

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 84

Affordable universal service

1 Member States shall ensure that all consumers in their territories have access at an affordable price, in light of specific national conditions, to an available adequate broadband internet access service and to voice communications services at the quality specified in their territories, including the underlying connection, at a fixed location.

2 In addition, Member States may also ensure the affordability of the services referred to in paragraph 1 that are not provided at a fixed location where they consider this to be necessary to ensure consumers' full social and economic participation in society.

3 Each Member State shall, in light of national conditions and the minimum bandwidth enjoyed by the majority of consumers within the territory of that Member State, and taking into account the BEREC report on best practices, define the adequate broadband internet access service for the purposes of paragraph 1 with a view to ensuring the bandwidth necessary for social and economic participation in society. The adequate broadband internet access service shall be capable of delivering the bandwidth necessary for supporting at least the minimum set of services set out in Annex V.

By 21 June 2020, 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, draw up a report on Member States' best practices to support the defining of adequate broadband internet access service pursuant to the first subparagraph. That report shall be updated regularly to reflect technological advances and changes in consumer usage patterns.

4 When a consumer so requests, the connection referred to in paragraph 1 and, where applicable, in paragraph 2 may be limited to support voice communications services.

5 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.

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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.

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.

Article 86

Availability of universal service

1 Where a Member State has established, taking into account 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 an adequate broadband internet access service as defined in accordance with Article 84(3) and of voice communications services 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.

2 Member States shall determine the most efficient and appropriate approach for ensuring the availability at a fixed location of an adequate broadband internet access service as defined in accordance with Article 84(3) and of voice communications services, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. Member States 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.

3 In particular, where Member States decide to impose obligations to ensure for end-users the availability at a fixed location of an adequate broadband internet access service as defined in accordance with Article 84(3) and of voice communications services, they may designate one or more undertakings to guarantee such availability throughout the national territory. Member States may designate different undertakings or sets of undertakings to provide an adequate broadband internet access service and voice communications services at a fixed location or to cover different parts of the national territory.

4 When Member States designate undertakings in part or all of the national territory to ensure availability of services in accordance with paragraph 3 of this Article, they shall use 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 an adequate broadband internet access service 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 obligations in accordance with Article 89.

5 When an undertaking designated in accordance with paragraph 3 of this Article 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 the national regulatory or other competent authority in advance and 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 an adequate broadband internet access service as defined in accordance with Article 84(3) and of voice communications services. The national regulatory or other competent authority may impose, amend or withdraw specific obligations in accordance with Article 13(2).

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Article 87

Status of the existing universal service

Member States may continue to ensure the availability or affordability of other services than adequate broadband internet access service as defined in accordance with Article 84(3) and voice communications services at a fixed location that were in force on 20 December 2018, if the need for such services is established in light of national circumstances. When Member States designate undertakings in part or all of the national territory for the provision of those services, Article 86 shall apply. Financing of those obligations shall comply with Article 90.

Member States shall review the obligations imposed pursuant to this Article by 21 December 2021, and every three years thereafter.

Article 88

Control of expenditure

1 Member States shall ensure that, in providing facilities and services additional to those referred to in Article 84, providers of an adequate broadband internet access service and of voice communications services in accordance with Articles 84 to 87 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.

2 Member States shall ensure that the providers of an adequate broadband internet access service and of voice communications services referred to in Article 84 that provide services pursuant to Article 85 offer the specific facilities and services set out in Part A of Annex VI as applicable, in order that consumers can monitor and control expenditure. Member States shall ensure that such providers put in place a system to avoid unwarranted disconnection of voice communications services or of an adequate broadband internet access service with regard to consumers as referred to in Article 85, including an appropriate mechanism to check continued interest in using the service.

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

3 Each Member State shall ensure that the competent authority is able to waive the requirements of paragraph 2 in all or part of its national territory if the competent authority is satisfied that the facility is widely available.

Article 89

Cost of universal service obligations

1 Where national regulatory authorities consider that the provision of an adequate broadband internet access service as defined in accordance with Article 84(3) and of voice communications services as set out in Articles 84, 85 and 86 or the continuation of the existing universal service as set out in Article 87 may represent an unfair burden on providers of such services that request compensation, national regulatory authorities shall calculate the net costs of such provision.

For that purpose, national regulatory authorities shall:

- a calculate the net cost of the universal service obligations, taking into account any market benefit which accrues to a provider of an adequate broadband internet access service as defined in accordance with Article 84(3) and voice communications services as set out in Articles 84, 85 and 86 or the continuation of the existing universal service as set out in Article 87, in accordance with Annex VII; or
- b make use of the net costs of providing universal service identified by a designation mechanism in accordance with Article 86(4).

