in Articles 79, 81 and 82 may be financed.	Y	<i>(a)</i> to introduce a mechanism to compensate that undertaking for the determined net costs under transparent conditions from public funds-; <i>and/or</i>
1097.		<i>(b)</i> to share the net cost of universal service obligations between providers of electronic communications networks and services.	R	<i>Sharing mechanism via fund or compensation mechanism via public funds</i> <i>(b)</i> to share the net cost of universal service obligations between providers of electronic communications networks and services.
1098.	<i>1a. By way of exception to paragraph 1, Member States may adopt or maintain a mechanism to share the net cost of universal service obligations stemming from the obligations set out in Article 81 between providers of electronic communications networks and services and those undertakings providing information society services as defined in Directive 2000/31/EC.</i>		R	<i>Exceptional use of sharing mechanism via fund</i>
1099.	<i>1b. Member States adopting or maintaining such a mechanism shall review its functioning at least every three years in order to determine which net costs should continue to be shared under the mechanism and those which should be transferred to compensation from public funds.</i>		R	<i>Revision of this sharing mechanism every 3 years</i>
1100.	<i>1c. Only the net cost, as determined in accordance with Article 84, of the obligations laid</i>		Y	Original commission text

	down in Articles 79, 81 and 82 may be financed.			
1101.	<i>1d. Where the net cost is shared under paragraph 1a, Member States shall ensure that a sharing mechanism is in place, administered by the national regulatory authority or a body independent from the beneficiaries under the supervision of the national regulatory authority.</i>	<i>2. Where the net cost is shared under the second subparagraph of paragraph 1(b), Member States shall establish a sharing mechanism administered by the national regulatory authority or a body independent from the beneficiaries under the supervision of the national regulatory authority. Only the net cost, as determined in accordance with Article 84, of the obligations laid down in Articles 79 to 82 may be financed.</i>	Y	[Text to be adjusted when a decision is made on the position of the provision enabling the sharing mechanism]
1102.	<i>1e. A sharing mechanism shall respect the principles of transparency, least market distortion, non-discrimination and proportionality, in accordance with the principles of Annex VII, Part B. Member States may choose not to require contributions from certain types of undertaking or from undertakings whose national turnover is less than a set limit.</i>	<i>3. A sharing mechanism shall respect the principles of transparency, least market distortion, non-discrimination and proportionality, in accordance with the principles of Annex VII, Part B. Member States may choose not to require contributions from undertakings whose national turnover is less than a set limit.</i>	Y	[1e/3]. A sharing mechanism shall respect the principles of transparency, least market distortion, non-discrimination and proportionality, in accordance with the principles of Annex VII, Part B. Member States may choose not to require contributions from [certain types of undertaking or] from undertakings whose national turnover is less than a set limit.
1103.	<i>1f. Any charges related to the sharing of the cost of universal service obligations shall be unbundled and identified separately for each undertaking. Such charges shall not be imposed or collected from undertakings that are not providing services in the territory of the Member State that has established the sharing mechanism.</i>	<i>4. Any charges related to the sharing of the cost of universal service obligations shall be unbundled and identified separately for each undertaking. Such charges shall not be imposed or collected from undertakings that are not providing services in the territory of the Member State that has established the sharing mechanism.</i>	G	[1f/4]. Any charges related to the sharing of the cost of universal service obligations shall be unbundled and identified separately for each undertaking. Such charges shall not be imposed or collected from undertakings that are not providing services in the territory of the Member State that has established the sharing mechanism.
1107	Article 86	Article 86		
1108	Transparency	Transparency		
1109	1. Where the net cost of universal service obligations is to be calculated in accordance with Article 84, national regulatory authorities shall ensure that the principles for net cost calculation, including the details of methodology to be used are publicly available.	1. Where a mechanism for sharing the net cost of universal service obligations as referred to in Article 85 is established , is to be calculated in accordance with Article 84 , national regulatory authorities shall ensure that the principles for cost sharing net cost calculation, including and the details of the mechanism used methodology to be used; to compensate the net cost are publicly available.	Y	

1110	2. Subject to Union and national rules on business confidentiality, national regulatory authorities shall ensure that an annual report is published providing the details of calculated cost of universal service obligations including any market benefits that may have accrued to the undertaking(s) pursuant to universal service obligations laid down in Articles 79, 81 and 82.	2. Subject to Union and national rules on business confidentiality, national regulatory authorities shall ensure that an annual report is published providing the details of calculated cost of universal service obligations, identifying the contributions made by all the undertakings involved , including any market benefits that may have accrued to the undertaking(s) pursuant to universal service obligations laid down in Articles 79, 81 and 82 .	Y	2. Subject to Union and national rules on business confidentiality, national regulatory authorities shall ensure that an annual report is published providing the details of calculated cost of universal service obligations [, identifying the contributions made by all the undertakings involved,] including any market benefits that may have accrued to the undertaking(s) pursuant to universal service obligations laid down in Articles [79, 81 and 82 / 79 to 82] .
1111		Article 86a	R	Additional mandatory services
1112		Additional mandatory services	R	
1113		Member States may decide to make additional services, apart from services within the universal service obligations as defined in Chapter II Articles 79-82, publicly available in its own territory but, in such circumstances, no compensation mechanism involving specific undertakings may be imposed.	R	
1114		Article 86b		
1115		Regulatory controls on retail services		
1116		1. Member States may ensure that national regulatory authorities impose appropriate regulatory obligations on undertakings identified as having significant market power on a given retail market in accordance with Article 61 where:		
1117		(a) as a result of a market analysis carried out in accordance with Article 65 , a national regulatory authority determines that a given retail market identified in accordance with Article 62 is not effectively competitive; and		
1118		(b) the national regulatory authority concludes that obligations imposed under Articles 67 to 72 would not result in the achievement of the objectives set out in Article 3 .		
1119		2. Obligations imposed under paragraph 1 shall be		

		based on the nature of the problem identified and be proportionate and justified in the light of the objectives laid down in Article 3 . The obligations imposed may include requirements that the identified undertakings do not charge excessive prices, inhibit market entry or restrict competition by setting predatory prices, show undue preference to specific end-users or unreasonably bundle services. National regulatory authorities may apply to such undertakings appropriate retail price cap measures, measures to control individual tariffs, or measures to orient tariffs towards costs or prices on comparable markets, in order to protect end-user interests whilst promoting effective competition.		
1120		4. National regulatory authorities shall ensure that, where an undertaking is subject to retail tariff regulation or other relevant retail controls, the necessary and appropriate cost accounting systems are implemented. National regulatory authorities may specify the format and accounting methodology to be used. Compliance with the cost accounting system shall be verified by a qualified independent body. National regulatory authorities shall ensure that a statement concerning compliance is published annually.		
1121		5. Without prejudice to Article 80 and Article 83 , national regulatory authorities shall not apply retail control mechanisms under paragraph 1 of this Article to geographical or user markets where they are satisfied that there is effective competition.		
1122	Title II: Numbers	Title II: Numbers Numbering Resources		
1123	Article 87	Article 87		
1124	Numbering resources	Numbering resources		
1125	1. Member States shall ensure that national regulatory authorities control the granting of rights of use for all national numbering resources and the management of the national numbering plans and that they provide adequate numbers and numbering ranges for all publicly available electronic	1. Member States shall ensure that national regulatory authorities competent authorities control the granting of rights of use for all national numbering resources and the management of the national numbering plans and that they provide adequate numbers and numbering ranges numbering resources for the provision of all publicly		1. Member States shall ensure that national regulatory and/or other competent authorities control the granting of rights of use for all national numbering resources and the management of the national numbering plans and that they provide adequate numbers and numbering ranges numbering resources for the provision of all publicly

	communications services. National regulatory authorities shall establish objective, transparent and non-discriminatory procedures for granting rights of use for national numbering resources.	available electronic communications services. National regulatory authorities Member States shall establish ensure that objective, transparent and non-discriminatory procedures for granting rights of use for national numbering resources are established .		available electronic communications services. National regulatory authorities Member States shall establish ensure that objective, transparent and non-discriminatory procedures for granting rights of use for national numbering resources are established .
1126	2. National regulatory authorities may grant rights of use for numbers from the national numbering plans for the provision of specific services to undertakings other than providers of electronic communications networks or services, provided that those undertakings demonstrate their ability to manage those numbers and sufficient and adequate numbering resources are made available to satisfy current and foreseeable future demand. National regulatory authorities may suspend the granting of numbering resources to such undertakings if it is demonstrated that there is a risk of exhaustion of numbering resources. By [entry into force plus 18 months] in order to contribute to the consistent application of this paragraph, BEREC shall adopt, after consulting stakeholders and in close cooperation with the Commission, guidelines on common criteria for the assessment of the ability to manage numbering resources and the risk of exhaustion of numbering resources.	2. National regulatory authorities Competent authorities may also grant rights of use for numbers numbering resources from the national numbering plans for the provision of specific services to undertakings other than providers of electronic communications networks or services, provided that those undertakings demonstrate their ability to manage those numbers and sufficient and adequate numbering resources are made available to satisfy current and foreseeable future demand. Those undertakings shall demonstrate their ability to manage the numbering resources and comply with any relevant requirements set out pursuant to Article 88. National regulatory authorities Competent authorities may suspend the further granting of numbering resources rights of use for numbering resources to such undertakings if it is demonstrated that there is a risk of exhaustion of numbering resources. By [entry into force plus 18 months] in order to contribute to the consistent application of this paragraph, BEREC shall adopt, after consulting stakeholders and in close cooperation with the Commission, guidelines on common criteria for the assessment of the ability to manage numbering resources and the risk of exhaustion of numbering resources.		2. National regulatory and/or other competent authorities may also grant rights of use for numbers numbering resources from the national numbering plans for the provision of specific services to undertakings other than providers of electronic communications networks or services, provided that those undertakings demonstrate their ability to manage those numbers and sufficient and adequate numbering resources are made available to satisfy current and foreseeable future demand. Those undertakings shall demonstrate their ability to manage the numbering resources and comply with any relevant requirements set out pursuant to Article 88. National regulatory and/or other competent authorities may suspend the further granting of numbering resources rights of use for numbering resources to such undertakings if it is demonstrated that there is a risk of exhaustion of numbering resources. By [entry into force plus 18 months] in order to contribute to the consistent application of this paragraph, BEREC shall adopt, after consulting stakeholders and in close cooperation with the Commission, guidelines on common criteria for the assessment of the ability to manage numbering resources and the risk of exhaustion of numbering resources.
1127	3. National regulatory authorities shall ensure that national numbering plans and procedures are applied in a manner that gives equal treatment to all providers of publicly available electronic communications services and other undertakings if they are eligible in accordance with paragraph 2. In particular, Member States shall ensure that an undertaking to which the right of use for a range of numbers has been granted does not discriminate against other providers of electronic communications services as regards the	3. National regulatory authorities Competent authorities shall ensure that national numbering plans and procedures are applied in a manner that gives equal treatment to all providers of publicly available electronic communications services and other the undertakings if they are eligible in accordance with paragraph 2. In particular, Member States shall ensure that an undertaking to which the right of use for a range of numbers numbering resources has been granted does not discriminate against other providers of electronic		3. National regulatory and/or other competent authorities shall ensure that national numbering plans and procedures are applied in a manner that gives equal treatment to all providers of publicly available electronic communications services and other the undertakings if they are eligible in accordance with paragraph 2. In particular, Member States shall ensure that an undertaking to which the right of use for a range of numbers numbering resources has been granted does not discriminate against other providers of electronic

	number sequences used to give access to their services.	<i>communications services as regards the number sequences numbering resources used to give access to their services.</i>	<i>communications services as regards the number sequences numbering resources used to give access to their services.</i>
1128	<p>4. Each Member State shall determine a range of its non-geographic numbering resources which may be used for the provision of electronic communications services other than interpersonal communications services, throughout the territory of the Union, without prejudice to Regulation (EU) No 531/2012 and implementing acts based thereon, and Article 91 (2) of this Directive. Where rights of use for numbers have been granted in accordance with paragraph 2 to undertakings other than providers of electronic communications networks or services, this paragraph shall apply to the specific services provided by those undertakings. National regulatory authorities shall ensure that the conditions for the right of use for numbers used for the provision of services outside the Member State of the country code, and their enforcement, are not less stringent than the conditions and enforcement applicable to services provided within the Member State of the country code. National regulatory authorities shall also ensure that providers using numbers of their country code in other Member States comply with consumer protection and other national rules related to the use of numbers applicable in those Member States where the numbers are used. This obligation is without prejudice to the enforcement powers of the competent authorities of those Member States.</p>	<p>4. Each Member State shall determine ensure that competent authorities make available a range of its non-geographic numbering resources numbers which may be used for the provision of electronic communications services other than interpersonal communications services, throughout the territory of the Union, without prejudice to Regulation (EU) No 531/2012 and implementing acts based thereon, and Article 91 (2) of this Directive. Where rights of use for numbers numbering resources have been granted in accordance with paragraph 2 to undertakings other than providers of electronic communications networks or services, this paragraph shall apply to the specific services for whose provision the rights of use have been granted provided by those undertakings. National regulatory authorities Competent authorities shall ensure that the conditions, attached in accordance with Part E of Annex I, for the right of use for numbers numbering resources used for the provision of services outside the Member State of the country code, and their enforcement, are not neither less stringent nor more stringent than the conditions and enforcement applicable to services provided within the Member State of the country code, in accordance with this Directive. National regulatory authorities Competent authorities shall also ensure in accordance with Article 88(6) that providers using numbers numbering resources of their country code in other Member States comply with consumer protection and other national rules related to the use of numbers numbering resources applicable in those Member States where the numbers numbering resources are used. This obligation is without prejudice to the enforcement powers of the competent authorities of those Member States.</p>	<p>4. Each Member State shall determine ensure that national regulatory and/or other competent authorities make available a range of its non-geographic numbering resources numbers which may be used for the provision of electronic communications services other than interpersonal communications services, throughout the territory of the Union, without prejudice to Regulation (EU) No 531/2012 and implementing acts based thereon, and Article 91 (2) of this Directive. Where rights of use for numbers numbering resources have been granted in accordance with paragraph 2 to undertakings other than providers of electronic communications networks or services, this paragraph shall apply to the specific services for whose provision the rights of use have been granted provided by those undertakings. National regulatory authorities National regulatory and/or other competent authorities shall ensure that the conditions, attached in accordance with Part E of Annex I, for the right of use for numbers numbering resources used for the provision of services outside the Member State of the country code, and their enforcement, are not neither less stringent nor more stringent than the conditions and enforcement applicable to services provided within the Member State of the country code, in accordance with this Directive. <u>National regulatory and/or other competent</u> authorities shall also ensure in accordance with Article 88(6) that providers using numbers numbering resources of their country code in other Member States comply with consumer protection and other national rules related to the use of numbers numbering resources applicable in those Member States where the numbers numbering resources are used. This obligation is without prejudice to the enforcement powers of the competent authorities of those Member States.</p>

