

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 81

Migration from legacy infrastructure

1 Undertakings which have been designated as having significant market power in one or several relevant markets in accordance with Article 67 shall notify the national regulatory authority in advance and in a timely manner when they plan to decommission or replace with a new infrastructure parts of the network, including legacy infrastructure necessary to operate a copper network, which are subject to obligations pursuant to Articles 68 to 80.

2 The national regulatory authority shall ensure that the decommissioning or replacement process includes a transparent timetable and conditions, including an appropriate notice period for transition, and establishes the availability of alternative products of at least comparable quality providing access to the upgraded network infrastructure substituting the replaced elements if necessary to safeguard competition and the rights of end-users.

With regard to assets which are proposed for decommissioning or replacement, the national regulatory authority may withdraw the obligations after having ascertained that the access provider:

- a has established the appropriate conditions for migration, including making available an alternative access product of at least comparable quality as was available using the legacy infrastructure enabling the access seekers to reach the same end-users; and
- b has complied with the conditions and process notified to the national regulatory authority in accordance with this Article.

Such withdrawal shall be implemented in accordance with the procedures referred to in Articles 23, 32 and 33.

3 This Article shall be without prejudice to the availability of regulated products imposed by the national regulatory authority on the upgraded network infrastructure in accordance with the procedures set out in Articles 67 and 68.