2 The accounts and other information serving as the basis for the calculation of the net cost of universal service obligations under point (a) of the second subparagraph of paragraph 1 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.

Article 90

Financing of universal service obligations

1 Where, on the basis of the net cost calculation referred to in Article 89, national regulatory authorities find that a provider is subject to an unfair burden, Member States shall, upon request from the provider concerned, decide to do one or both of the following:

- a introduce a mechanism to compensate that provider for the determined net costs under transparent conditions from public funds;
- b share the net cost of universal service obligations between providers of electronic communications networks and services.

2 Where the net cost is shared in accordance with point (b) of paragraph 1 of this Article, 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 89, of the obligations laid down in Articles 84 to 87 may be financed.

The sharing mechanism shall respect the principles of transparency, least market distortion, non-discrimination and proportionality, in accordance with the principles set out in Part B of Annex VII. Member States may choose not to require contributions from undertakings the national turnover of which is less than a set limit.

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 on, or collected from, undertakings that are not providing services in the territory of the Member State that has established the sharing mechanism.

Article 91

Transparency

1 Where the net cost of universal service obligations is to be calculated in accordance with Article 89, national regulatory authorities shall ensure that the principles for net cost calculation, including the details of methodology to be used are publicly available.

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Where a mechanism for sharing the net cost of universal service obligations as referred to in Article 90(2) is established, national regulatory authorities shall ensure that the principles for cost sharing and compensation of the net cost are publicly available.

2 Subject to Union and national rules on commercial confidentiality, national regulatory authorities shall publish an annual report providing the details of calculated cost of universal service obligations, identifying the contributions made by all undertakings involved, including any market benefits that may have accrued to the undertakings pursuant to universal service obligations laid down in Articles 84 to 87.

Article 92

Additional mandatory services

Member States may decide to make services additional to those included in the universal service obligations referred to in Articles 84 to 87, publicly available on their territories. In such cases, no compensation mechanism involving specific undertakings shall be imposed.

TITLE II

NUMBERING RESOURCES

Article 93

Numbering resources

1 Member States shall ensure that national regulatory 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 numbering resources for the provision of publicly available electronic communications services. Member States shall ensure that objective, transparent and non-discriminatory procedures for granting rights of use for national numbering resources are established.

2 National regulatory or other competent authorities may also grant rights of use for 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 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 to comply with any relevant requirements set out pursuant to Article 94. National regulatory or other competent authorities may suspend the further granting of rights of use for numbering resources to such undertakings if it is demonstrated that there is a risk of exhaustion of numbering resources.

By 21 June 2020, 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 of the risk of exhaustion of numbering resources.

3 National regulatory 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 the undertakings eligible

in accordance with paragraph 2. In particular, Member States shall ensure that an undertaking to which the right of use for numbering resources has been granted does not discriminate against other providers of electronic communications services as regards the numbering resources used to give access to their services.

4 Each Member State shall ensure that national regulatory or other competent authorities make available a range of non-geographic 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 Article 97(2) of this Directive. Where rights of use for numbering resources have been granted in accordance with paragraph 2 of this Article to undertakings other than providers of electronic communications networks or services, this paragraph shall apply to the specific services for the provision of which the rights of use have been granted.

National regulatory or other competent authorities shall ensure that the conditions listed in Part E of Annex I that may be attached to the rights of use for numbering resources used for the provision of services outside the Member State of the country code, and their enforcement, are as stringent as the conditions and enforcement applicable to services provided within the Member State of the country code, in accordance with this Directive. National regulatory or other competent authorities shall also ensure in accordance with Article 94(6) that providers using numbering resources of their country code in other Member States comply with consumer protection and other national rules related to the use of numbering resources applicable in those Member States where the numbering resources are used. This obligation is without prejudice to the enforcement powers of the competent authorities of those Member States.

BEREC shall assist national regulatory or other competent authorities, at their request, in coordinating their activities to ensure the efficient management of numbering resources with a right of extraterritorial use within the Union.

In order to facilitate the monitoring by the national regulatory or other competent authorities of compliance with the requirements of this paragraph, BEREC shall establish a database on the numbering resources with a right of extraterritorial use within the Union. For this purpose, national regulatory or other competent authorities shall transmit the relevant information to BEREC. Where numbering resources with a right of extraterritorial use within the Union are not granted by the national regulatory authority, the competent authority responsible for their granting or management shall consult the national regulatory authority.

5 Member States shall ensure that the '00' code is the standard international access code. Special arrangements for the use of number-based interpersonal communications services between locations adjacent to one another across borders between Member States may be established or continued.

Member States may agree to share a common numbering plan for all or specific categories of numbers.