1129	BEREC shall assist national regulatory authorities in coordinating their activities to ensure an efficient management of numbering resources and extraterritorial use in compliance with the regulatory framework.	BEREC shall assist national regulatory authorities Competent authorities may request BEREC's assistance in coordinating their activities to ensure an efficient management of numbering resources and with a right of extraterritorial use within the Union in compliance with the regulatory framework.	BEREC shall National regulatory and/or other competent authorities may request BEREC's assistance in coordinating their activities to ensure an efficient management of numbering resources and with a right of extraterritorial use within the Union in compliance with the regulatory framework.
1130		In order to facilitate the monitoring by the competent authorities of compliance with the requirements of this paragraph , BEREC shall establish a central registry database on the numbering resources with a right of extraterritorial use within the Union . For this purpose , to which national regulatory authorities competent authorities shall transmit the relevant information to BEREC .	In order to facilitate the monitoring by the <u>National regulatory and/or other</u> competent authorities of compliance with the requirements of this paragraph , BEREC shall establish a central registry database on the numbering resources with a right of extraterritorial use within the Union . For this purpose , to which national regulatory authorities <u>National regulatory and/or other</u> competent authorities shall transmit the relevant information to BEREC .
1131	5. Member States shall ensure that the '00' code is the standard international access code. Special arrangements for making calls between locations adjacent to one another across borders between Member States may be established or continued. End-users in the locations concerned shall be fully informed of such arrangements.	5. Member States shall ensure that the '00' code is the standard international access code. Special arrangements for making calls the use of number-based interpersonal communications services between locations adjacent to one another across borders between Member States may be established or continued. End-users in the locations concerned shall be fully informed of such arrangements.	5. Member States shall ensure that the '00' code is the standard international access code. Special arrangements for making calls the use of number-based interpersonal communications services between locations adjacent to one another across borders between Member States may be established or continued. End-users in the locations concerned shall be fully informed of such arrangements.
1132	Member States may agree to share a common numbering plan for all or specific categories of numbers.	Member States may agree to share a common numbering plan for all or specific categories of numbers.	Member States may agree to share a common numbering plan for all or specific categories of numbers.
1133		<i>End-users in the locations concerned shall be fully informed of such arrangements or agreements.</i>	<i>End-users in the locations concerned shall be fully informed of such arrangements or agreements.</i>
1134	6. Member States shall promote the over-the-air provisioning of numbering resources, - where technically feasible - to facilitate switching of providers of electronic communications networks or services by end-users ■ , in particular providers and users of machine-to-machine services.	6. Without prejudice to Article 99 , Member States shall promote the over—the-air provisioning of numbering resources, - where technically feasible - to facilitate change switching of providers of electronic communications networks or services by end-users other than consumers, in particular providers and users of machine-to-machine services.	6. Without prejudice to Article 99 , Member States shall promote the over—the-air provisioning of numbering resources, - where technically feasible - to facilitate change switching of providers of electronic communications networks or services by end-users other than consumers, in particular providers and users of machine-to-machine services.
1135	7. Member States shall ensure that the national numbering plans, and all subsequent additions or amendments thereto, are published, subject only to limitations imposed on the grounds of national	7. Member States shall ensure that the national numbering plans, and all subsequent additions or amendments thereto, are published, subject only to limitations imposed on the grounds of national security.	7. Member States shall ensure that the national numbering plans, and all subsequent additions or amendments thereto, are published, subject only to limitations imposed on the grounds of national security.

	security.			
1136	8. Member States shall support the harmonisation of specific numbers or numbering ranges within the Union where it promotes both the functioning of the internal market and the development of pan-European services. The Commission shall continue to monitor market developments and participate in international organisations and fora where numbering decisions are taken. Where the Commission considers it justified and appropriate, it shall take appropriate technical implementing measures in the interest of the Single Market, to address unmet cross-border or pan-European demand for numbers, which would otherwise constitute an obstacle to trade between Member States.	8. Member States shall support the harmonisation of specific numbers or numbering ranges within the Union where it promotes both the functioning of the internal market and the development of pan-European services. The Commission shall continue to monitor market developments and participate in international organisations and fora where numbering decisions are taken. Where the Commission considers it justified and appropriate, it shall may take appropriate technical implementing measures in the interest of the Single Market, Where necessary to address unmet cross-border or pan-European demand for numbers, the Commission shall, taking utmost account of the opinion of BEREC, adopt implementing acts harmonising specific numbers or numbering ranges which would otherwise constitute an obstacle to trade between Member States.		8. Member States shall support the harmonisation of specific numbers or numbering ranges within the Union where it promotes both the functioning of the internal market and the development of pan-European services. The Commission shall continue to monitor market developments and participate in international organisations and fora where numbering decisions are taken. Where the Commission considers it justified and appropriate, it shall may take appropriate technical implementing measures in the interest of the Single Market, Where necessary to address unmet cross-border or pan-European demand for numbers, the Commission shall, taking utmost account of the opinion of BEREC, adopt implementing acts harmonising specific numbers or numbering ranges which would otherwise constitute an obstacle to trade between Member States.
1137	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 110(4).	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 110(4).		Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 110(4).
1138	<i>Article 88</i>	Article 88		
1139	Granting of rights of use for numbers	Procedure of Ggranting of rights of use for <u>numbers numbering resources</u>		<u>Keep Council position with national regulatory and/or other competent authority</u>
1140	1. Where it is necessary to grant individual rights of use for numbers, national regulatory authorities shall grant such rights, upon request, to any undertaking for the provision of electronic communications networks or services covered by a general authorisation referred to in Article 12, subject to the provisions of Articles 13 and 21(1)(c) and any other rules ensuring the efficient use of those resources in accordance with this Directive. National regulatory authorities may also grant rights of use for numbers to undertakings other than providers of electronic communications networks or services in accordance with Article 87(2).	1. Where it is necessary to grant individual rights of use for numbers numbering resources , national regulatory authorities competent authorities shall grant such rights, upon request, to any undertaking for the provision of electronic communications networks or services covered by a general authorisation referred to in Article 12, subject to the provisions of Articles 13 and 21(1)(c) and any other rules ensuring the efficient use of those numbering resources in accordance with this Directive . National regulatory authorities may also grant rights of use for numbers to undertakings other than providers of electronic communications networks or services in accordance with Article 87(2).		
1141	2. The rights of use for numbers shall be granted	2. The rights of use for numbers numbering resources		

	through open, objective, transparent, non-discriminatory and proportionate procedures.	shall be granted through open, objective, transparent, non-discriminatory and proportionate procedures.		
1142	When granting rights of use for numbers, national regulatory authorities shall specify whether those rights can be transferred by the holder of the rights, and under which conditions.	When granting rights of use for numbers numbering resources , national regulatory authorities competent authorities shall specify whether those rights can be transferred by the holder of the rights, and under which conditions.		
1143	Where national regulatory authorities grant rights of use for a limited period of time, the duration shall be appropriate for the service concerned in view of the objective pursued taking due account of the need to allow for an appropriate period for investment amortisation.	Where national regulatory authorities competent authorities grant rights of use for numbering resources for a limited period of time, the duration shall be appropriate for the service concerned in view of the objective pursued taking due account of the need to allow for an appropriate period for investment amortisation.		
1144	3. Decisions on the granting of rights of use for numbers shall be taken, communicated and made public as soon as possible after receipt of the complete application by the national regulatory authority, within three weeks in the case of numbers that have been allocated for specific purposes within the national numbering plan.	3. Decisions on the granting of rights of use for numbers numbering resources shall be taken, communicated and made public as soon as possible after receipt of the complete application by the national regulatory authority competent authority , within three weeks in the case of numbers numbering resources that have been allocated for specific purposes within the national numbering plan.		
1145	4. Where it has been decided, after consultation with interested parties in accordance with Article 23, that rights of use for numbers of exceptional economic value are to be granted through competitive or comparative selection procedures, national regulatory authorities may extend the maximum period of three weeks by up to a further three weeks.	4. Where it has been decided competent authorities have determined , after consultation with interested parties in accordance with Article 23, that rights of use for numbers numbering resources of exceptional economic value are to be granted through competitive or comparative selection procedures, national regulatory authorities Member States competent authorities may extend the maximum period of three weeks by up to a further three weeks.		
1146	5. National regulatory authorities shall not limit the number of rights of use to be granted except where this is necessary to ensure the efficient use of numbering resources.	5. National regulatory authorities Competent authorities shall not limit the number of rights of use to be granted except where this is necessary to ensure the efficient use of numbering resources.		
1147	6. Where the right of use for numbers includes their extraterritorial use within the Union in accordance with Article 87(4), the national regulatory authority shall attach to the right of use specific conditions in order to ensure compliance with all the relevant	6. Where the rights of use for numbers numbering resources includes their extraterritorial use within the Union in accordance with Article 87(4), the national regulatory authority competent authority shall attach to the right of use specific conditions in order to ensure		

	national consumer protection rules and national laws related to the use of numbers applicable in the Member States where the numbers are used. Member states may not impose additional obligations to these rights of use thereafter.	compliance with all the relevant national consumer protection rules and national laws related to the use of numbers numbering resources applicable in the Member States where the numbers numbering resources are used.		
1148	Upon request from a national regulatory authority of another Member State demonstrating a breach of relevant consumer protection rules or number-related national law of that Member State, the national regulatory authority of the Member State where the rights of use for the numbers have been granted, shall enforce the conditions attached under subparagraph 1 in accordance with Article 30, including in serious cases by withdrawing the right of extraterritorial use for the numbers granted to the undertaking concerned.	Upon request from a national regulatory authority competent authority of another a Member State where the numbering resources are used , demonstrating a breach of relevant consumer protection rules or number-related national laws related to the use of numbering resources of that Member State, the national regulatory authority competent authority of the Member State where the rights of use for the numbers numbering resources have been granted, shall enforce the conditions attached under the first subparagraph 4 in accordance with Article 30, including in serious cases by withdrawing the right of extraterritorial use for the numbers numbering resources granted to the undertaking concerned.		
1149	BEREC SHALL FACILITATE AND COORDINATE THE EXCHANGE OF INFORMATION BETWEEN THE NATIONAL REGULATORY AUTHORITIES OF THE DIFFERENT MEMBER STATES INVOLVED AND ENSURE THE APPROPRIATE COORDINATION OF WORK AMONG THEM.	BEREC shall facilitate and coordinate the exchange of information between the national regulatory authorities competent authorities of the different Member States involved and ensure the appropriate coordination of work among them.		
1150		<i>6a. This Article shall also apply where competent authorities grant rights of use for numbering resources to undertakings other than providers of electronic communications networks or services in accordance with Article 87(2).</i>		
1151	Article 89	Article 89		
1152	Fees for rights of use for numbers	Fees for rights of use for numbers numbering resources		<u>Keep Council position with national regulatory and/or other competent authority</u>
1153	Member States may allow the national regulatory authority to impose fees for the rights of use for numbers which reflect the need to ensure the optimal use of these resources. Member States shall ensure that such fees are objectively justified, transparent, non-discriminatory and proportionate in relation to	Member States may allow the national regulatory authority competent authority to impose fees for the rights of use for numbers numbering resources which reflect the need to ensure the optimal use of these resources. Member States shall ensure that such fees are objectively justified, transparent, non-discriminatory and		

	their intended purpose and shall take into account the objectives in Article 3.	proportionate in relation to their intended purpose and shall take into account the objectives in Article 3.		
1154	Article 90	Article 90		
1155	Missing children and child helpline hotlines	The missing children hotline number		Missing children and child helpline hotlines
	1. Member States shall ensure that citizens have access to a service operating a hotline to report cases of missing children free of charge . The hotline shall be available on the number '116000'. Member States shall ensure that children have access to a child-friendly service operating a helpline. The helpline shall be available on the number '116111'.	1. Member States shall ensure that citizens have access to a service operating a hotline to report cases of missing children. The hotline shall be available on the number '116000'.		1. Member States shall ensure that citizens have access to a service operating a hotline to report cases of missing children free of charge . The hotline shall be available on the number '116000'.
	2. Member States shall ensure that end-users end-users with disabilities are able to access services provided under the numbers '116000' and '116111' on equal basis with other end-users, including through total conversation services . Measures taken to facilitate the access of end-users with disabilities to such services whilst travelling in other Member States shall be based on compliance with relevant standards or specifications published in accordance with Article 39.	2. Member States shall ensure that disabled end-users end-users with disabilities are able to access services provided under the number '116000' numbering range to the greatest extent possible. Measures taken to facilitate disabled end-users' access by end-users with disabilities to such services whilst travelling in other Member States shall be based on compliance with relevant standards or specifications published in accordance with Article 39.		2. Member States shall ensure that disabled end-users end-users with disabilities are able to access services provided under the number '116000' numbering range to the greatest extent possible. Measures taken to facilitate disabled end-users' access by end-users with disabilities to such services whilst travelling in other Member States shall be based on compliance with relevant standards or specifications published in accordance with Article 39.
	3. Member States shall ensure that appropriate measures needed to achieve a sufficient level of service quality in operating the 116 000 number as well as engaging necessary financial resources to operate the hotline are implemented.			3. Member States shall take appropriate measures to ensure that the authority or undertaking to which the 116000 number was assigned allocates the necessary resources to operate the hotline.
	4. Member States and the Commission shall ensure that citizens are adequately informed of the existence and use of services provided under the '116 000' and '116111' numbers.			4. Where appropriate, Member States and the Commission shall ensure that citizens are adequately informed of the existence and use of services provided under the '116 000' and '116111' numbers.
1167	Title III: End-user rights	Title III: End-user rights		
1168	(Article 91a)			Article 91a
1169	Exemption clause			
1170	Title III, with the exception of Articles 92 and 93, shall not apply to number-independent interpersonal communications services, which are micro enterprises as defined in Commission Recommendation 2003/361/EC.			Title III, with the exception of Articles 92 and 93, shall not apply to micro-enterprises providing number-independent interpersonal communications services.

				<p>This exception shall not apply to micro-enterprises that also provide other electronic communications services.</p> <p>Member States shall ensure that end-users are informed of this exemption before concluding a contract with a micro-enterprise.</p> <p>+ <i>New Recital 228a</i></p> <p><i>(228a) In accordance with the principle of proportionality, a number of end-user rights provisions of this Directive should not apply to NIICS which are Micro-enterprises should be understood as micro enterprises as defined in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium- sized enterprises. According to the Court case-law, the definition of an SME, which includes micro-enterprises, must be interpreted strictly. In order to include only enterprises that are genuinely independent SMEs, it is necessary to examine the structure of SMEs which form an economic group, the power of which exceeds the power of an SME, and to ensure that the definition of SMEs is not circumvented by purely formal means.</i></p>
1174	Article 92a			
1175	<i>1. Providers of publicly available number based interpersonal communication services shall not apply tariffs to intra-Union fixed and mobile communications services terminating in another Member State, which are higher from tariffs for services terminating in the same Member State,</i>			

	<i>unless it is justified by the difference in termination rates.</i>			
1176	<i>2. By ... (six months after the entry into force of this Directive), BEREC after consulting stakeholders and in close cooperation with the Commission shall adopt guidelines on the recovery of such objectively justified different costs pursuant to paragraph 1. Such guidelines shall ensure that any differences are strictly based on existent direct costs that provider incur by providing the cross-border services;</i>			
1177	<i>3. By ... (one year after the entry into force of this Directive and annually thereafter), the European Commission shall provide a report on the application of the obligations of paragraph 1, including an assessment of the evolution of intra-Union communication tariffs.</i>			
1178	<i>Article 93</i>	Article 93		
1179	Fundamental rights safeguard	Fundamental rights safeguard		
1180	1. National measures regarding end-users' access to, or use of, services and applications through electronic communications networks shall respect the fundamental rights and freedoms, as guaranteed by the Charter of Fundamental Rights of the Union and general principles of Union law.	1. National measures regarding end-users' access to, or use of, services and applications through electronic communications networks shall respect the fundamental rights and freedoms , as guaranteed by the Charter of Fundamental Rights of the Union ('the Charter') and general principles of Union law.		
1181	2. 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 provided for by law and respect the essence of those rights or freedoms, are appropriate, proportionate and necessary, and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others in line with Article 52(1) of the Charter of Fundamental Rights of the European Union and with general principles of Union law, including effective judicial protection and due process. Accordingly, these measures may only be	2. Any of these measures regarding end-users' access to, or use of, services and applications through electronic communications networks liable to restrict limit the exercise of those fundamental the rights or freedoms recognised by the Charter may only be imposed if they are provided for by law and respect the essence of those rights or freedoms, are appropriate, proportionate, and necessary, and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others in line with Article 52(1) of the Charter of Fundamental Rights of the European Union and with general principles of Union law, including the right to an effective judicial protection and due process remedy and to a fair trial.		

