

Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast) (Text with EEA relevance)

PART II

NETWORKS

TITLE I

MARKET ENTRY AND DEPLOYMENT

CHAPTER III

Access to radio spectrum

Section 1

Authorisations

Article 47

Conditions attached to individual rights of use for radio spectrum

1 Competent authorities shall attach conditions to individual rights of use for radio spectrum in accordance with Article 13(1) in such a way as to ensure optimal and the most effective and efficient use of radio spectrum. They shall, before the assignment or renewal of such rights, clearly establish any such conditions, including the level of use required and the possibility to fulfil that requirement through trading or leasing, in order to ensure the implementation of those conditions in accordance with Article 30. Conditions attached to renewals of right of use for radio spectrum shall not provide undue advantages to existing holders of those rights.

Such conditions shall specify the applicable parameters, including any deadline for exercising the rights of use, the non-fulfilment of which would entitle the competent authority to withdraw the right of use or impose other measures.

Competent authorities shall, in a timely and transparent manner, consult and inform interested parties regarding conditions attached to individual rights of use before their imposition. They shall determine in advance and inform interested parties, in a transparent manner, of the criteria for the assessment of the fulfilment of those conditions.

2 When attaching conditions to individual rights of use for radio spectrum, competent authorities may, in particular with a view to ensuring effective and efficient use of radio spectrum or promoting coverage, provide for the following possibilities:

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- a sharing passive or active infrastructure which relies on radio spectrum or radio spectrum;
- b commercial roaming access agreements;
- c joint roll-out of infrastructures for the provision of networks or services which rely on the use of radio spectrum.

Competent authorities shall not prevent the sharing of radio spectrum in the conditions attached to the rights of use for radio spectrum. Implementation by undertakings of conditions attached pursuant to this paragraph shall remain subject to competition law.