End-users affected by such arrangements or agreements shall be fully informed.

6 Without prejudice to Article 106, Member States shall promote over-the-air provisioning, where technically feasible, to facilitate switching of providers of electronic communications networks or services by end-users, in particular providers and end-users of machine-to-machine services.

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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.

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. Where necessary to address unmet cross-border or pan-European demand for numbering resources, the Commission shall, taking utmost account of the opinion of BEREC, adopt implementing acts harmonising specific numbers or numbering ranges.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 118(4).

Article 94

Procedure for granting of rights of use for numbering resources

1 Where it is necessary to grant individual rights of use for numbering resources, national regulatory or other 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 Article 13 and to point (c) of Article 21(1) and to any other rules ensuring the efficient use of those numbering resources in accordance with this Directive.

2 The rights of use for numbering resources shall be granted through open, objective, transparent, non-discriminatory and proportionate procedures.

When granting rights of use for numbering resources, national regulatory or other competent authorities shall specify whether those rights can be transferred by the holder of the rights, and under which conditions.

Where national regulatory or other competent authorities grant rights of use for numbering resources for a limited period, the duration of that period shall be appropriate for the service concerned with a view to the objective pursued, taking due account of the need to allow for an appropriate period for investment amortisation.

3 National regulatory or other competent authorities shall take decisions on the granting of rights of use for numbering resources as soon as possible after receipt of the complete application and within three weeks in the case of numbering resources that have been allocated for specific purposes within the national numbering plan. Such decisions shall be made public.

4 Where national regulatory or other competent authorities have determined, after consulting interested parties in accordance with Article 23, that rights of use for numbering resources of exceptional economic value are to be granted through competitive or comparative selection procedures, national regulatory or other competent authorities may extend the three-week period referred to in paragraph 3 of this Article by up to a further three weeks.

5 National regulatory or other competent authorities shall not limit the number of individual rights of use to be granted, except where this is necessary to ensure the efficient use of numbering resources.

6 Where the rights of use for numbering resources include their extraterritorial use within the Union in accordance with Article 93(4), national regulatory or other competent authorities shall attach to those rights of use specific conditions in order to ensure compliance

with all the relevant national consumer protection rules and national law related to the use of numbering resources applicable in the Member States where the numbering resources are used.

Upon request from a national regulatory or other competent authority of a Member State where the numbering resources are used, demonstrating a breach of relevant consumer protection rules or national laws related to the use of numbering resources of that Member State, the national regulatory or other competent authorities of the Member State where the rights of use for the numbering resources have been granted shall enforce the conditions attached under the first subparagraph of this paragraph in accordance with Article 30, including, in serious cases, by withdrawing the rights of extraterritorial use for the numbering resources granted to the undertaking concerned.

BEREC shall facilitate and coordinate the exchange of information between the competent authorities of the different Member States involved and ensure the appropriate coordination of work among them.

7 This Article shall also apply where national regulatory or other competent authorities grant rights of use for numbering resources to undertakings other than providers of electronic communications networks or services in accordance with Article 93(2).

Article 95

Fees for rights of use for numbering resources

Member States may allow national regulatory or other competent authorities to impose fees for the rights of use for numbering resources which reflect the need to ensure the optimal use of those resources. Member States shall ensure that such fees are objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and shall take into account the objectives set out in Article 3.

Article 96

Missing children and child helpline hotlines

1 Member States shall ensure that end-users have access free of charge to a service operating a hotline to report cases of missing children. The hotline shall be available on the number '116000'.

2 Member States shall ensure that end-users with disabilities are able to access services provided under the number '116000' to the greatest extent possible. Measures taken to facilitate 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 laid down in accordance with Article 39.

3 Member States shall take appropriate measures to ensure that the authority or undertaking to which the number '116000' has been assigned allocates the necessary resources to operate the hotline.

4 Member States and the Commission shall ensure that end-users are adequately informed of the existence and use of services provided under the numbers '116000' and, where appropriate, '116111'.

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Article 97

Access to numbers and services

1 Member States shall ensure that, where economically feasible, except where a called end-user has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, national regulatory or other competent authorities take all necessary steps to ensure that end-users are able to:

- a access and use services using non-geographic numbers within the Union; and
- b access all numbers provided in the Union, regardless of the technology and devices used by the operator, including those in the national numbering plans of Member States and Universal International Freephone Numbers (UIFN).

2 Member States shall ensure that national regulatory or other competent authorities are able to require providers of public electronic communications networks or publicly available electronic communications services to block, on a case-by-case basis, access to numbers or services where this is justified by reasons of fraud or misuse and to require that in such cases providers of electronic communications services withhold relevant interconnection or other service revenues.