	taken with due respect for the principle of the 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 Charter of Fundamental Rights of the European Union. The right to effective and timely judicial review shall be guaranteed.	Accordingly, these measures may only be taken with due respect for the principle of the 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 Charter of Fundamental Rights of the European Union. The right to effective and timely judicial review shall be guaranteed.		
1182	2a. In accordance with Articles 7, 8 and 11 and Article 52(1) of the Charter of Fundamental Rights of the European Union, Member States shall not impose general and indiscriminate retention of all traffic and location data of all subscribers and registered users relating to their electronic communications.			
1183	<i>Article 94</i>	Article 94		Article 94
1184	Level of harmonisation	Level of harmonisation		
1185	Member States shall not maintain or introduce in their national law end-user protection provisions or general authorisation conditions on the subject-matters covered by this Title and diverging from the provisions laid down in this Title, including more or less stringent provisions to ensure a different level of protection, unless otherwise provided for in this Title.	1. Member States shall not maintain or introduce in their national law end-user protection provisions on the subject matters covered by this Title and diverging from the provisions laid down in this Title Articles 95 to 106 , including more or less stringent provisions to ensure a different level of protection, unless otherwise provided for in this Title.		GREEN, agreed at trilogue of 28.02.2018 Member States shall not maintain or introduce in their national law end-user protection provisions and diverging from the provisions laid down in Articles 95 to 106 107 , including more or less stringent provisions to ensure a different level of protection, unless otherwise provided for in this Title.
1186		2. For a period of three years from [transposition date in Article 115 (1)], Member States shall be able to continue to apply more stringent national consumer protection provisions diverging from those laid down in Articles 95 to 106 provided that those provisions were in force before the adoption of this Directive and any restrictions to the internal market resulting therefrom are proportionate to the objective of consumer protection. Member States shall notify the Commission by [12 month after adoption of this Directive] of any national provisions to be applied on		2. For a period of three years from [transposition date in Article 115 (1)], Member States shall be able to continue to apply more stringent national consumer protection provisions diverging from those laid down in Articles 95 to 106 107 provided that those provisions were in force before the adoption of this Directive and any restrictions to the internal market resulting therefrom are proportionate to the objective of consumer protection. Member States shall notify the Commission by [12 month after adoption of this Directive] of any national provisions

		the basis of this paragraph.		to be applied on the basis of this paragraph.
1187	Article 95	Article 95		Article 95
1188	Information requirements for contracts	Information requirements for contracts		
1189	<i>-1. The information requirements set out in this Article including the contract summary shall constitute an integral part of the contract and is in addition to the information requirements laid down in Directive 2011/83/EU. Member States shall ensure that the information referred to in this Article is provided in a clear, comprehensive and easily accessible manner. On a request made by the consumer or other end-users, a copy of the information shall also be provided on a durable medium and in accessible formats for end-users with disabilities.</i>			GREEN Deleted Incorporated in Para 1 and Para 5 bis
1190	1. Before a consumer is bound by a contract or any corresponding offer which is subject to any kind of remuneration , providers of internet access services, publicly available interpersonal communications services and transmission services used for broadcasting shall provide, where applicable, the following information to the consumer, to the extent that such information pertains to a service they provide.	<i>1. Before a consumer is bound by a contract or any corresponding offer, providers of publicly available electronic communications services other than number-independent interpersonal communications services, shall provide the information required pursuant to Articles 5 and 6 of Directive 2011/83/EU, irrespective of the amount of any payment to be made, and the following information listed in Annex VII bis in a clear and comprehensible manner on a durable medium.</i>		GREEN (with some red/yellow), agreement on scope at trilogue of 28.02 1. Before a consumer is bound by a contract or any corresponding offer, providers of publicly available electronic communications services other than transmission services used for the provision of machine-to-machine services shall provide the information required pursuant to Articles 5 and 6 of Directive 2011/83/EU, [Council: irrespective of whether any payment is to be made and of the amount of any such payment to be made,] and in addition the following information listed in Annex VII bis to the extent that such information pertains to a service they provide. This information shall be provided in a clear and comprehensible manner on a durable medium as defined in Directive 2011/83/EU, including easily downloadable documents in the portable document format (PDF). This durable medium shall be provided, on request, in an accessible format for end-users with disabilities in accordance with Directive

				(EAA). + Recitals (see below)
1191	(a) as part of the main characteristics of each service provided:	—— (a) as part of the main characteristics of each service provided:		
1192	(i) any minimum service quality levels to the extent that these are offered, and in accordance with BEREC guidelines to be adopted pursuant Article 97(2) after consultation of stakeholders and in close cooperation with the Commission, regarding:	(i) any minimum service quality levels to the extent that these are offered, and in accordance with BEREC guidelines to be adopted after consultation of stakeholders and in close cooperation with the Commission, regarding:		
1193	– for internet access services: at least latency, jitter, packet loss,	—— for internet access services: at least latency, jitter, packet loss,		
1194	– for publicly available number-based interpersonal communications services: at least the time for the initial connection, failure probability, call signalling delays in accordance with Annex IX of this Directive and	—— for publicly available number-based interpersonal communications services: at least the time for the initial connection, failure probability, call signalling delays and		
1195	– for services other than internet access services within the meaning of Article 3(5) of Regulation 2015/2120/EU: the specific quality parameters assured.			
1196	Where no minimum service quality levels are offered, a statement to this effect shall be made.	—— for services other than internet access services within the meaning of Article 3(5) of Regulation 2015/2120: the specific quality parameters assured,		
1197	(ii) without prejudice to the right of end-users to use terminal equipment of their choice in accordance with Article 3(1) of Regulation 2015/2120/EC, any fees and restrictions imposed by the provider on the use of terminal equipment supplied and, where appropriate, brief technical information for the proper functioning of the equipment chosen by the consumer;	(ii) without prejudice to the right of end-users to use terminal equipment of their choice in accordance with Article 3(1) of Regulation 2015/2120/EC, any restrictions imposed by the provider on the use of terminal equipment supplied;		
1198	(b) any compensation and refund arrangements, including where applicable, explicit reference to statutory rights of consumers, which apply if contracted service quality levels are not met or if a security incident, notified to the provider, takes place due to known software or hardware vulnerabilities for which patches have been issued by the manufacturer or developer and the service	—— (b) any compensation and refund arrangements, which apply if contracted service quality levels are not met;		

	<i>provider has not applied those patches or taken any other appropriate counter-measure;</i>			
1199	(c) as part of the information on price and means of remuneration:	—— (c) as part of the information on price:		
1200	(i) details of specific tariff plan or plans under the contract and, for each such tariff plan the types of services offered, including where applicable, the volumes of communications (MB, minutes, SMS) included per billing period, and the price for additional communication units,	(i) details of tariff plans under the contract and, where applicable, the volumes of communications (MB, minutes, SMS) included per billing period, and the price for additional communication units,		
1201	(ia) in the case of tariff plan or plans with a pre-set volume of communications, the possibility for consumers to defer any unused volume from the preceding billing period to the following billing period, where this option is included in the contract,			
1202	(ib) facilities to safeguard bill transparency and monitor the level of consumption,			
1203	(ic) without prejudice to Article 13 of the Regulation 2016/679, information on what personal data is required before the performance of the service or collected in the context of the provision of the service,			
1204	(ii) tariff information regarding any numbers or services subject to particular pricing conditions; with respect to individual categories of services, NRAs may require such information to be provided immediately prior to connecting the call,	(ii) tariff information regarding any numbers or services subject to particular pricing conditions; with respect to individual categories of services, NRAs may require such information to be provided immediately prior to connecting the call,		
1205	(iii) for bundled services and bundles including both services and equipment the price of the individual elements of the bundle to the extent they are also marketed separately,	(iii) for bundled services and bundles including both services and equipment the price of the individual elements of the bundle to the extent they are also marketed separately,		
1206	(iv) details of after-sales service and maintenance and customer support service and maintenance charges, and,	(iv) details of after-sales service and maintenance charges, and		
1207	(v) the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;	(v) the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;		
1208	(d) as part of the information on the duration of the contract and the conditions for renewal and	—— (d) as part of the information on the duration of the contract and the conditions for renewal and		

	termination of the contract:	<i>termination of the contract:</i>		
1209	(i) any minimum usage or duration required to benefit from promotional terms,	<i>(i) any minimum usage or duration required to benefit from promotional terms;</i>		
1210	(ii) any procedures and charges related to switching and the portability of numbers and other identifiers and compensation and refund arrangements for delay or abuse of switching,	(II) ANY CHARGES RELATED TO SWITCHING AND THE PORTABILITY OF NUMBERS AND OTHER IDENTIFIERS AND COMPENSATION AND REFUND ARRANGEMENTS FOR DELAY OR ABUSE OF SWITCHING;		
1211	(iii) any charges due on early termination of the contract, including information on unlocking the terminal equipment and any cost recovery with respect to terminal equipment,	(II) ANY CHARGES DUE ON EARLY TERMINATION OF THE CONTRACT, INCLUDING ANY COST RECOVERY WITH RESPECT TO TERMINAL EQUIPMENT AND OTHER PROMOTIONAL ADVANTAGES;		
1212	(iv) for bundled services the conditions of termination of the bundle or of elements thereof, where applicable,	<i>(iv) for bundled services the conditions of termination of the bundle or of elements thereof;</i>		
1213	(E) DETAILS ON PRODUCTS AND SERVICES DESIGNED FOR DISABLED END-USERS AND HOW UPDATES ON THIS INFORMATION CAN BE OBTAINED;	<i>(e) details on products and services designed for disabled end users and how updates on this information can be obtained;</i>		
1214	<i>(f) the means of initiating procedures for the settlement of disputes, including national and cross-border disputes, in accordance with Article 25;</i>	<i>(f) the means of initiating procedures for the settlement of disputes in accordance with Article 25;</i>		
1215	<i>(g) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.</i>	<i>(g) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.</i>		
1216	2. In addition to the requirements set out in paragraph 1 providers of publicly available number-based interpersonal communications services shall provide the following information in a clear and comprehensible manner:	<i>2. In addition to the requirements set out in paragraph 1 providers of publicly available number based interpersonal communications services shall provide the following information in a clear and comprehensible manner:</i>		
1217	– any constraints on access to emergency services and/or caller location information due to a lack of technical feasibility, insofar as the service allows end-users to originate national calls to a number in a national telephone numbering plan;	<i>– any constraints on access to emergency services and/or caller location information due to a lack of technical feasibility;</i>		
1218	– the end-user's right to determine whether or not to include his or her personal data in a directory, and the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC;	<i>– the end user's right to determine whether or not to include his or her personal data in a directory, and the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC;</i>		
1219	3. Paragraphs 1, 2 and 6 shall apply also to micro	3. The information referred to in Pparagraphs 1 and 2		3. The information referred to in Pparagraphs 1 and 2

	or small enterprises and not-for-profit organisations as end-users unless they have expressly agreed to waive all or parts of those provisions,	shall apply also be provided to micro or small enterprises and not-for-profit organisations as end-users unless they have explicitly agreed to waive all or parts of those provisions,		5 and 6 shall apply also be provided to micro or small enterprises and not-for-profit organisations as end-users unless they have explicitly agreed to waive all or parts of those provisions,
1220	4. Providers of internet access services shall provide the information mentioned in paragraphs 1 and 2 in addition to the information required pursuant to Article 4(1) of Regulation (EU) 2015/2120.	4. Providers of internet access services shall provide the information mentioned in paragraphs 1 and 2 in addition to the information required pursuant to Article 4(1) of Regulation (EU) 2015/2120.		GREEN Moved into Annex
1221	5. By [entry into force + 12 months], the Commission, after consulting BEREC , shall adopt a contract summary template, which identifies the main elements of the information requirements in accordance with paragraphs 1 and 2. Those main elements shall include at least summary information on:	5. By [entry into force + 12 months], BEREC the Commission shall issue adopt a decision on a contract summary template, which identifies the main elements of the information requirements in accordance with paragraphs 1 and 2 . Those main elements shall include at least complete information on:		GREEN (agreement at trilogue of 28.02.18) 5. By [entry into force + 12 months], BEREC the Commission, after consulting BEREC , shall issue adopt a decision on Providers of publicly available electronic communications services other than transmission services used for the provision of machine-to-machine services shall provide end-users consumers with a concise and easily readable contract summary template , which identifies the main elements of the information requirements in accordance with paragraphs 1 and 2 . Those main elements shall include at least complete information on :
1222	(a) the name, address and contact information of the provider and, if different, the contact information for any complaint ,	(a) the name and address of the provider,		(a) the name and , address and contact information of the provider and, if different, the contact information for any complaint ,
1223	(b) the main characteristics of each service provided,	(b) the main characteristics of each service provided,		GREEN (b) the main characteristics of each service provided,
1224	(c) the respective prices,	(c) the respective prices for activating the electronic communications service and for any recurring and/or consumption-related charges, where the service is provided for direct monetary payment ,		GREEN (c) the respective prices for activating the electronic communications service and for any recurring and/or consumption-related charges, where the service is provided for direct monetary payment ,
1225	(d) the duration of the contract and the conditions for its renewal and termination,	(d) the duration of the contract and the conditions for its renewal and termination, including possible termination fees, switching, compensation and refund arrangements to the extent such elements apply ,		GREEN (d) the duration of the contract and the conditions for its renewal and termination,

