

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 II

ACCESS

CHAPTER IV

Access remedies imposed on undertakings with significant market power

Article 69

Obligation of transparency

1 National regulatory authorities may, in accordance with Article 68, impose obligations of transparency in relation to interconnection or access, requiring undertakings to make public specific information, such as accounting information, prices, technical specifications, network characteristics and expected developments thereof, as well as terms and conditions for supply and use, including any conditions altering access to or use of services and applications, in particular with regard to migration from legacy infrastructure, where such conditions are allowed by Member States in accordance with Union law.

2 In particular, where an undertaking has obligations of non-discrimination, national regulatory authorities may require that undertaking to publish a reference offer, which shall be sufficiently unbundled to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested. That offer shall contain a description of the relevant offerings broken down into components according to market needs, and the associated terms and conditions, including prices. The national regulatory authority may, inter alia, impose changes to reference offers to give effect to obligations imposed under this Directive.

3 National regulatory authorities may specify the precise information to be made available, the level of detail required and the manner of publication.

4 By 21 December 2019, in order to contribute to the consistent application of transparency obligations, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, issue guidelines on the minimum criteria for a reference offer and shall review them where necessary in order to adapt them to technological and market developments. In providing such minimum criteria, BEREC shall pursue the objectives in Article 3, and shall have regard to the needs of the beneficiaries of access obligations and of end-users that are active in more than one Member State, as well as to any BEREC guidelines identifying transnational demand in accordance with Article 66 and to any related decision of the Commission.

Notwithstanding paragraph 3 of this Article, where an undertaking has obligations under Article 72 or 73 concerning wholesale access to network infrastructure, national regulatory authorities shall ensure the publication of a reference offer taking utmost account of the BEREC guidelines on the minimum criteria for a reference offer, shall ensure that key performance indicators are specified, where relevant, as well as corresponding service levels, and closely monitor and ensure compliance with them. In addition, national regulatory authorities may, where necessary, predetermine the associated financial penalties in accordance with Union and national law.