TITLE III

END-USER RIGHTS

Article 98

Exemption of certain microenterprises

With the exception of Articles 99 and 100, this Title shall not apply to microenterprises providing number-independent interpersonal communications services unless they also provide other electronic communications services.

Member States shall ensure that end-users are informed of an exemption under the first paragraph before concluding a contract with a microenterprise benefitting from such an exemption.

Article 99

Non-discrimination

Providers of electronic communications networks or services shall not apply any different requirements or general conditions of access to, or use of, networks or services to end-users, for reasons related to the end-user's nationality, place of residence or place of establishment, unless such different treatment is objectively justified.

Article 100

Fundamental rights safeguard

1 National measures regarding end-users' access to, or use of, services and applications through electronic communications networks shall respect the Charter of Fundamental Rights of the Union (the 'Charter') and general principles of Union law.

2 Any measure regarding end-users' access to, or use of, services and applications through electronic communications networks liable to limit the exercise of the rights or freedoms recognised by the Charter shall be imposed only if it is provided for by law and respects those rights or freedoms, is proportionate, necessary, and genuinely meets general interest objectives recognised by Union law or the need to protect the rights and freedoms of others in line with Article 52(1) of the Charter and with general principles of Union law, including the right to an effective remedy and to a fair trial. Accordingly, such measures shall be taken only 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 accordance with the Charter.

Article 101

Level of harmonisation

1 Member States shall not maintain or introduce in their national law end-user protection provisions diverging from Articles 102 to 115, including more, or less, stringent provisions to ensure a different level of protection, unless otherwise provided for in this Title.

2 Until 21 December 2021, Member States may continue to apply more stringent national consumer protection provisions diverging from those laid down in Articles 102 to 115, provided that those provisions were in force on 20 December 2018 and any restrictions to the functioning of the internal market resulting therefrom are proportionate to the objective of consumer protection.

Member States shall notify the Commission by 21 December 2019 of any national provisions to be applied on the basis of this paragraph.

Article 102

Information requirements for contracts

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 referred to in Articles 5 and 6 of Directive 2011/83/EU, and, in addition, the information listed in Annex VIII of this Directive to the extent that that information relates to a service they provide.

The information shall be provided in a clear and comprehensible manner on a durable medium as defined in point (10) of Article 2 of Directive 2011/83/EU or, where provision on a durable medium is not feasible, in an easily downloadable document made available by the provider. The provider shall expressly draw the consumer's

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attention to the availability of that document and the importance of downloading it for the purposes of documentation, future reference and unchanged reproduction.

The information shall, upon request, be provided in an accessible format for end-users with disabilities in accordance with Union law harmonising accessibility requirements for products and services.

2 The information referred to in paragraphs 1, 3 and 5 shall also be provided to end-users that are microenterprises or small enterprises or not-for-profit organisations, unless they have explicitly agreed to waive all or parts of those provisions.

3 Providers of publicly available electronic communications services other than transmission services used for the provision of machine-to-machine services shall provide consumers with a concise and easily readable contract summary. That summary shall identify the main elements of the information requirements in accordance with paragraph 1. Those main elements shall include at least:

- a the name, address and contact information of the provider and, if different, the contact information for any complaint;
- b the main characteristics of each service provided;
- c the respective prices for activating the electronic communications service and for any recurring or consumption-related charges, where the service is provided for direct monetary payment;
- d the duration of the contract and the conditions for its renewal and termination;
- e the extent to which the products and services are designed for end-users with disabilities;
- f with respect to internet access services, a summary of the information required pursuant to points (d) and (e) of Article 4(1) of Regulation (EU) 2015/2120.

By 21 December 2019, the Commission shall, after consulting BEREC, adopt implementing acts specifying a contract summary template to be used by the providers to fulfil their obligations under this paragraph.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 118(4).

Providers subject to the obligations under paragraph 1 shall duly complete that contract summary template with the required information and provide the contract summary free of charge to consumers, 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 consumer has confirmed his or her agreement after reception of the contract summary.

4 The information referred to in paragraphs 1 and 3 shall become an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise.

5 Where internet access services or publicly available interpersonal communications services are billed on the basis of either time or volume consumption, their providers shall offer consumers the facility to monitor and control the usage of each of those services. This facility shall include access to timely information on the level of consumption of services included in a tariff plan. In particular, providers shall notify consumers before any consumption limit, as established by competent authorities in coordination, where relevant, with national regulatory authorities, included in their tariff plan, is reached and when a service included in their tariff plan is fully consumed.

6 Member States may maintain or introduce in their national law provisions requiring providers to provide additional information on the consumption level and temporarily prevent further use of the relevant service in excess of a financial or volume limit determined by the competent authority.