				Note: This text could be revised depending on final technical agreement on the way to inform consumers about the refund mechanism.
1226	(e) the extent to which the products and services are designed for disabled end-users.	(e) the extent to which the products and services are designed for disabled end-users with disabilities ,		GREEN (e) the extent to which the products and services are designed for disabled end-users with disabilities ,
1227	(f) with respect to internet access services, the information required pursuant to Article 4 (1) of Regulation (EU) 2015/2120.	(f) with respect to internet access services, the information required pursuant to Article 4 (1)(d) of Regulation (EU) 2015/2120.		GREEN (f) with respect to internet access services, a summary of the information required pursuant to Article 4(1) (d) and (e) of Regulation (EU) 2015/2120.
1228	<i>That template shall not be longer than one single-sided A4 page. It shall be easily readable. Where a number of different services are bundled into a single contract, additional pages may be necessary, but the document shall be limited to a total of three pages.</i>			<i>Deleted.</i> Notion of concise and easily readable added to para 5. Details to be put in recital 233 (see line 12 above)
1229	<i>The Commission may adopt an implementing act specifying the template referred to in this paragraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 110(4).</i>	That implementing act shall be adopted in accordance with the examination procedure referred to in Article 110(4).		By [entry into force + 12 months], the Commission shall, after consulting BEREC, adopt an implementing act specifying a contract summary template to be used by the providers to fulfil their obligations under this paragraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 110(4).
1230	Providers subject to the obligations under paragraphs 1-4 shall duly complete this contract summary template with the applicable information and provide it to consumers, micro and small enterprises and not-for-profit organisations, where appropriate, prior to the conclusion of the contract or, where this is not possible, without undue delay thereafter.	Providers subject to the obligations under paragraphs 1-4 shall duly complete this contract summary template with the required information and provide it free of charge to consumers, and micro and small enterprises and not-for-profit organisations , prior to the conclusion of the contract including distance contracts . The contract summary shall become an integral part of the contract.		GREEN (with some yellow) Providers subject to the obligations under paragraphs 1-4 shall inform consumers about the possibility to include jitter and packet loss parameters in the contract , duly complete this contract summary template with the required information and provide it the contract summary free of charge to consumers, and micro and small enterprises and small not-for-profit organisations , prior to the conclusion of the contract

				including distance contracts. Where for objective technical reasons it is impossible to provide the contract summary at that moment, it shall be provided, without undue delay thereafter, and the contract shall become effective when the end-user has confirmed his or her agreement after reception of the contract summary. The contract summary shall become an integral part of the contract.
1231		5bis. The information referred to in paragraphs 1 and 4 shall become an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise.		GREEN 5bis. The information referred to in paragraphs 1 and 5 shall become an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise.
1232	6. Providers of internet access services and providers of publicly available number-based interpersonal communications services shall offer <i>consumers</i> the facility to monitor and control the usage of each of those services which is billed on the basis of either time or volume consumption. This facility shall include access to timely information on the level of consumption of services included in a tariff plan. <i>Providers of internet access services and of publicly available number-based interpersonal communications services shall give consumers best-tariff advice relating to their services upon request and, at the latest, 3 months prior to the termination of the contract period.</i>	6. Where internet access services or publicly available interpersonal communications services are billed on the basis of either time or volume consumption, their providers of internet access services and providers of publicly available number-based interpersonal communications services shall offer end-users the facility to monitor and control the usage of each of those services which is billed on the basis of either time or volume consumption. This facility shall include access to timely information on the level of consumption of services included in a tariff plan and shall inform the end-users before any of the service volumes included in their tariff plan is consumed. In particular, end-users shall receive a notification before they fully consume a service included in their tariff plan. Member States may maintain or introduce in their national law provisions to require service providers to provide additional information and temporarily prevent further usage of the relevant service in excess of a financial or volume limit determined by the competent authority.		GREEN (agreement at trilogue of 28.2.18) 6. Where internet access services or publicly available interpersonal communications services are billed on the basis of either time or volume consumption, their providers of internet access services and providers of publicly available number-based interpersonal communications services/ shall offer consumers end-users the facility to monitor and control the usage of each of those services which is billed on the basis of either time or volume consumption. This facility shall include access to timely information on the level of consumption of services included in a tariff plan. In particular, providers shall send a notification to consumers before any predefined by NRAs volume usage caps included in their tariff plan are reached and when a service included in their tariff plan is fully consumed.
1233	<i>6a. Member States may maintain or introduce in their national law additional requirements</i>			RED

	<i>applicable to internet access services and number-based interpersonal communications services and transmission services used for broadcasting to ensure a higher level of consumer protection in relation to the information requirements set out in paragraphs (1) and (2) of this Article. Member States may also maintain or introduce in their national law provisions to temporarily prevent further usage of the relevant service in excess of a financial or volume limit determined by the competent authority.</i>			6a. [EP: Member States may maintain or introduce in their national law additional requirements applicable to internet access services, number-based interpersonal communications services and transmission services used for broadcasting to ensure a higher level of consumer protection in relation to the information requirements set out in paragraphs 1 and 2 of this Article.] Member States may maintain or introduce in their national law provisions to require service providers to provide additional information on the consumption level and temporarily prevent further usage of the relevant service in excess of a financial or volume limit determined by the competent authority.
1234		7. Member States shall remain free to maintain or introduce legislation relating to aspects not regulated by this Article, in particular in order to address newly emerging issues.		RED [7. Member States shall remain free to maintain or introduce legislation relating to aspects not regulated by this Article, in particular in order to address newly emerging issues.]
	<u>ANNEX VII Bis</u>	<u>ANNEX VII Bis</u>	G	GREEN ANNEX VII Bis
	<u>Information Requirements To Be Provided In Accordance With Article 95 (Information Requirements For Contracts)</u>	<u>Information Requirements To Be Provided In Accordance With Article 95 (Information Requirements For Contracts)</u>	G	GREEN Information Requirements To Be Provided In Accordance With Article 95 (Information Requirements For Contracts)
	A. INFORMATION REQUIREMENTS FOR PROVIDERS OF [PUBLICLY AVAILABLE ELECTRONIC COMMUNICATIONS SERVICES] [EP: Applies to IAS, all ICS, broadcasting transmission only.]	A. INFORMATION REQUIREMENTS FOR PROVIDERS OF PUBLICLY AVAILABLE ELECTRONIC COMMUNICATIONS SERVICES [Applies to IAS, all ICS, all conveyance of signals]	G	GREEN (agreement at trilogue of 28.02.2018) A. INFORMATION REQUIREMENTS FOR PROVIDERS OF PUBLICLY AVAILABLE ELECTRONIC COMMUNICATIONS SERVICES OTHER THAN TRANSMISSION SERVICES USED FOR THE PROVISION OF MACHINE TO MACHINE SERVICES
	Providers of [publicly available electronic	Providers of publicly available electronic	G	GREEN (agreement at trilogue of 28.02.2018)

	communications services] shall provide the following information:	communications services shall provide the following information:		Providers of publicly available electronic communications services other than transmission services used for the provision of machine to machine services shall provide the following information:
	<i>(1) as part of the main characteristics of each service provided:-</i>	<i>(1) as part of the main characteristics of each service provided:-</i>	G	GREEN <i>(1) as part of the main characteristics of each service provided</i>
	[ex-95.1.a.i] <i>any minimum service quality levels to the extent that these are offered</i>	(i) <i>any minimum service quality levels to the extent that these are offered</i>	G	GREEN <i>any minimum service quality levels to the extent that these are offered</i> and, for services other than internet access services within the meaning of Article 3(5) of Regulation 2015/2120/EU, the specific quality parameters assured.
	<i>Where no minimum service quality levels are offered, a statement to this effect shall be made.</i>		G	GREEN Where no minimum service quality levels are offered, a statement to this effect shall be made.
			G	GREEN (1a) as part of the information on price, where and to the extent applicable, the respective prices for activating the electronic communications service and for any recurring and/or consumption-related charges,
	[ex-95.1.d chapeau] (2) as part of the information on the duration of the contract and the conditions for renewal and termination of the contract	(2) as part of the information on the duration of the contract and the conditions for renewal and termination of the contract, including possible termination fees, where relevant such conditions apply:	G	GREEN (2) as part of the information on the duration of the contract and the conditions for renewal and termination of the contract, to the extent that such conditions apply:
	(i) any minimum usage or duration required to benefit from promotional terms,	(i) any minimum usage or duration required to benefit from promotional terms,	G	GREEN (i) any minimum usage or duration required to benefit from promotional terms,
	(ii) any procedures and charges related to switching and the portability of numbers and other identifiers and compensation and refund arrangements for delay or abuse of switching,	(ii) any charges related to switching and compensation and refund arrangements for delay or abuse of switching,	G	GREEN (ii) any charges related to switching and compensation and refund arrangements for delay or abuse of switching,

				as well as information about the respective procedures, (iia) 'information on the right of consumers using pre-paid services to a refund, upon request, of any remaining credit in the event of switching, as set out in Art. 99(5a).'
	(iii) any charges due on early termination of the contract, including information on unlocking the terminal equipment and any cost recovery with respect to terminal equipment,	(iii) any charges due on early termination of the contract, including any cost recovery with respect to terminal equipment and other promotional advantages,	G	GREEN (iii) any charges due on early termination of the contract, including information on unlocking the terminal equipment and any cost recovery with respect to terminal equipment,
	[ex-95.1.b] (3) any compensation and refund arrangements, including where applicable, explicit reference to statutory rights of consumers , which apply if contracted service quality levels are not met or if a security incident, notified to the provider, takes place due to known software or hardware vulnerabilities for which patches have been issued by the manufacturer or developer and the service provider has not applied those patches or taken any other appropriate counter-measure ;	(3) any compensation and refund arrangements, which apply if contracted service quality levels are not met;	G	GREEN (except for some yellow) (3) any compensation and refund arrangements, including, where applicable, explicit reference to rights of consumers , which apply if contracted service quality levels are not met or if the provider responds inadequately to a security incident, threat or vulnerability ; <i>EP compromise proposal, in conjunction with revised recital 236</i>
<p>EP proposal for additional recital text, with shortened text in the article:</p> <p>(236) Without prejudice to the substantive obligation on the provider related to security by virtue of this Directive, the contract should specify the type of action the provider might take in case of security incidents, threats or vulnerabilities. In addition, the contract should also specify any compensation and refund arrangements available if a provider responds inadequately to a security incident, including if a security incident, notified to the provider, takes place due to known software or hardware vulnerabilities, for which patches have been issued by the manufacturer or developer and the service provider has not applied those patches or taken any other appropriate counter-measure.</p>				
	[ex-95.1.g] (4) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.	(4) the type of action that might be taken by the provider in reaction to security or integrity incidents or threats and vulnerabilities.	G	GREEN (except for Scope - red) (4) the type of action that might be taken by the provider in reaction to security or

				integrity incidents or threats and vulnerabilities.
	B- INFORMATION REQUIREMENTS FOR [PROVIDERS OF INTERNET ACCESS SERVICES AND PUBLICLY AVAILABLE INTERPERSONAL COMMUNICATIONS SERVICES AND TRANSMISSION OF BROADCASTING SIGNALS]	B- INFORMATION REQUIREMENTS FOR PROVIDERS OF INTERNET ACCESS SERVICES AND PUBLICLY AVAILABLE INTERPERSONAL COMMUNICATIONS SERVICES	G	GREEN B- INFORMATION REQUIREMENTS FOR PROVIDERS OF INTERNET ACCESS SERVICES AND PUBLICLY AVAILABLE INTERPERSONAL COMMUNICATIONS SERVICES
	I. In addition to the requirements set out in Part A, providers of [internet access services and publicly available interpersonal communications services] shall provide the following information:	I. In addition to the requirements set out in Part A, providers of internet access services and publicly available interpersonal communications services shall provide the following information:	G	GREEN I. In addition to the requirements set out in Part A, providers of internet access services and publicly available interpersonal communications services shall provide the following information:
	(1) as part of the main characteristics of each service provided:	(1) as part of the main characteristics of each service provided:	G	GREEN (1) as part of the main characteristics of each service provided:
	[Applies to IAS, all ICS, broadcasting. ex-95.1.a.i] (i) any minimum service quality levels to the extent that these are offered, and in accordance with BEREC guidelines to be adopted <i>pursuant Article 97(2)</i> after consultation of stakeholders and in close cooperation with the Commission, regarding:	[Applies to IAS, all ICS, excludes broadcasting/M2M] (i) any minimum service quality levels to the extent that the provider these are offered, controls at least some elements of the network either directly or by virtue of a service level agreement to that effect and taking utmost account of the BEREC guidelines to be adopted in accordance with Article 97(2) regarding after consultation of stakeholders and in close cooperation with the Commission, regarding:	G	GREEN (except for some yellow) (i) any minimum service quality levels to the extent that the provider these are offered, and taking utmost account of the BEREC guidelines to be adopted in accordance with Article 97(2) regarding [after consultation of stakeholders and in close cooperation with the Commission, regarding]:
	– for internet access services: at least latency, jitter, packet loss,	– for internet access services: at least latency, jitter, packet loss;	R	RED (IAS info requirements) – for internet access services:

				at least latency, [COUNCIL: [and upon request] jitter, packet loss,
	[Applies to number-based ICS only] – for publicly available number-based interpersonal communications services: at least the time for the initial connection, failure probability, call signalling delays <i>in accordance with Annex IX of this Directive</i> and	[Applies to all ICS] – for publicly available number-based interpersonal communications services, where relevant at least the time for the initial connection, failure probability, call signalling delays;	G	GREEN (agreement at trilogue of 28.02.2018) – for publicly available interpersonal communications services who exert control over at least some elements of the network or have a service level agreement to that effect with undertakings providing access to the network : at least the time for the initial connection, failure probability, call signalling delays in accordance with Annex IX of this Directive and
	– for services other than internet access services within the meaning of Article 3(5) of Regulation 2015/2120/EU: the specific quality parameters assured.	deleted	G	GREEN DELETED (moved to row 34 above)
	[Applies to IAS, all ICS, broadcasting. ex-95.1.a.ii] (ii) without prejudice to the right of end-users to use terminal equipment of their choice in accordance with Article 3(1) of Regulation 2015/2120/EC, any fees and restrictions imposed by the provider on the use of terminal equipment supplied and, where appropriate, brief technical information for the proper functioning of the equipment chosen by the consumer ;	[Applies to IAS, all ICS, excludes broadcasting/M2M] (ii) without prejudice to the right of end-users to use terminal equipment of their choice in accordance with Article 3(1) of Regulation 2015/2120/EC, any restrictions conditions imposed by the provider on the use of terminal equipment supplied;	G	YELLOW (except for Scope - red) (ii) without prejudice to the right of end-users to use terminal equipment of their choice in accordance with Article 3(1) of Regulation 2015/2120/EC, any restrictions conditions, including fees , imposed by the provider on the use of terminal equipment supplied;

	[Applies to IAS, all ICS, broadcasting. ex-95.1.c] (2) as part of the information on price and means of remuneration :	[Applies to IAS, all ICS, excludes broadcasting/M2M] (2) as part of the information on price, where and to the extent applicable, the respective prices for activating the electronic communications service and for any recurring and/or consumption-related charges :	G	GREEN (2) as part of the information on price, where and to the extent applicable, the respective prices for activating the electronic communications service and for any recurring and/or consumption-related charges :
	(i) details of specific tariff plan or plans under the contract and, for each such tariff plan the types of services offered, including where applicable, the volumes of communications (MB, minutes, SMS) included per billing period, and the price for additional communication units,	(i) details of tariff plans under the contract and, where applicable, the volumes of communications (such as MB, minutes, SMS messages) included per billing period, and the price for additional communication units,	G	GREEN (i) details of specific tariff plan or plans under the contract and, for each such tariff plan the types of services offered, including where applicable, the volumes of communications (MB, minutes, SMS messages) included per billing period, and the price for additional communication units,
	(ia) in the case of tariff plan or plans with a pre-set volume of communications, the possibility for consumers to defer any unused volume from the preceding billing period to the following billing period, where this option is included in the contract,		G	GREEN (ia) in the case of tariff plan or plans with a pre-set volume of communications, the possibility for consumers to defer any unused volume from the preceding billing period to the following billing period, where this option is included in the contract,
	(ib) facilities to safeguard bill transparency and monitor the level of consumption,		G	GREEN (ib) facilities to safeguard bill

				transparency and monitor the level of consumption,
	<i>(ic) without prejudice to Article 13 of the Regulation 2016/679, information on what personal data is required before the performance of the service or collected in the context of the provision of the service,</i>		G	GREEN Moved to Para (2a) new below
	(ii) tariff information regarding any numbers or services subject to particular pricing conditions; with respect to individual categories of services, NRAs may require such information to be provided immediately prior to connecting the call,	(ii) tariff information regarding any numbers or services subject to particular pricing conditions; with respect to individual categories of services, competent authorities NRAs may require such information to be provided immediately prior to connecting the call or to providing the service,	G	GREEN(except for NRA/CA - RED) (ii) tariff information regarding any numbers or services subject to particular pricing conditions; with respect to individual categories of services, [NRAs and/or other competent authorities] may require such information to be provided immediately prior to connecting the call or to connecting to the provider of the service,
	(iii) for bundled services and bundles including both services and equipment the price of the individual elements of the bundle to the extent they are also marketed separately,	(iii) for bundled services and bundles including both services and terminal equipment the price of the individual elements of the bundle to the extent they are also marketed separately,	G	GREEN with Council Addition (iii) for bundled services and bundles including both services and terminal equipment the price of the individual elements of the bundle to the extent they are also marketed separately,
	(iv) details of after-sales service and maintenance and customer support service and maintenance charges, and,	(iv) details of after-sales service and maintenance charges, and	G	GREEN (iv) details and conditions, including fees, of any after-sales service, maintenance, and customer assistance, and maintenance, and maintenance charges, and,

