

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 III

SERVICES

TITLE I

UNIVERSAL SERVICE OBLIGATIONS

Article 85

Provision of affordable universal service

1 National regulatory authorities in coordination with other competent authorities shall monitor the evolution and level of retail prices of the services referred to in Article 84(1) available on the market, in particular in relation to national prices and national consumer income.

2 Where Member States establish that, in light of national conditions, retail prices for the services referred to in Article 84(1) are not affordable, because consumers with a low income or special social needs are prevented from accessing such services, they shall take measures to ensure affordability for such consumers of adequate broadband internet access service and voice communications services at least at a fixed location.

To that end, Member States may ensure that support is provided to such consumers for communication purposes or require providers of such services to offer to those consumers tariff options or packages different from those provided under normal commercial conditions, or both. For that purpose, Member States may require such providers to apply common tariffs, including geographic averaging, throughout the territory.

In exceptional circumstances, in particular where the imposition of obligations under the second subparagraph of this paragraph on all providers would result in a demonstrated excessive administrative or financial burden for providers or the Member State, a Member State may, on an exceptional basis, decide to impose the obligation to offer those specific tariff options or packages only on designated undertakings. Article 86 shall apply to such designations *mutatis mutandis*. Where a Member State designates undertakings, it shall ensure that all consumers with a low-income or special social needs benefit from a choice of undertakings offering tariff options addressing their needs, unless ensuring such choice is impossible or would create an excessive additional organisational or financial burden.

Member States shall ensure that consumers entitled to such tariff options or packages have a right to conclude a contract either with a provider of the services referred to in Article 84(1), or with an undertaking designated in accordance with this paragraph, and that their number remains available to them for an adequate period and unwarranted disconnection of the service is avoided.

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3 Member States shall ensure that undertakings which provide tariff options or packages to consumers with a low income or special social needs pursuant to paragraph 2 keep the national regulatory and other competent authorities informed of the details of such offers. National regulatory authorities in coordination with 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 in coordination with other competent authorities may require such tariff options or packages to be modified or withdrawn.

4 Member States shall ensure, in light of national conditions, that support is provided, as appropriate, to consumers with disabilities, and that other specific measures are taken, where appropriate, with a view to ensuring that related terminal equipment, and specific equipment and specific services that enhance equivalent access, including where necessary total conversation services and relay services, are available and affordable.

5 When applying this Article, Member States shall seek to minimise market distortions.

6 Member States may extend the scope of application of this Article to end-users that are microenterprises and small and medium-sized enterprises and not-for-profit organisations.