7 Member States shall remain free to maintain or introduce in their national law provisions relating to aspects not regulated by this Article, in particular in order to address newly emerging issues.

Article 103

Transparency, comparison of offers and publication of information

1 Competent authorities in coordination, where relevant, with national regulatory authorities shall ensure that, where providers of internet access services or publicly available interpersonal communication services make the provision of those services subject to terms and conditions, the information referred to in Annex IX is published in a clear, comprehensive, machine-readable manner and in an accessible format for end-users with disabilities in accordance with Union law harmonising accessibility requirements for products and services, by all such providers, or by the competent authority itself in coordination, where relevant, with the national regulatory authority. Such information shall be updated regularly. Competent authorities in coordination, where relevant, with 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 and, where relevant, to the national regulatory authority before its publication.

2 Competent authorities shall, in coordination, where relevant, with national regulatory authorities, ensure that end-users have access free of charge to at least one independent comparison tool which enables them to compare and evaluate different internet access services and publicly available number-based interpersonal communications services, and, where applicable, publicly available number-independent interpersonal communications services, with regard to:

- a prices and tariffs of services provided against recurring or consumption-based direct monetary payments; and
- b the quality of service performance, where minimum quality of service is offered or the undertaking is required to publish such information pursuant to Article 104.

3 The comparison tool referred to in paragraph 2 shall:

- a be operationally independent from the providers of such services, thereby ensuring that those providers are given equal treatment in search results;
- b clearly disclose the owners and operators of the comparison tool;
- c set out clear and objective criteria on which the comparison is to be based;
- d use plain and unambiguous language;
- e provide accurate and up-to-date information and state the time of the last update;
- f be open to any provider of internet access services or publicly available interpersonal communications services making available the relevant information, and include a broad range of offers covering a 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 provide an effective procedure to report incorrect information;

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- h 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 the standard offers publicly available to other end-users.

Comparison tools fulfilling the requirements in points (a) to (h) shall, upon request by the provider of the tool, be certified by competent authorities in coordination, where relevant, with 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 interpersonal communications services, for the purposes of making available such independent comparison tools.

4 Member States may require that providers of internet access services or 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 means that 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:

- a the most common uses of internet access services and publicly available number-based interpersonal communications services to engage in unlawful activities or to disseminate harmful content, in particular where 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
- b the means of protection against risks to personal security, privacy and personal data when using internet access services and publicly available number-based interpersonal communications services.

Article 104

Quality of service related to internet access services and publicly available interpersonal communications services

1 National regulatory authorities in coordination with other competent authorities may require providers of internet access services and of publicly available interpersonal communications services to publish comprehensive, comparable, reliable, user-friendly and up-to-date information for end-users on the quality of their services, to the extent that they control at least some elements of the network either directly or by virtue of a service level agreement to that effect, and on measures taken to ensure equivalence in access for end-users with disabilities. National regulatory authorities in coordination with other competent authorities may also require providers of publicly available interpersonal communication services to inform consumers if the quality of the services they provide depends on any external factors, such as control of signal transmission or network connectivity.

That information shall, on request, be supplied to the national regulatory and, where relevant, to other competent authorities before its publication.

The measures to ensure quality of service shall comply with Regulation (EU) 2015/2120.

2 National regulatory authorities in coordination with other competent authorities shall specify, taking utmost account of BEREC guidelines, the quality of service parameters to be measured, the applicable measurement methods, and the content, form and manner of the information to be published, including possible quality certification mechanisms. Where

appropriate, the parameters, definitions and measurement methods set out in Annex X shall be used.

By 21 June 2020, in order to contribute to a consistent application of this paragraph and of Annex X, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, adopt guidelines detailing the relevant quality of service parameters, including parameters relevant for end-users with disabilities, the applicable measurement methods, the content and format of publication of the information, and quality certification mechanisms.

Article 105

Contract duration and termination

1 Member States shall ensure that conditions and procedures for contract termination do not act as a disincentive to changing service provider and that contracts concluded between consumers and providers of publicly available electronic communications services other than number-independent interpersonal communications services and other than transmission services used for the provision of machine-to-machine services, do not mandate a commitment period longer than 24 months. Member States may adopt or maintain provisions which mandate shorter maximum contractual commitment periods.

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 networks. An instalment contract for the deployment of a physical connection shall not include terminal equipment, such as a router or modem, and shall not preclude consumers from exercising their rights under this Article.

2 Paragraph 1 shall also apply to end-users that are microenterprises, small enterprises or not-for-profit organisations, unless they have explicitly agreed to waive those provisions.