	(v) the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;	(v) the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;	G	GREEN (v) the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;
			G	GREEN Moved from Para 2(ic) above (2a) without prejudice to Article 13 of the Regulation 2016/679, information on what personal data shall be provided before the performance of the service or collected in the context of the provision of the service;
	[Applies to IAS, all ICS, broadcasting. ex-95.1.d.iv] (3) as part of the information on the duration of the contract for bundled services and the conditions for renewal and termination of the contract, where applicable, the conditions of termination of the bundle or of elements thereof;	[Applies to IAS, all ICS, excludes broadcasting/M2M] (3) as part of the information on the duration of the contract for bundled services and the conditions for renewal and termination of the contract, where relevant applicable, the conditions of termination of the bundle or of elements thereof;	G	GREEN (3) as part of the information on the duration of the contract for bundled services and the conditions for renewal and termination of the contract, where applicable, the conditions of termination of the bundle or of elements thereof;
	[Applies to IAS, all ICS, broadcasting. ex-95.1.e] (4) details on products and services designed for end-users with disabilities and how updates on this information can be obtained;	[Applies to IAS, all ICS, excludes broadcasting/M2M] (4) details on products and services designed for disabled end-users <u>with disabilities</u> and how updates on this information can be obtained;	G	GREEN (4) details on products and services designed for disabled end-users with disabilities and how updates on this information can be obtained;
	[Applies to IAS, all ICS, broadcasting. ex-95.1.f] (5) the means of initiating procedures for the settlement of disputes, including national and cross-	[Applies to IAS, all ICS, excludes broadcasting/M2M] (5) the means of initiating procedures for the settlement	G	GREEN (5) the means of initiating procedures for the settlement

	<i>border disputes</i> , in accordance with Article 25;	of disputes in accordance with Article 25;		of disputes <i>including national and cross-border disputes</i> in accordance with Article 25;
	[Applies to number-based ICS. ex-95.2] II. In addition to the requirements set out in paragraph 1 providers of publicly available number-based interpersonal communications services shall provide the following information in a clear and comprehensible manner:	[Applies to number-based ICS only] II. In addition to the requirements set out in part A and under I, providers of publicly available number-based interpersonal communications services shall also provide the following information:	G	GREEN II. In addition to the requirements set out in part A and under I, providers of publicly available number-based interpersonal communications services shall also provide the following information:
	(1) any constraints on access to emergency services and/or caller location information due to a lack of technical feasibility, <i>insofar as the service allows end-users to originate national calls to a number in a national telephone numbering plan;</i>	(1) any constraints on access to emergency services and/or caller location information due to a lack of technical feasibility;	G	GREEN (with some yellow, for coherence) (1) any constraints on access to emergency services and/or caller location information due to a lack of technical feasibility <i>insofar as the service allows end-users to originate national calls to a number in a national or international telephone numbering plan;</i>
	(2) the end-user's right to determine whether or not to include his or her personal data in a directory, and the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC;	(2) the end-user's right to determine whether or not to include his or her personal data in a directory, and the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC;	G	GREEN (2) the end-user's right to determine whether or not to include his or her personal data in a directory, and the types of data concerned, in accordance with Article 12 of Directive 2002/58/EC;
	[Applies to IAS. ex-95.4] III. In addition to the requirements set out in [ex-Art. 95(1) and (2)] , providers of internet access services shall also provide the information required pursuant	[Applies to IAS] III. In addition to the requirements set out in part A and under I, providers of internet access services shall also provide the information required pursuant to Article 4(1)	G	GREEN III. In addition to the requirements set out in part A and under I, providers of internet access services shall

	to Article 4(1) of Regulation (EU) 2015/2120.	of Regulation (EU) 2015/2120.		also provide the information required pursuant to Article 4(1) of Regulation (EU) 2015/2120.
1235	<i>Article 96</i>	Article 96		
1236	Transparency, comparison of offers and publication of information	Transparency, ePublication of information, and Comparison of offers, and distribution of public interest information publication of information		
1.	1. National regulatory authorities shall ensure that, where the provision of relevant services is subject to terms and conditions , the information referred to in Annex VIII is published in a clear, comprehensive, machine-readable and easily accessible form, including in particular for end-users with disabilities , by the providers of internet access services, providers of publicly available interpersonal communications services and transmission services used for broadcasting . Such information shall be updated regularly . National regulatory authorities may maintain or introduce in their national law additional requirements in relation to the transparency requirements set out in this paragraph .	1. Competent National regulatory authorities shall ensure that, where providers of internet access services and/or publicly available interpersonal communication services make the provision of these services subject to terms and conditions , the information referred to in Annex VIII is published in a clear, comprehensive and easily accessible form by the undertakings providing all such providers publicly available electronic communications services other than number-independent interpersonal communications services , or by the competent national regulatory authority itself . Competent National regulatory authorities may specify additional requirements regarding the form in which such information is to be published. That information shall, on request, be supplied to the competent authority in advance of its publication .	R	RED (CA/NRA, harmonisation) 1. [Competent / National regulatory and/or other competent] authorities shall ensure that, where providers of internet access services and/or publicly available interpersonal communication services make the provision of these services subject to terms and conditions , the information referred to in Annex VIII is published in a clear, comprehensive, machine-readable way and in an accessible format for end-users with disabilities, in accordance with Directive (EAA) , by all such providers, or by the [competent / national regulatory and/or other competent] authority itself. Such information shall be updated regularly . [national regulatory and/or other competent] authorities may specify additional requirements regarding the form in which such information is to be published. That information shall, on request, be supplied to the [competent / national regulatory] authority in advance of its publication. [National regulatory and/or other competent authorities may maintain or introduce in their national law additional requirements in relation to the transparency requirements set out in this paragraph.]
2.	COM proposal of 22.01. based on EP and Council AM (to clarify degree of level of harmonisation) (230) Divergent implementation of the rules on end-user protection has created significant internal market barriers affecting both providers of electronic communications services and end-users. Those barriers should be reduced by the applicability of the same rules ensuring a high common level of protection across the Union. A calibrated full harmonisation of the end-user rights covered by this Directive should considerably increase legal certainty for both end-users and providers of electronic communications services, and should significantly lower entry barriers and unnecessary compliance			

	<p>burden stemming from the fragmentation of the rules. Full harmonisation helps to overcome barriers to the single market resulting from such national end-user provisions which at the same time protect national providers against competition from other Member States. In order to achieve a high common level of protection, several end-user provisions should be reasonably enhanced in this Directive in the light of best practices in Member States. Full harmonisation of their rights increases the trust of end-users in the internal market as they benefit from an equally high level of protection when using electronic communications services, not only in their Member State but also while living, working or travelling in other Member States. Full harmonisation should only extend to the subject matters covered by the provisions on end-user rights in this Directive. Therefore, it should not affect national law with respect to those aspects of end-user protection, including some aspects of transparency measures which are not covered by these provisions. For example, measures relating to transparency obligations which are not covered by this Directive should be considered as compatible with the principle of full harmonisation whereas additional requirements regarding transparency issues covered by this Directive, such as publication of information, should be considered as incompatible. Subject to other provisions of Union law, Member States can also provide for end-user protection facilitating the switching between sound or television broadcasting content services, which fall outside the scope of this Directive. Moreover, Member States should be able to maintain or introduce national provisions on issues not specifically addressed in this Directive, in particular in order to address newly emerging issues.</p>		
3.	<p>2. National regulatory authorities shall ensure that end-users have access free of charge to at least one independent comparison tool which enables them to compare and evaluate prices and tariffs, and, <i>where appropriate, indicative figures addressing the quality of service performance of different internet access services and publicly available number-based interpersonal communications services</i></p>	<p>2. Competent National regulatory authorities shall ensure that end-users have access free of charge to at least one independent comparison tool which enables them to compare and evaluate prices and tariffs, of services provided against recurring and/or consumption based direct monetary payments, and the quality of service performance where minimum service quality is offered or the undertaking is required to publish such information pursuant to Article 97, of different internet access services and publicly available electronic communications services other than number-independent interpersonal communications services.</p>	<p>G GREEN (except for NRA/CA)</p> <p>2. [Competent/ National regulatory and/or other competent authorities] shall ensure that end-users have access free of charge to at least one independent comparison tool which enables them to compare and evaluate prices and tariffs of services provided against recurring or consumption-based direct monetary payments, and the quality of service performance where minimum service quality is offered or the undertaking is required to publish such information pursuant to Article 97, of different internet access services and publicly available number-based electronic communications services other than number-independent interpersonal communications services, and where applicable for publicly available number independent interpersonal communications services.</p>
4.	The comparison tool shall:	The comparison tool shall:	<p>G GREEN The comparison tool shall:</p>
5.	(a)	(a)	G GREEN

				(a)
6.	(b)	(b)	G	(b)
7.	(c)	(c)	G	(c)
8.	(d)	(d)	G	(d)
9.	(e) provide accurate and up-to-date information and state the time of the last update;	(e)	G	(e)
10	(f)	(f) significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results;	G	GREEN (f) significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results;
11	(g) provide an effective procedure to report incorrect information.	(g)	G	GREEN (g)
12	<i>(ga) include prices and tariffs, and the quality of service performance for both end-users who are businesses and end-users who are consumers.</i>		G	GREEN (ga) include the possibility to compare prices, tariffs and quality of service performance between offers available to consumers and,

				if required by Member States, between those offers and those standard publicly available offers to other end-users.
13	Comparison tools fulfilling the requirements in points (a) to (g) shall, upon the request of the provider of the tool , be certified by national regulatory authorities. Third parties shall have a right to use, free of charge and in open data formats , the information published by providers of internet access services or publicly available number-based interpersonal communications services for the purposes of making available such independent comparison tools.	Comparison tools fulfilling the requirements in points (a) to (g) shall, upon request by the provider of the tool , be certified by competent national regulatory authorities . Third parties shall have a right to use, free of charge, the information published by undertakings providing providers of internet access services and/or publicly available electronic communications services, other than number-independent interpersonal communications services , for the purposes of making available such independent comparison tools.	G	GREEN (except for NRA/CA) Comparison tools fulfilling the requirements in points (a) to (g) shall, upon request by the provider of the tool , be certified by [national regulatory and/or other competent] authorities. Third parties shall have a right to use, free of charge, and in open data formats , the information published by undertakings providing providers of internet access services and/or publicly available electronic communications services, other than number-independent interpersonal communications services , for the purposes of making available such independent comparison tools.
14	3. Member States may require that both national authorities and the providers of internet access services , publicly available number-based interpersonal communications services, or both , distribute public interest information free of charge to existing and new end-users, where appropriate, by the same means as those they ordinarily use in their communications with end-users. In such a case, that public interest information shall be provided by the relevant public authorities in a standardised format and shall, inter alia, cover the following topics:	3. Member States may require that the undertakings providing providers of internet access services or publicly available number-based interpersonal communications services distribute public interest information free of charge to existing and new end-users, where appropriate, by the same means as those they ordinarily use in their communications with end-users. In such a case, that public interest information shall be provided by the relevant public authorities in a standardised format and shall, inter alia, cover the following topics:		3. Member States may require that the undertakings providing providers of internet access services or publicly available [number-based]-interpersonal communications services, or number-independent interpersonal communications services provided against recurring and/or consumption based direct monetary payments, or both/all , distribute public interest information free of charge to existing and new end-users, where appropriate, by the same means as those they ordinarily use in their communications with end-users. In such a case, that public interest information shall be provided by the relevant public authorities in a standardised format and shall, inter alia, cover the following topics:
15	(a) it may prejudice respect for the rights and freedoms of others, including infringements of data protection rights , copyright and related rights, and their legal consequences; and the means of protection against risks to personal security, privacy and personal data when using internet access services and publicly	(a) it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related rights, and their legal consequences; and		GREEN agreement at trilogue of 28.02.18 (if provided against monetary payment, NI-ICS would be covered) (a) against recurring and/or consumption based direct monetary payments , to engage in unlawful activities or to disseminate harmful content, particularly where it may

	available number-based interpersonal communications services.			prejudice respect for the rights and freedoms of others, including infringements of <i>data protection rights</i> , copyright and related rights, and their legal consequences; and
16	(b)	(b)		GREEN agreement at trilogue of 28.02.18 (if provided against monetary payment, NI-ICS would be covered) (b) independent interpersonal communications services provided against recurring and/or consumption based direct monetary payments.
1257	<i>Article 98</i>	<i>Article 98</i>		
1258	Contract duration and termination	Contract duration and termination		
1259	1. Member States shall ensure that conditions and procedures for contract termination are not a disincentive against changing service provider and that contracts concluded between consumers and providers of publicly available internet access services, number-based interpersonal communications services and transmission services used for broadcasting , do not mandate a commitment period longer than 24 months. Member States may adopt or maintain shorter maximum durations for the contractual commitment period. Member States may also require that providers offer consumers the possibility to subscribe to a contract with a maximum duration of 12 months or less.	1. Member States shall ensure that conditions and procedures for contract termination are not a disincentive against changing service provider and that contracts concluded between consumers and undertakings providing providers of internet access services and publicly available electronic communications services, other than number-independent interpersonal communications services, do not mandate an initial a commitment period longer than 24 months. Member States may adopt or maintain provisions which mandate shorter maximum durations for the initial commitment period.	G	GREEN 1. Member States shall ensure that conditions and procedures for contract termination are not a disincentive against changing service provider and that contracts concluded between consumers and undertakings providing providers of internet access services and publicly available electronic communications services, other than number-independent number-based interpersonal communications services and transmission services used for broadcasting , do not mandate an initial a commitment period longer than 24 months. Member States may adopt or maintain provisions which mandate shorter maximum durations for the initial contractual commitment period which mandate shorter maximum contractual commitment periods.
1260	This paragraph shall not apply to the duration of an instalment contract where the consumer has agreed in a separate contract to instalment payments for deployment of a physical connection to very high capacity connectivity networks. An instalment contract for the deployment of a physical connection shall not include terminal equipment or internet access service equipment, such as a router	<i>This paragraph shall not apply to the duration of an instalment contract where the consumer has agreed in a separate contract to instalment payments exclusively for deployment of a physical connection.</i>	G	GREEN This paragraph shall not apply to the duration of an instalment contract where the consumer has agreed in a separate contract to instalment payments exclusively for deployment of a physical connection in particular to very high capacity connectivity networks. An instalment contract for the deployment of a physical connection

