

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 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

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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 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

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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;
- 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

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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 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

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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.

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'.

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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 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.

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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.

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](#)).