3 Where a contract or national law provides for automatic prolongation of a fixed duration contract for electronic communications services other than number-independent interpersonal communications services and other than transmission services used for the provision of machine-to-machine services, Member States shall ensure that, after such 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 end-users, in a prominent and timely manner and on a durable medium, of the end of the contractual commitment and of the means by which to terminate the contract. In addition, and at the same time, providers shall give end-users best tariff advice relating to their services. Providers shall provide end-users with best tariff information at least annually.

4 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, are of a purely administrative nature and have no negative effect on the end-user, or are directly imposed by Union or national law.

Providers shall notify end-users at least one month in advance of any change in the contractual conditions, and shall simultaneously inform them of their right to

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terminate the contract without incurring any further costs if they do not accept the new conditions. The right to terminate the contract shall be exercisable within one month after notification. Member States may extend that period by up to three months. Member States shall ensure that notification is made in a clear and comprehensible manner on a durable medium.

5 Any significant continued or frequently recurring discrepancy between the actual performance of an electronic communications service, other than an internet access service or a number-independent interpersonal communications service, and the performance indicated in the contract shall be considered to be a basis for triggering the remedies available to the consumer in accordance with national law, including the right to terminate the contract free of cost.

6 Where an end-user has the right to terminate a contract for a publicly available electronic communications service, other than a number-independent interpersonal communications service, before the end of the agreed contract period pursuant to this Directive or to other provisions of Union or national law, no compensation shall be due by the end-user other than for retained subsidised terminal equipment.

Where the end-user chooses to retain terminal equipment bundled at the moment of the contract conclusion, any compensation due shall not exceed its pro rata temporis value as agreed at the moment of the conclusion of the contract or the remaining part of the service fee until the end of the contract, whichever is the smaller.

Member States may determine other methods to calculate the compensation rate, provided that such methods do not result in a level of compensation exceeding that calculated in accordance with the second subparagraph.

The provider shall lift any condition on the use of that terminal equipment on other networks free of charge at a time specified by Member States and at the latest upon payment of the compensation.

7 As far as transmission services used for machine-to-machine services are concerned, the rights mentioned in paragraphs 4 and 6 shall benefit only end-users that are consumers, microenterprises, small enterprises or not-for-profit organisations.

Article 106

Provider switching and number portability

1 In the case of switching between providers of internet access services, the providers concerned shall provide the end-user with adequate information before and during the switching process and ensure continuity of the internet access service, unless technically not feasible. The receiving provider shall ensure that the activation of the internet access service occurs within the shortest possible time on the date and within the timeframe expressly agreed with the end-user. The transferring provider shall continue to provide its internet access service on the same terms until the receiving provider activates its internet access service. Loss of service during the switching process shall not exceed one working day.

National regulatory authorities shall ensure the efficiency and simplicity of the switching process for the end-user.

2 Member States shall ensure that all end-users with numbers from the national numbering plan have the right to retain their numbers, upon request, independently of the undertaking providing the service, in accordance with Part C of Annex VI.

3 Where an end-user terminates a contract, Member States shall ensure that the end-user can retain the right to port a number from the national numbering plan to another provider for a minimum of one month after the date of termination, unless that right is renounced by the end-user.

4 National regulatory authorities shall ensure that pricing among providers related to the provision of number portability is cost-oriented, and that no direct charges are applied to end-users.

5 The porting of numbers and their subsequent activation shall be carried out within the shortest possible time on the date explicitly agreed with the end-user. In any case, end-users who have concluded an agreement to port a number to a new provider shall have that number activated within one working day from the date agreed with the end-user. In the case of failure of the porting process, the transferring provider shall reactivate the number and related services of the end-user until the porting is successful. The transferring provider shall continue to provide its services on the same terms and conditions until the services of the receiving provider are activated. In any event, the loss of service during the process of provider switching and the porting of numbers shall not exceed one working day. Operators whose access networks or facilities are used by either the transferring or the receiving provider, or both, shall ensure that there is no loss of service that would delay the switching and porting process.

6 The receiving provider shall lead the switching and porting processes set out in paragraphs 1 and 5 and both the receiving and transferring providers shall cooperate in good faith. They shall not delay or abuse the switching and porting processes, nor shall they port numbers or switch end-users without the end-users' explicit consent. The end-users' contracts with the transferring provider shall be terminated automatically upon conclusion of the switching process.

National regulatory authorities may establish the details of the switching and porting processes, taking into account national provisions on contracts, technical feasibility and the need to maintain continuity of service to the end-users. This shall include, where technically feasible, a requirement for the porting to be completed through over-the-air provisioning, unless an end-user requests otherwise. National regulatory authorities shall also take appropriate measures ensuring that end-users are adequately informed and protected throughout the switching and porting processes and are not switched to another provider without their consent.