	<i>or modem and shall not preclude consumers from exercising their rights under this Article.</i>			<i>shall not include terminal equipment, such as a router or modem and shall not preclude consumers from exercising their rights under this Article.</i>
1261		1a. Paragraph 1 shall also apply to micro or small enterprises and not-for-profit organisations as end-users unless they have explicitly agreed to waive those provisions.		GREEN 1a. Paragraph 1 shall also apply to micro or small enterprises and not-for-profit organisations as end-users unless they have explicitly agreed to waive those provisions.
1262	2. Where a contract or national law provides for a fixed duration contract to be automatically prolonged, the Member State shall ensure that, after such an automatic prolongation , consumers are entitled to terminate the contract at any time with a maximum one-month notice period and without incurring any costs except the charges for receiving the service during the notice. Before the contract is automatically prolonged, providers shall inform the consumer in a prominent way about the end of the initial contract period and about the means to terminate the contract, if so requested. Providers shall use the same means as those normally used in their communications with consumers.	2. Where a contract or national law provides for a fixed duration contract to be automatically prolonged, the Member State shall ensure that, after the expiration of the initial period such an automatic prolongation , and unless the consumer has explicitly agreed to the extension of the contract , consumers end-users are entitled to terminate the contract at any time with a one-month notice period not exceeding one month as determined by Member States , and without incurring any costs except the cost charges of providing for receiving the service during the notice period.		GREEN (agreement at trilogue of 28.02) without the new Council clarification 2. Where a contract or national law provides for a fixed duration contract for electronic communications services to be automatically prolonged, the Member State shall ensure that, after such an automatic prolongation, end-users are entitled to terminate the contract at any time with a maximum one-month notice period, as determined by Member States and without incurring any costs except the charges for receiving the service during the notice period. Before the contract is automatically prolonged, providers shall inform the consumer in a prominent, period and timely way and on a durable medium about the end of the contractual commitment about the means to terminate the contract. In addition, and at the same time, the provider shall give consumers best tariff advice relating to their services. This best tariff information should also be given at at least once a year by the providers to consumers.
1263	2a. Paragraphs 1 and 2 shall also apply to end-users that are micro and small enterprises or not-for-profit organisations unless they have expressly agreed to waive those provisions.			GREEN <i>Deleted</i>

1264	<p>3. End-users shall have the right to terminate their contract without incurring any costs upon notice of changes in the contractual conditions proposed by the provider of internet access services, publicly available number-based interpersonal communications services and transmission services used for broadcasting, unless the proposed changes are exclusively to the benefit of the end-user or are of a purely technical nature and have a neutral effect on the end-user or they are strictly necessary to implement legislative or regulatory changes. Providers shall notify end-users, at least one month in advance, of any change in the contractual conditions, and shall inform them at the same time of their right to terminate their contract without incurring any costs if they do not accept the new conditions. Member States shall ensure that notification is made in a clear and comprehensible manner on a durable medium by the same means as the provider ordinarily uses in its communications with consumers.</p>	<p>3. End-users shall have the right to terminate their contract without incurring any further costs upon notice of changes in the contractual conditions proposed by the provider of publicly available electronic communications services other than number independent interpersonal communications services, unless the proposed changes are exclusively to the benefit of the end-user or they are strictly necessary to implement directly imposed by legislative or regulatory provisions. changes. Providers shall notify end-users, at least one month in advance, of any such change in the contractual conditions, and shall inform them at the same time of their right to terminate their contract within a deadline not exceeding four months, as specified by Member States, without incurring any further costs if they do not accept the new conditions. Member States shall ensure that notification is made in a clear and comprehensible manner on a durable medium and in a format chosen by the end-user at the time of concluding the contract.</p>	<p>RED (scope) - <i>Political agreement at trilogue of 28.02. to include all conveyance of signal into scope of Art 98(3) and (4) for consumers, micro and small enterprises or not-for-profit organisations. For any other end-users, M2M transmission of signal services would be excluded.</i></p> <p><i>EP compromise proposal at trilogue of 28.02. to accept inclusion of NI-ICS in scope for Art 98(3) and (4) for services “provided against recurring and/or consumption based direct monetary payments linked to scope of 96(3). No decision taken.</i></p> <p>3. End-users shall have the right to terminate their contract without incurring any further costs upon notice of changes in the contractual conditions proposed by the provider of [publicly available electronic communications services other than number independent interpersonal communications services, internet access services, publicly available number-based interpersonal communications services and transmission services used for broadcasting] other than transmission services used for the provision of machine-to-machine services unless the proposed changes are exclusively to the benefit of the end-user, or are of a purely administrative nature and have no negative effect on the end-user or they are strictly necessary to implement directly imposed by legislative or regulatory provisions. changes. Providers shall notify end-users, at least one month in advance, of any such change in the contractual conditions, and shall inform them at the same time of their right to terminate their contract without incurring any further costs if they do not accept the new conditions. The right to terminate the contract shall be exercisable within a deadline of one month after the notification which may be extended by Member States by an additional three months. Member States shall ensure that notification is made in a clear and comprehensible manner on a durable</p>
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				medium and in a format chosen by the end-user at the time of concluding the contract.
1265	<i>3a. Any significant discrepancy, continued or regularly recurring, between the actual performance of an electronic communication service and the performance indicated in the contract, shall be considered as non-conformity of performance for the purposes of triggering the remedies available to the consumer in accordance with national law, including the right to terminate the contract without any cost.</i>			GREEN - except for new bracketed exclusion conditional linked to DCD. <i>3a. Any significant discrepancy, continued or regularly recurring, between the actual performance of an electronic communication service other than an internet access service [and other than a number-independent interpersonal communication service] and the performance indicated in the contract, shall be considered as a basis non-conformity of performance for the purposes of triggering the remedies available to the consumer in accordance with national law, including the right to terminate the contract without any cost.</i>
1266	4. Where an <i>end-user has the right to terminate</i> a contract for a publicly available <i>internet access services, number-based interpersonal communications service and transmission services used for broadcasting, before the end of the agreed contract term pursuant to</i> this Directive, other provisions of Union law or national law, <i>no penalties and</i> no compensation shall be due <i>by</i> the end-user other than for <i>retained subsidised terminal equipment. Where the end-user chooses to retain terminal</i> equipment bundled at the moment of the contract conclusion, <i>any compensation due shall not exceed its pro rata temporis value at the moment of the contract conclusion or on the remaining part of the service fee until the end of the contract, whichever amount is smaller. Member States may choose other methods of calculating the compensation rate, where such a rate is equal to or less than the compensation calculated above.</i> Any restriction on the usage of terminal equipment on other networks shall be lifted, free of charge, by the provider at the latest upon payment of such	4. Where an end-user has the right to terminate early termination of a contract or for a publicly available electronic communications service before the end of the agreed contract term by the end-user is possible in accordance with on the basis of this Directive, other provisions of Union law or national law, no compensation shall be due by the end-user. If the end-user chooses to retain terminal equipment bundled with the contract, any compensation due shall not exceed its other than for the pro rata temporis value of subsidised equipment bundled with the contract at the moment of the contract conclusion and a pro rata temporis reimbursement for any other promotional advantages marked as such as agreed at the moment of the contract conclusion and may be further specified by Member States. Any restriction condition on the usage of terminal equipment on other networks shall be lifted, free of charge, by the provider at a point specified by Member States and at the latest upon payment of such compensation.		RED (scope and harmonisation) 4. Where an <i>end-user has the right to terminate</i> a contract for [a publicly available electronic communications service //an internet access services, a publicly available number-based interpersonal communications service and transmission services used for broadcasting] , other than transmission services used for the provision of machine-to-machine services <i>before the end of the agreed contract period pursuant to</i> this Directive, other provisions of Union law or national law, no compensation shall be due <i>by</i> the end-user other than for <i>retained subsidised terminal equipment. Where the end-user chooses to retain terminal</i> equipment bundled at the moment of the contract conclusion, <i>any compensation due shall not exceed its pro rata temporis value as agreed at the moment of the contract conclusion or on the remaining part of the service fee until the end of the contract, whichever amount is smaller. Member States may prescribe other methods of calculating the compensation rate, provided that such a method does not lead to a level of compensation exceeding the compensation as calculated above.</i> Any

	compensation. <i>Member States may adopt or maintain additional requirements in relation to this paragraph to ensure a higher level of consumer protection.</i>			restriction condition on the usage of terminal equipment on other networks shall be lifted, free of charge, by the provider at a point specified by Member States and at the latest upon payment of such compensation. [Member States may adopt or maintain additional requirements in relation to this paragraph to ensure a higher level of consumer protection].
				4a. In case of consumers, paragraphs 3 and 4 shall apply mutatis mutandis to contracts concluded with providers of transmission services used for the provision of machine to machine services.
1290	Bundled offers	Bundled offers		
1291	1. If a bundle of services or a bundle of services and <i>terminal equipment</i> offered to <i>a consumer</i> comprises at least <i>an internet access service or a publicly available number-based</i> interpersonal communications <i>services</i> , Articles 95, 96 (1), 98 and 99 ■ shall apply mutatis mutandis to all elements of the bundle except where the provisions applicable to another element of the bundle are more favourable to the <i>consumer</i> .	1. If a bundle of services or a bundle of services and goods-terminal equipment offered to an end-user consumers, micro or small enterprises, or not-for-profit organisations comprises at least a publicly available electronic communications service other than number-independent interpersonal communications services-an internet access service or number-based interpersonal communications service , Articles 95, 96 (1), 98 and 99 (1) and the information requirements listed in points (a) to (e) of Article 95(5) shall apply <i>mutatis mutandis</i> to all elements of the bundle except where the provisions applicable to another element of the bundle are more favourable to the end-user.	R	RED (Provisions applicable to bundles) 1. If a bundle of services or a bundle of services and <i>terminal equipment</i> offered to <i>a consumer</i> comprises at least <i>an internet access service or a publicly available number-based</i> interpersonal communications <i>services</i> , Articles 95 (5) , 96 (1), 98 and 99 (1) shall apply mutatis mutandis to all elements of the bundle except where the provisions applicable to [EP: another element of the bundle] [Council: the non-electronic-communications elements of the bundle] are more favourable to the <i>consumer</i> .
1292	2. Any subscription to additional services or <i>terminal equipment provided or distributed by the same provider of internet access services or of publicly available number-based</i> interpersonal communications services shall not <i>extend the term</i> of the contract unless the <i>consumer expressly agrees otherwise when subscribing to the additional services or terminal equipment</i> .	2. Any subscription to additional services or goods terminal equipment provided or distributed by the same provider of an internet access service or number-based interpersonal communications service publicly available electronic communications services other than number-independent interpersonal communications services shall not re-start the contract period extend the term of the initial contract unless the consumer, micro or small enterprise, or not-for-profit organisation has explicitly agreed otherwise when subscribing to the additional services-or-goods terminal equipment-are		GREEN 2. Any subscription to additional services or <i>terminal equipment provided or distributed by the same provider of internet access services or of publicly available number-based</i> interpersonal communications services shall not <i>extend the period</i> of the contract <i>in place to which such services or terminal equipment are added</i> , unless the <i>consumer expressly agrees otherwise when subscribing to the additional services or terminal equipment</i> .

		offered at a special promotional price available only on the condition that the existing contract period is re-started.		
1293	<i>2a. Providers of electronic communications services other than number independent interpersonal communications service shall give consumers the possibility to cancel or switch individual parts of the bundled contract, where this option is included in the contract.</i>		R	RED
1294	<i>2b. Paragraphs 1 and 2 shall also apply to end-users who are micro or small enterprises, or not-for-profit organisations unless they have explicitly agreed to waive all or parts of those provisions.</i>		G	GREEN (see para 1 and 2, scope consumer vs end-user) <i>2b. Paragraphs 1 and 2 shall also apply to end-users who are micro or small enterprises, or not-for-profit organisations unless they have explicitly agreed to waive all or parts of those provisions.</i>
1295	<i>2c. Member States may broaden the application of paragraph 1 to bundles of services or bundles of services and terminal equipment offered to a consumer, which comprise at least a publicly available electronic communication service. Member States may also apply paragraph 1 as regards other provisions laid down in this Title.</i>		R	RED
1299	<i>Article 102</i>	Article 102		
1300	Emergency communications and the single European emergency call number	Emergency communications and the single European emergency call number	G	GREEN Emergency communications and the single European emergency call number
1301	1. Member States shall ensure that all end-users of the service referred to in paragraph 2, including users of public pay telephones <i>and of private electronic communication networks</i> , are able to access the emergency services through emergency communications free of charge and without having to use any means of payment, by using the single	1. Member States shall ensure that all end-users of the service referred to in paragraph 2, including users of public pay telephones, are able to access the emergency services through emergency communications free of charge and without having to use any means of payment, by using the single European emergency number ‘112’ and any national emergency number specified by	R	RED 1. Member States shall ensure that all end-users of the service referred to in paragraph 2, including users of public pay telephones [<i>and of non-publicly available electronic communication networks enabling calls to public networks,</i>] are able to access the emergency services through emergency communications free of

	European emergency number '112' and any national emergency number specified by Member States.	Member States.		charge and without having to use any means of payment, by using the single European emergency number '112' and any national emergency number specified by Member States.
1302	2. Member States, in consultation with national regulatory authorities and emergency services and providers of electronic communications services, shall ensure that providers of end-users with number-based interpersonal communications, where that service allows end-users to originate national calls to a number in a national or international telephone numbering plan , provide access to emergency services through emergency communications to the most appropriate PSAP using location information that is available to number-based interpersonal communications service providers and in a manner that is consistent with Member States' emergency calling infrastructures.	2. Member States, in consultation with national regulatory authorities and emergency services and providers of electronic communications services, shall ensure that undertakings providing end-users with number-based interpersonal communications services provide access to emergency services through emergency communications to the most appropriate PSAP. In case of an appreciable threat to effective access to emergency services the obligation for undertakings may be extended to all other interpersonal communications services in accordance with the conditions and procedure set out in Article 59 (1) (c).		Scope, Linked to Art 59 (1)(c) 2. Member States, in consultation with national regulatory authorities and emergency services and providers of electronic communications services, shall ensure that undertakings providing end-users with providers of publicly available number-based interpersonal communications services, where that service allows end-users to originate national calls to a number in a national or international telephone numbering plan , provide access to emergency services through emergency communications to the most appropriate PSAP. In case of an appreciable threat to effective access to emergency services the obligation for undertakings may be extended to all other interpersonal communications services in accordance with the conditions and procedure set out in Article 59 (1) (c)
1303	Providers of number-independent interpersonal communications services that do not offer 112 access shall inform end-users that access to the emergency number 112 is not supported.		G	GREEN Suggested compromise solution: move to Art 96/ Annex VIII (see line 98)
1304	3. Member States shall ensure that all emergency communications to the single European emergency number '112' are appropriately answered and handled in the manner best suited to the national organisation of emergency systems, considering the need to handle calls in a multilingual manner . Such emergency communications shall be answered and handled at least as expeditiously and effectively as	3. Member States shall ensure that all emergency communications to the single European emergency number '112' are appropriately answered and handled in the manner best suited to the national organisation of emergency systems. Such emergency communications shall be answered and handled at least as expeditiously and effectively as emergency communications to the national emergency number or numbers, where these	G	GREEN 3. Member States shall ensure that all emergency communications to the single European emergency number '112' are appropriately answered and handled in the manner best suited to the national organisation of emergency systems. Such emergency communications shall be answered and handled at least as expeditiously

	emergency communications to the national emergency number or numbers, where these continue to be in use.	continue to be in use.		and effectively as emergency communications to the national emergency number or numbers, where these continue to be in use.
1305	<i>3a. The Commission, having consulted the national regulatory authorities and emergency services, shall adopt performance indicators applicable to the Member States' emergency services. The Commission shall every two years submit a report to the European Parliament and the Council on the effectiveness of the implementation of the European emergency call number "112" and on the functioning of the performance indicators.</i>		G	GREEN 3a. The Commission shall every two years submit a report to the European Parliament and the Council on the effectiveness of the implementation of the European emergency call number "112".
1306	4. Member States shall ensure that access for end-users <i>with disabilities</i> to emergency services is available through emergency communications and equivalent to that enjoyed by other end-users, <i>including through total conversation services or third-party relay services. The Commission and the national regulatory and other competent authorities shall take appropriate measures</i> to ensure that <i>end-users with disabilities can</i> access emergency services <i>on an equivalent basis with others</i> , whilst travelling in <i>another Member State, where feasible, without any pre-registration. These measures shall seek to ensure interoperability across Member States and</i> shall be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 39, and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.	4. Member States shall ensure that access for disabled end-users <i>with disabilities</i> to emergency services is available through emergency communications and equivalent to that enjoyed by other end-users. Measures taken to ensure that disabled end-users <i>with disabilities</i> are able to access emergency services through emergency communications whilst travelling in other Member States shall be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 39, and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.	G	GREEN (see adjustment for NRA/CA - WP 11/4) 4. Member States shall ensure that access for end-users <i>with disabilities</i> to emergency services is available through emergency communications and equivalent to that enjoyed by other end-users, <i>including through total conversation services or third-party relay services. The Commission and the national regulatory and/or other competent authorities shall take appropriate measures</i> to ensure that <i>end-users with disabilities can</i> access emergency services <i>on an equivalent basis with others</i> , whilst travelling in <i>another Member States, where feasible, without any pre-registration. These measures shall seek to ensure interoperability across Member States and</i> shall be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 39, and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.

1307	<p>5. Member States shall ensure that caller location information is made available to the most appropriate PSAP without delay after the emergency communication is set up. This shall include both network-based location information and, where available, handset-derived caller location information. Member States shall ensure that the establishment and the transmission of the end-user location information are free of charge for the end-user and to the PSAP with regard to all emergency communications to the single European emergency number '112'. Member States may extend that obligation to cover emergency communications to national emergency numbers. This shall not prevent competent authorities, after consulting BEREC, from laying down criteria for the accuracy and reliability of the caller location information provided.</p>	<p>5. Member States shall ensure that caller location information is made available to the PSAP without delay after the emergency communication is set up. Member States shall ensure that the establishment and the transmission of the caller location information are free of charge for the end-user and to the authority handling the emergency communication PSAP with regard to all emergency communications to the single European emergency number '112'. Member States may extend that obligation to cover emergency communications to national emergency numbers. Competent regulatory authorities shall lay down criteria for the accuracy and reliability of the caller location information provided.</p>		<p>5. Member States shall ensure that caller location information is made available to the most appropriate PSAP without delay after the emergency communication is set up. This shall include network-based location information and, where available and technically feasible, handset-derived caller location information. Member States shall ensure that the establishment and the transmission of the end-user location information are free of charge for the end-user and to the PSAP with regard to all emergency communications to the single European emergency number '112'. Member States may extend that obligation to cover emergency communications to national emergency numbers. Competent regulatory authorities, if necessary after consulting BEREC, shall lay down criteria for the accuracy and reliability of the caller location information provided.</p> <p>+ recital to clarify that where available includes the notion of technically feasible</p>
1308	<p>6. Member States shall ensure that citizens are adequately informed about the existence and use of the single European emergency number '112', as well as its accessibility features, including through initiatives specifically targeting persons travelling between Member States, and persons with disabilities. That information shall be provided in accessible formats, addressing different types of disabilities. The Commission shall support and complement Member States' action.</p>	<p>6. Member States shall ensure that citizens are adequately informed about the existence and use of the single European emergency number '112', in particular through initiatives specifically targeting persons travelling between Member States.</p>	G	<p>GREEN</p> <p>6. Member States shall ensure that citizens are adequately informed about the existence and use of the single European emergency number '112', as well as its accessibility features, including through initiatives specifically targeting persons travelling between Member States, and persons with disabilities. That information shall be provided in accessible formats, addressing different types of disabilities. The Commission shall support and complement Member States' action.</p>
1309	<p>7. In order to ensure effective access to emergency services through emergency communications to '112' services in the Member States, the Commission shall, after consulting BEREC, adopt delegated acts in accordance with Article 109 on the measures necessary to ensure the compatibility, interoperability, quality, reliability and continuity of</p>	<p>7. In order to ensure effective access to emergency services through emergency communications to '112' services in the Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 109 supplementing paragraphs 2, 4 and 5 on the measures necessary to ensure the compatibility, interoperability, quality, reliability and continuity of</p>	G	<p>GREEN</p> <p>7. In order to ensure effective access to emergency services through emergency communications to '112' services in the Member States, the Commission shall, after consulting BEREC, adopt delegated acts in accordance with Article 109 supplementing paragraphs</p>

	emergency communications in the Union with regard to caller location solutions, access for <i>end-users, accessibility for persons with disabilities</i> and routing to the most appropriate PSAP. <i>The first such delegated acts shall be adopted by [insert date].</i>	emergency communications in the Union with regard to caller location solutions, access for disabled end-users with disabilities and routing to the most appropriate PSAP.		2, 4 and 5 on the measures necessary to ensure the compatibility, interoperability, quality, reliability and continuity of emergency communications in the Union with regard to caller location solutions, access for <i>end-users with disabilities</i> and routing to the most appropriate PSAP. <i>The first such delegated acts shall be adopted by [insert date].</i>
1310	<i>The Commission shall maintain a database of E.164 numbers of European emergency services to ensure that they are able to contact each other from one Member State to another.</i>		G	GREEN <i>The Commission shall maintain a database of E.164 numbers of European emergency services to ensure that they are able to contact each other from one Member State to another.</i>
1311	Those measures shall be adopted without prejudice to, and shall have no impact on, the organisation of emergency services, which remains in the exclusive competence of Member States.	Those measures shall be adopted without prejudice to, and shall have no impact on, the organisation of emergency services, which remains in the exclusive competence of Member States.		Those measures shall be adopted without prejudice to, and shall have no impact on, the organisation of emergency services, which remains in the exclusive competence of Member States.
1312	Article 102 a			Article 102a
1313	Reverse "112" system			Public Warning System
1314	<i>1. Member States shall ensure, through the use of electronic communications networks and services, the establishment of national efficient 'Reverse-112' communication systems for warning and alerting citizens, in case of imminent or developing natural and/or man-made major emergencies and disasters, taking into account existing national and regional systems and without hindering privacy and data protection rules.</i>			[1. Member States shall ensure that, when public warning systems regarding imminent or developing major emergencies and disasters are in place, public warnings are transmitted by providers of mobile number-based interpersonal communication services to end-users concerned.
1314a				2. Member States may implement public warning systems <u>through interpersonal communications services</u> by means other than obligations imposed on mobile number-based interpersonal communications services those foreseen in <u>paragraph 1</u>, provided that such other public warning systems ensure sufficient

			<p>delivery rate of public warnings to end-users.]</p> <p>[(260a) Diverging legislation have developed in relation to the transmission by mobile electronic communication services of public warnings regarding imminent or developing major emergencies and disasters. In order to approximate legislation in that area, this Directive should therefore provide that, when public warning systems are in place, public warnings should be transmitted by providers of mobile <u>number-based electronic interpersonal communication services</u> to all end-users concerned without prejudice to data protection requirements. End-users concerned should be deemed to be those end-users who are located in the geographic areas potentially being affected by imminent or developing major emergencies and disasters during the warning period. Where technically possible, <u>meaning where the</u> and the sufficient delivery rate is ensured, <u>Member State may implement public warnings systems by means other than obligations imposed on mobile number-based interpersonal communications service providers. Such other means could include application-based solutions for mobile number-based interpersonal communications services or social media solutions for number-independent interpersonal communication services. These solutions could make use of end-users' location data for any of its functionalities and where the use of location data has not been deactivated by the end-user, the transmission of location-based public warnings could also be carried out by number-independent interpersonal communication service</u> Besides offering the necessary flexibility for <u>implementation in terms of technological neutrality, these solutions would improve providers in order to ensure that also in case of mobile network congestions the alerts reach of the end-users concerned via</u></p>
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				alternative means.]
1315	Article 103	Article 103		Article 103
1316	Equivalent access and choice for end-users with disabilities	Equivalent access and choice for disabled end-users with disabilities		Equivalent access and choice for disabled end-users with disabilities
1317	1. Member States shall ensure that the competent authorities specify requirements to be met by providers of publicly available electronic communications services to ensure that end-users with disabilities :	1. Member States shall ensure that the competent authorities specify, where appropriate, requirements to be met by undertakings providing providers of publicly available electronic communications services to ensure that disabled end-users with disabilities :	G	GREEN (except for text in RED) 1. Member States shall ensure that the competent authorities specify [COUNCIL: , where appropriate,] requirements to be met by providers of publicly available electronic communications services to ensure that end-users with disabilities :
1318	(a) have access to electronic communications services, including the related contractual information provided pursuant to Article 95 , equivalent to that enjoyed by the majority of end-users; and Member States shall also ensure that providers of publicly available electronic communications services take the necessary measures to make their websites and mobile applications more accessible by making them perceivable, operable, understandable and robust.	(a) have access to electronic communications services, including the related contractual information provided pursuant to Article 95 , equivalent to that enjoyed by the majority of end-users; and	G	GREEN (a) have access to electronic communications services, including the related contractual information provided pursuant to Article 95 , equivalent to that enjoyed by the majority of end-users; and
1319	(b) benefit from the choice of undertakings and services available to the majority of end-users.	(b) benefit from the choice of undertakings and services available to the majority of end-users.	G	GREEN deleted
1320	To that end, Member States shall ensure, to the extent that this does not impose a disproportionate burden on providers of terminal equipment and of electronic communication services, the availability of specialised equipment offering the necessary services and functions intended specifically for end-users with disabilities. The assessment of what is considered a disproportionate burden shall follow the procedure set out in article 12 of Directive xxx/YYYY/EU.		G	GREEN (b) benefit from the choice of undertakings and services available to the majority of end-users.
1321	2. In taking the measures referred to in paragraph 1, Member States shall encourage compliance with	2. In taking the measures referred to in paragraph 1, Member States shall encourage compliance with the	R	To that end, Member States shall ensure, to the extent that this does not impose a disproportionate burden

	relevant standards or specifications published in accordance with Article 39.	<i>relevant standards or specifications published in accordance with Article 39.</i>		on providers of terminal equipment and of electronic communication services, the availability and affordability of specialised equipment offering the necessary services and functions intended specifically for end-users with disabilities. + Recital to explain disproportionate burden on the basis of the European Accessibility act draft provision.
1322	<i>Insofar as the provisions of this Article conflict with the provisions of Directive xxx/YYYY/EU of the European Parliament and of the Council¹⁰, the provisions of Directive xxx/YYYY/EU shall prevail.</i>		G	GREEN 2. In taking the measures referred to in paragraph 1, Member States shall encourage compliance with the relevant standards or specifications published in accordance with Article 39.
1323	<i>Article 104</i>	Article 104		Article 104
1324	Telephone directory enquiry services	Telephone directory enquiry services		Telephone directory enquiry services
1325	1. Member States shall ensure that all providers of voice communication services meet all reasonable requests to make available, for the purposes of the provision of publicly available directory enquiry services and directories, the relevant information in an agreed format on terms which are fair, objective, cost oriented and non-discriminatory.	1. Member States shall ensure that all undertakings which assign telephone numbers to end-users meet all reasonable requests to make available, for the purposes of the provision of publicly available directory enquiry services and directories, the relevant information in an agreed format on terms which are fair, objective, cost oriented and non-discriminatory.		<u>YELLOW</u> 1. Member States shall ensure that all undertakings which assign telephone numbers providers of number-based interpersonal communications services which attribute numbers from a numbering plan to end-users meet all reasonable requests to make available, for the purposes of the provision of publicly available directory enquiry services and directories, the relevant information in an agreed format on terms which are fair, objective, cost oriented and non-discriminatory.
1326	2. National regulatory authorities shall be able to impose obligations and conditions on undertakings that control access of end-users for the provision of	2. National regulatory authorities shall be able to impose obligations and conditions on undertakings that control access of end-users for the provision of directory enquiry		2. National regulatory authorities shall be able to impose obligations and conditions on undertakings that control access of end-users

¹⁰ *Directive xxx/YYYY/EU of the European Parliament and of the Council of ... on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services (OJ L ..., ..., p. ...).*

	directory enquiry services in accordance with the provisions of Article 59. Such obligations and conditions shall be objective, equitable, non-discriminatory and transparent.	services in accordance with the provisions of Article 59. Such obligations and conditions shall be objective, equitable, non-discriminatory and transparent.		for the provision of directory enquiry services in accordance with the provisions of Article 59. Such obligations and conditions shall be objective, equitable, non-discriminatory and transparent.
1327	3. Member States shall not maintain any regulatory restrictions which prevent end-users in one Member State from accessing directly the directory enquiry service in another Member State by voice call or SMS, and shall take measures to ensure such access in accordance with Article 91.	3. Member States shall not maintain any regulatory restrictions which prevent end-users in one Member State from accessing directly the directory enquiry service in another Member State by voice call or SMS, and shall take measures to ensure such access in accordance with Article 91.		3. Member States shall not maintain any regulatory restrictions which prevent end-users in one Member State from accessing directly the directory enquiry service in another Member State by voice call or SMS, and shall take measures to ensure such access in accordance with Article 91.
1328	4. Paragraphs 1 to 3 shall apply subject to the requirements of Union legislation on the protection of personal data and privacy and, in particular, Article 12 of Directive 2002/58/EC.	4. Paragraphs 1 to 3 shall apply subject to the requirements of Union legislation on the protection of personal data and privacy and, in particular, Article 12 of Directive 2002/58/EC .		4. Paragraphs 1 to 3 shall apply subject to the requirements of Union legislation on the protection of personal data and privacy and, in particular, Article 12 of Directive 2002/58/EC .
1329	<i>Article 105</i>	<i>Article 105</i>		
1330	Interoperability of consumer <i>radio and</i> television equipment	Interoperability of consumer digital television equipment		
1331	In accordance with the provisions of Annex X, Member States shall ensure the interoperability of the consumer <i>radio and</i> television equipment referred to therein.	In accordance with the provisions of Annex X, Member States shall ensure the interoperability of the consumer digital television equipment referred to therein.		[In accordance with the provisions of Annex X, Member States shall ensure the interoperability of the consumer car-radio equipment-and digital television equipment referred to therein. In addition, Member States may adopt technical measures to ensure the interoperability of other consumer radio equipment while limiting the impact on the market of low value radio equipment and while ensuring that such measures are not applied to products where a radio receiver is purely ancillary (such as smartphones) and to equipment used by radio amateurs.