Transferring providers shall refund, upon request, any remaining credit to the consumers using pre-paid services. Refund may be subject to a fee only if provided for in the contract. Any such fee shall be proportionate and commensurate with the actual costs incurred by the transferring provider in offering the refund.

7 Member States shall lay down rules on penalties in the case of the failure of a provider to comply with the obligations laid down in this Article, including delays in, or abuses of, porting by, or on behalf of, a provider.

8 Member States shall lay down rules on the compensation of end-users by their providers in an easy and timely manner in the case of the failure of a provider to comply with the obligations laid down in this Article, as well as in the case of delays in, or abuses of, porting and switching processes, and missed service and installation appointments.

9 In addition to the information required under Annex VIII, Member States shall ensure that end-users are adequately informed about the existence of the rights to compensation referred to in paragraphs 7 and 8.

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Article 107

Bundled offers

1 If a bundle of services or a bundle of services and terminal equipment offered to a consumer comprises at least an internet access service or a publicly available number-based interpersonal communications service, Article 102(3), Article 103(1), Article 105 and Article 106(1) shall apply to all elements of the bundle including, *mutatis mutandis*, those not otherwise covered by those provisions.

2 Where the consumer has, under Union law, or national law in accordance with Union law, a right to terminate any element of the bundle as referred to in paragraph 1 before the end of the agreed contract term because of a lack of conformity with the contract or a failure to supply, Member States shall provide that the consumer has the right to terminate the contract with respect to all elements of the bundle.

3 Any subscription to additional services or terminal equipment provided or distributed by the same provider of internet access services or of publicly available number-based interpersonal communications services shall not extend the original duration of the contract to which such services or terminal equipment are added, unless the consumer expressly agrees otherwise when subscribing to the additional services or terminal equipment.

4 Paragraphs 1 and 3 shall also apply to end-users that are microenterprises, small enterprises, or not-for-profit organisations, unless they have explicitly agreed to waive all or parts of those provisions.

5 Member States may also apply paragraph 1 as regards other provisions laid down in this Title.

Article 108

Availability of services

Member States shall take all necessary measures to ensure the fullest possible availability of voice communications services and internet access services provided over public electronic communications networks in the event of catastrophic network breakdown or in cases of force majeure. Member States shall ensure that providers of voice communications services take all necessary measures to ensure uninterrupted access to emergency services and uninterrupted transmission of public warnings.

Article 109

Emergency communications and the single European emergency number

1 Member States shall ensure that all end-users of the services 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 Member States.

Member States shall promote the access to emergency services through the single European emergency number '112' from electronic communications networks which

are not publicly available but which enable calls to public networks, in particular when the undertaking responsible for that network does not provide an alternative and easy access to an emergency service.

2 Member States shall, after consulting national regulatory authorities and emergency services and providers of electronic communications services, ensure that providers of publicly available number-based interpersonal communications services, where those services allow end-users to originate calls to a number in a national or international numbering plan, provide access to emergency services through emergency communications to the most appropriate PSAP.

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 those continue to be in use.

4 By 21 December 2020 and every two years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the effectiveness of the implementation of the single European emergency number '112'.

5 Member States shall ensure that access for end-users with disabilities to emergency services is available through emergency communications and is equivalent to that enjoyed by other end-users, in accordance with Union law harmonising accessibility requirements for products and services. The Commission and the national regulatory or other competent authorities shall take appropriate measures to ensure that, whilst travelling in another Member State, end-users with disabilities can access emergency services on an equivalent basis with other end-users, where feasible without any pre-registration. Those measures shall seek to ensure interoperability across Member States and shall be based, to the greatest extent possible, on European standards or specifications laid down in accordance with Article 39. Such measures shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.

6 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, handset-derived caller location information. Member States shall ensure that the establishment and the transmission of the caller location information are free of charge for the end-user and 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.

7 Member States shall ensure that end-users are adequately informed about the existence and the 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 end-users with disabilities. That information shall be provided in accessible formats, addressing different types of disabilities. The Commission shall support and complement Member States' action.

8 In order to ensure effective access to emergency services through emergency communications to the single European emergency number '112' in the Member States, the Commission shall, after consulting BEREC, adopt delegated acts in accordance with Article 117 supplementing paragraphs 2, 5 and 6 of this Article on the measures necessary to ensure the compatibility, interoperability, quality, reliability and continuity of emergency communications

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in the Union with regard to caller location information solutions, access for end-users with disabilities and routing to the most appropriate PSAP. The first such delegated act shall be adopted by 21 December 2022.

Those delegated acts 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.

BEREC shall maintain a database of E.164 numbers of Member State emergency services to ensure that they are able to contact each other from one Member State to another, if such a database is not maintained by another organisation.

Article 110

Public warning system

1 By 21 June 2022, 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 communications services to the end-users concerned.

2 Notwithstanding paragraph 1, Member States may determine that public warnings be transmitted through publicly available electronic communications services other than those referred to in paragraph 1, and other than broadcasting services, or through a mobile application relying on an internet access service, provided that the effectiveness of the public warning system is equivalent in terms of coverage and capacity to reach end-users, including those only temporarily present in the area concerned, taking utmost account of BEREC guidelines. Public warnings shall be easy for end-users to receive.

By 21 June 2020, and after consulting the authorities in charge of PSAPs, BEREC shall publish guidelines on how to assess whether the effectiveness of public warning systems under this paragraph is equivalent to the effectiveness of those under paragraph 1.

Article 111

Equivalent access and choice for end-users with disabilities

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:

- a have access to electronic communications services, including the related contractual information provided pursuant to Article 102, equivalent to that enjoyed by the majority of end-users; and
- b benefit from the choice of undertakings and services available to the majority of end-users.

2 In taking the measures referred to in paragraph 1 of this Article, Member States shall encourage compliance with the relevant standards or specifications laid down in accordance with Article 39.

Article 112

Directory enquiry services

1 Member States shall ensure that all providers of number-based interpersonal communications services which attribute numbers from a numbering plan 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.

2 National regulatory authorities shall be empowered to impose obligations and conditions on undertakings that control access to end-users, for the provision of directory enquiry services, in accordance with Article 61. Such obligations and conditions shall be objective, equitable, non-discriminatory and transparent.

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 97.

4 This Article shall apply subject to the requirements of Union law on the protection of personal data and privacy and, in particular, Article 12 of Directive 2002/58/EC.

Article 113

Interoperability of car radio and consumer radio receivers and consumer digital television equipment

1 Member States shall ensure the interoperability of car radio receivers and consumer digital television equipment in accordance with Annex XI.

2 Member States may adopt measures to ensure the interoperability of other consumer radio receivers, while limiting the impact on the market for low-value radio broadcast receivers and 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.

3 Member States shall encourage providers of digital television services to ensure, where appropriate, that the digital television equipment that they provide to their end-users is interoperable so that, where technically feasible, the digital television equipment is reusable with other providers of digital television services.

Without prejudice to Article 5(2) of Directive 2012/19/EU of the European Parliament and of the Council⁽¹⁾, Member States shall ensure that, upon termination of their contract, end-users have the possibility to return the digital television equipment through a free and easy process, unless the provider demonstrates that it is fully interoperable with the digital television services of other providers, including those to which the end-user has switched.

Digital television equipment which complies with harmonised standards the references of which have been published in the Official Journal of the European Union, or with parts thereof, shall be considered to comply with the requirement of interoperability set out in the second subparagraph covered by those standards or parts thereof.

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Article 114

‘Must carry’ obligations

1 Member States may impose reasonable ‘must carry’ obligations for the transmission of specified radio and television broadcast channels and related complementary services, in particular accessibility services to enable appropriate access for end-users with disabilities and data supporting connected television services and EPGs, 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 be imposed only where they are necessary to meet general interest objectives as clearly defined by each Member State and shall be proportionate and transparent.

2 By 21 December 2019 and every five years thereafter, Member States shall review the obligations referred to in the paragraph 1, except where Member States have carried out such a review within the previous four years.

3 Neither paragraph 1 of this Article nor Article 59(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 providers of electronic communications networks and services. Where remuneration is provided for, Member States shall ensure that the obligation to remunerate is clearly set out in national law, including, where relevant, the criteria for calculating such remuneration. Member States shall also ensure that it is applied in a proportionate and transparent manner.

Article 115

Provision of additional facilities

1 Without prejudice to Article 88(2), Member States shall ensure that competent authorities in coordination, where relevant, with national regulatory authorities are able to require all providers of internet access services or publicly available number-based interpersonal communications services to make available free of charge all or part of the additional facilities listed in Part B of Annex VI, subject to technical feasibility, as well as all or part of the additional facilities listed in Part A of Annex VI.

2 When applying paragraph 1, Member States may go beyond the list of additional facilities in Parts A and B of Annex VI in order to ensure a higher level of consumer protection.

3 A Member State may decide to waive the application of paragraph 1 in all or part of its territory if it considers, after taking into account the views of interested parties, that there is sufficient access to those facilities.

Article 116

Adaptation of annexes

The Commission is empowered to adopt delegated acts in accordance with Article 117 amending Annexes V, VI, IX, X, and XI in order to take account of technological and social developments or changes in market demand.

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- (1) Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) ([OJ L 197, 24.7.2012, p. 38](#)).