			<p>Recital 265new: “Where Member States decide to adopt technical measures in accordance with Directive (EU) 2015/1535 for the interoperability of consumer radio equipment, radio sets should be capable of receiving and/or connecting via an interface to and reproducing radio services provided over <u>by</u> via <u>digital terrestrial</u> broadcasting or IP networks, in order to ensure that interoperability, which currently relies on FM radio, is maintained. This may also improve public safety, by enabling users to rely on a wider set of technologies for accessing and receiving emergency information in the Member States.”</p> <p>Recital 265b new <u>Without prejudice to the Union law, this Directive does not prevent Member States from adopting technical regulations related to digital television equipment, for example to prepare the migration of consumers to new broadcasting standards, and avoid the supply of equipment that would not be compliant with the standards to be rolled out.</u></p>
1332	<p><i>Providers of digital television services shall ensure interoperability of terminal equipment so that where technically feasible the terminal equipment is reusable with other providers and if this is not consumers need to be given the possibility through a free and easy process to return the terminal equipment.</i></p>		<p>RED (extension to radio) Member States shall encourage providers of digital television services to ensure, where appropriate, that the terminal equipment they provide to their end users is interoperable <u>{in accordance with standards and/or specifications adopted by European standards organisations }</u> so that where technically feasible the terminal equipment is reusable with other providers of digital television services If the terminal</p>

				<p>equipment is not fully interoperable in accordance with such standards or specifications, Member States shall ensure that upon termination of their contract end users have the possibility to return the terminal equipment through a free and easy process.</p> <p><u>Terminal equipment which is in conformity with harmonised standards the references of which have been published in the Official Journal of the European Union or with parts thereof shall be presumed to comply with the requirement of interoperability set out in the previous subparagraph covered by those standards or parts thereof</u></p>
1332a				
	ANNEX X	ANNEX X		
	INTEROPERABILITY OF CONSUMER EQUIPMENT REFERRED TO IN ARTICLE 105	INTEROPERABILITY OF DIGITAL CONSUMER EQUIPMENT REFERRED TO IN ARTICLE 105		YELLOW
	1. COMMON SCRAMBLING ALGORITHM AND FREE-TO-AIR RECEPTION	1. COMMON SCRAMBLING ALGORITHM AND FREE-TO-AIR RECEPTION		GREEN
	All consumer equipment intended for the reception of conventional digital television signals (i.e. broadcasting via terrestrial, cable or satellite transmission which is primarily intended for fixed reception, such as DVB-T, DVB-C or DVB-S), for sale or rent or otherwise made available in the Union, capable of descrambling digital television signals, is to possess the capability to:	All consumer equipment intended for the reception of conventional digital television signals (i.e. broadcasting via terrestrial, cable or satellite transmission which is primarily intended for fixed reception, such as DVB-T, DVB-C or DVB-S), for sale or rent or otherwise made available in the Union , capable of descrambling digital television signals, is to possess the capability to:		All consumer equipment intended for the reception of conventional digital television signals (i.e. broadcasting via terrestrial, cable or satellite transmission which is primarily intended for fixed reception, such as DVB-T, DVB-C or DVB-S), for sale or rent or otherwise made available in the Union , capable of descrambling digital television signals, is to possess the capability to:
	allow the descrambling of such signals according to a common European scrambling algorithm as administered by a recognised European standards organisation, currently ETSI,	allow the descrambling of such signals according to a common European scrambling algorithm as administered by a recognised European standards organisation, currently ETSI,		allow the descrambling of such signals according to a common European scrambling algorithm as administered by a recognised European standards organisation, currently ETSI,
	display signals that have been transmitted in the clear provided that, in the event that such equipment is	display signals that have been transmitted in the clear provided that, in the event that such equipment is rented,		display signals that have been transmitted in the clear provided that, in

	rented, the renter is in compliance with the relevant rental agreement.	the renter is in compliance with the relevant rental agreement.		the event that such equipment is rented, the renter is in compliance with the relevant rental agreement.
	2. INTEROPERABILITY FOR DIGITAL TELEVISION SETS	2. INTEROPERABILITY FOR DIGITAL TELEVISION SETS		2. INTEROPERABILITY FOR DIGITAL TELEVISION SETS
	Any digital television set with an integral screen of visible diagonal greater than 30 cm which is put on the market for sale or rent in the Union is to be fitted with at least one open interface socket (either standardised by, or conforming to a standard adopted by, a recognised European standards organisation, or conforming to an industry-wide specification) permitting simple connection of peripherals, and able to pass all relevant elements of a digital television signal, including information relating to interactive and conditionally accessed services. <i>Terminal equipment of digital television sets needs to be interoperable where technically feasible so that it can be easily reusable with other providers.</i>	Any digital television set with an integral screen of visible diagonal greater than 30 cm which is put on the market for sale or rent in the Union is to be fitted with at least one open interface socket (either standardised by, or conforming to a standard adopted by, a recognised European standards organisation, or conforming to an industry-wide specification) permitting simple connection of peripherals, and able to pass all relevant elements of a digital television signal, including information relating to interactive and conditionally accessed services.		Any digital television set with an integral screen of visible diagonal greater than 30 cm which is put on the market for sale or rent in the Union is to be fitted with at least one open interface socket (either standardised by, or conforming to a standard adopted by, a recognised European standards organisation, or conforming to an industry-wide specification) permitting simple connection of peripherals, and able to pass all relevant elements of a digital television signal, including information relating to interactive and conditionally accessed services.
	2a. FUNCTIONALITY FOR RADIO SETS			Not included
	<i>Any radio set which is put on the market in the Union from [date of transposition] shall be capable of receiving digital and analogue terrestrial radio broadcasts. This paragraph shall not apply to low value, small consumer radio equipment or products where a receiver is purely ancillary. It shall also not apply to radio equipment used by radio amateurs within the meaning of Article 1, definition 56, of the International Telecommunications Union (ITU) Radio Regulations.</i>			Not included
				3 Any radio equipment integrated in a new car which is put on the market for sale or rent in the Union from [date of transposition] and which is capable of displaying the name of the radio programme shall comprise a receiver permitting the reception and reproduction of at least digitised radio broadcast content broadcast by digital terrestrial broadcasting. Such receivers which are in conformity with

				harmonised standards the references of which have been published in the Official Journal of the European Union or with parts thereof shall be presumed to comply with the requirement set out in the previous subparagraph covered by those standards or parts thereof shall conform with a standard adopted or recognised by a European standard organisation or with an industry-wide specifications.
1333	<i>Article 106</i>	Article 106		
1334	'Must carry' obligations	'Must carry' obligations		<i>Keep Council position</i>
1335	1. Member States may impose reasonable 'must carry' obligations, for the transmission of specified radio and television broadcast channels and related complementary services, particularly accessibility services to enable appropriate access to content and electronic programming guide for end-users with disabilities and data supporting connected TV services and electronic programme guides, on undertakings under their jurisdiction providing electronic communications networks and services used for the distribution of radio or television broadcast channels to the public where a significant number of end-users of such networks and services use them as their principal means to receive radio and television broadcast channels. Such obligations shall only be imposed where they are necessary to meet general interest objectives as clearly defined by each Member State and shall be proportionate and transparent.	1. Member States may impose reasonable 'must carry' obligations, for the transmission of specified radio and television broadcast channels and related complementary services, particularly accessibility services to enable appropriate access for disabled end-users with disabilities and data supporting connected TV services and electronic programme guides , on undertakings under their jurisdiction providing electronic communications networks used for the distribution of radio or television broadcast channels to the public where a significant number of end-users of such networks use them as their principal means to receive radio and television broadcast channels. Such obligations shall only be imposed where they are necessary to meet general interest objectives as clearly defined by each Member State and shall be proportionate and transparent.		
1336	<i>Member States shall only impose 'must carry' obligations on analogue television broadcast transmissions where a lack of such an obligation would cause a significant disturbance for a significant number of end-users or where there are no other transmission means for specified television broadcast channels.</i>			
1337	<i>'Must carry' obligations referred to in the first</i>			

	<i>subparagraph</i> shall only be imposed where they are necessary to meet general interest objectives as clearly defined by each Member State and shall be proportionate and transparent.			
1338	Ia. The obligations referred to in the first paragraph shall be reviewed by the Member States at the latest within one year of [date of entry into force of this Directive], except where Member States have carried out such a review within the previous four years.	THE OBLIGATIONS REFERRED TO IN THE FIRST SUBPARAGRAPH SHALL BE REVIEWED BY THE MEMBER STATES AT THE LATEST WITHIN ONE YEAR OF [DATE OF ENTRY INTO FORCE OF THIS DIRECTIVE], EXCEPT WHERE MEMBER STATES HAVE CARRIED OUT SUCH A REVIEW WITHIN THE PREVIOUS FOUR YEARS.		
1339	Member States shall review ‘must carry’ obligations at least every five years.	Member States shall review ‘must carry’ obligations at least every five years.		
1340	Ib. Member States may additionally impose reasonable ‘must offer’ entitlements, in respect of specified radio and television broadcast channels of general interest, to the undertakings subject to must-carry obligations under their jurisdiction			
1341	2. Neither paragraph 1 of this Article nor Article 57(2) shall prejudice the ability of Member States to determine in their legislation appropriate remuneration, if any, in respect of measures taken in accordance with this Article while ensuring that, in similar circumstances, there is no discrimination in the treatment of providers of electronic communications networks and services. If remuneration is to be provided for, the requirement for remuneration and its amount may be laid down by law and such remuneration shall be applied in a proportionate and transparent manner.	2. Neither paragraph 1 of this Article nor Article 57(2) shall prejudice the ability of Member States to determine appropriate remuneration, if any, in respect of measures taken in accordance with this Article while ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing providers of electronic communications networks. Where remuneration is provided for, Member States shall ensure that it is applied in a proportionate and transparent manner.		
1346	<i>Article 108</i>	<i>Article 108</i>		
1347	Adaptation of annexes	Adaptation of annexes		
1348	The Commission is empowered to adopt delegated acts in accordance with Article 109 concerning the adaptations of Annexes V, VI, VIII, IX, and X in order to take account of technological and social developments or changes in market demand.	The Commission is empowered to adopt delegated acts in accordance with Article 109 amending concerning the adaptations of Annexes V, VI, VIII, IX, and X in order to take account of technological and social developments or changes in market demand.		
1349	Part IV. FINAL PROVISIONS	Part IV. FINAL PROVISIONS		
1350	Article 109	<i>Article 109</i>		
1351	Exercise of the delegation	Exercise of the delegation		

1352	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		
1353	2. The delegation of power referred to in Articles 40, 60, 73, 102 and 108 shall be conferred on the Commission for an indeterminate period of time from... [date of entry into force of the basic legislative act or any other date set by the co-legislators].	2. The delegation of power referred to in Articles 40, 60, 73, 102 and 108 shall be conferred on the Commission for an indeterminate period of time from for five years from ... [date of entry into force of the basic legislative act or any other date set by the co-legislators]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.		
1354	3. The delegation of power referred to in Articles 40, 60, 73, 102 and 108 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	3. The delegation of power referred to in Articles 40, 60, 73, 102 and 108 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.		
1355	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.		
1356	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		
1357	6. A delegated act adopted pursuant to Article(s) 40, 60, 73, 102, and 108 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of	6. A delegated act adopted pursuant to Article(s) 40, 60, 73, 102, and 108 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of		

	that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.	that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.		
1358	<i>Article 110</i>	<i>Article 110</i>		
1359	Committee	Committee		
1360	1. The Commission shall be assisted by a Committee ('the Communications Committee'), established by Directive 2002/21/EC.. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a Committee ('the Communications Committee'), established by Directive 2002/21/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
1361	2. For the implementing measures referred to in the second subparagraph of Article 45(2), the Committee shall be the Radio Spectrum Committee established pursuant to Article 3(1) of Decision No 676/2002/EC.	2. For the implementing measures referred to in the second subparagraph of Article 28(4) 45(2) , the Committee shall be the Radio Spectrum Committee established pursuant to Article 3(1) of Decision No 676/2002/EC.		
1362	3. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. Where the opinion of the committee is to be obtained by a written procedure, the procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a committee member so requests. In such a case, the chair shall convene a committee meeting within a reasonable time.	3. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. Where the opinion of the committee is to be obtained by a written procedure, the procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a committee member so requests. In such a case, the chair shall convene a committee meeting within a reasonable time.		
1363	4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply, having regard to the provisions of Article 8 thereof.	4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply, having regard to the provisions of Article 8 thereof.		
1364	5. Where the opinion of the committee is to be obtained by a written procedure, the procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a committee member so requests. In such a case, the chair shall convene a committee meeting within a reasonable time.	5. Where the opinion of the committee is to be obtained by a written procedure, the procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a committee member so requests. In such a case, the chair shall convene a committee meeting within a reasonable time.		
1382	<i>Article 114</i>	<i>Article 114</i>		
1383	Review procedures	Review procedures		
1384	1. The Commission shall periodically review the	<i>1. The Commission shall periodically review the</i>		Agreed to include reference to every fifth year as part

	functioning of this Directive and report to the European Parliament and to the Council, on the first occasion not later than five years after the date of application referred to in Article 115 (1), second subparagraph and thereafter every fifth year.	<i>functioning of this Directive and report to the European Parliament and to the Council, on the first occasion not later than five years after the date of application referred to in Article 115 (1), second subparagraph. For this purpose, the Commission may request information from the Member States, which shall be supplied without undue delay.</i>		of agreement on article 60 1. The Commission shall periodically review the functioning of this Directive and report to the European Parliament and to the Council, on the first occasion not later than five years after the date of application referred to in Article 115 (1), second subparagraph and thereafter every fifth year. For this purpose, the Commission may request information from the Member States, which shall be supplied without undue delay.
1385	<i>Those reviews shall evaluate in particular whether the ex ante intervention powers pursuant to this Directive are sufficient to enable national regulatory authorities to ensure that, to the presence of uncompetitive oligopolistic market structures, and together with the proportionate application of other obligations in accordance with this Directive, competition in electronic communications markets continues to thrive to the benefit of end-users in terms of quality, choice and price and that wholesale markets providing access to electronic communications infrastructures develop and thrive, as necessary to ensure competitive outcomes for end-users and very high capacity connectivity.</i>			
1386	For this purpose, the Commission may request information from the Member States, which shall be supplied without undue delay.			
1387		2. The Commission shall periodically review the scope of universal service, in particular with a view to proposing to the European Parliament and the Council that the scope be changed or redefined. A review shall be carried out every five years.		
1388		3. This review shall be undertaken in the light of social, economic and technological developments, taking into account, <i>inter alia</i> , mobility and data rates in the light of the prevailing technologies used by the majority of end-users . The Commission shall submit a report to the European Parliament and the Council regarding the outcome of the review.		
1389		Article 114a		

1390		Specific review procedure on end user rights		
1391		1. BEREC shall monitor the market and technological developments regarding the different types of electronic communications services and shall, three years from the entry into force of this Directive and every three years thereafter, or upon a reasoned request from at least two of its members, publish an opinion on such developments and on their impact on the application of Title III.		
1392		In that opinion BEREC shall assess to what extent Title III meets the objectives set out in Article 3. The opinion shall in particular take into account the scope of Title III. As a basis for the opinion, BEREC shall in particular analyse:		
1393		a) to what extent end-users of all communication services are able to make free and informed choices, including on the basis of complete contractual information, and are able to switch easily their provider of communication services;		
1394		b) to what extent any lack of such abilities has resulted in market distortions or end-user harm;		
1395		c) the likely cost of any potential readjustments of obligations in this Title or impact on innovation for providers of electronic communications services.		
1396		2. The Commission, taking utmost account of the BEREC opinion, shall publish a report on the application of this Title and submit a legislative proposal to amend Title III where it considers this necessary to ensure that the objectives set out in Article 3 continue to be met.		
1397	<i>Article 115</i>	Article 115		
1398	Transposition	Transposition		
1399	1. Member States shall adopt and publish, by [day/month/year], the laws, regulations and administrative provisions necessary to comply with Articles [...] and Annexes [...]. They shall immediately communicate the text of those measures to the Commission.	<i>1. Member States shall adopt and publish, by [day/month/year], the laws, regulations and administrative provisions necessary to comply with Articles [...] and Annexes [...]. They shall immediately communicate the text of those measures to the Commission.</i>		1. Member States shall adopt and publish, by [day/month/year], the laws, regulations and administrative provisions necessary to comply with [Articles [...] and Annexes [...]/this Directive]. They shall immediately communicate the text of

				those measures to the Commission.
1400	They shall apply those measures from [day/month/year].	They shall apply those measures from [day/month/year].		Member States shall apply those measures from [day/month/year], with the exception of the measures necessary to comply with Article 53a which shall apply from [day/month/year].
1401	When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.	When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.		
				1a. By way of exception to par. 1, <u>Article 53 (2), (3) and (3a) shall apply from the entry into force of this Directive for bands for which the technical conditions have been harmonised in order to enable their use for wireless broadband electronic communications, pursuant to Article 4 of Decision n°676/2002/EC. In relation to bands for which such conditions have not been adopted upon entry into force of the Directive, Article 53 (2), (3) and (3a) shall apply from [day/month/year].</u>
1402	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.		