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 IV U.K.

FINAL PROVISIONS

Article 117 U.K.

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Articles 75, 109 and 116 shall be conferred on the Commission for a period of five years from 20 December 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of power referred to in Articles 75, 109 and 116 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Articles 75, 109 and 116 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 118 U.K.

Committee

1 The Commission shall be assisted by a committee (‘the Communications Committee’). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 For the implementing acts referred to in the second subparagraph of Article 28(4), the Commission shall be assisted by the Radio Spectrum Committee established pursuant to

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Article 3(1) of Decision No 676/2002/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

3 Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a committee member so requests. In such a case, the chair shall convene a committee meeting within a reasonable time.

4 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply, having regard to Article 8 thereof.

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a committee member so requests. In such a case, the chair shall convene a committee meeting within a reasonable time.

Article 119 U.K.

Exchange of information

1 The Commission shall provide all relevant information to the Communications Committee on the outcome of regular consultations with the representatives of network operators, service providers, users, consumers, manufacturers and trade unions, as well as third countries and international organisations.

2 The Communications Committee shall, taking account of the Union's electronic communications policy, foster the exchange of information between the Member States and between the Member States and the Commission on the situation and the development of regulatory activities regarding electronic communications networks and services.

Article 120 U.K.

Publication of information

1 Member States shall ensure that up-to-date information regarding the implementation of this Directive is made publicly available in a manner that guarantees all interested parties easy access to that information. They shall publish a notice in their national official gazette describing how and where the information is published. The first such notice shall be published before 21 December 2020 and thereafter a notice shall be published where there is any change in the information contained therein.

2 Member States shall submit to the Commission a copy of all such notices at the time of publication. The Commission shall distribute the information to the Communications Committee as appropriate.

3 Member States shall ensure that all relevant information on rights, conditions, procedures, charges, fees and decisions concerning general authorisations, rights of use and rights to install facilities is published and kept up to date in an appropriate manner in order to provide easy access to that information for all interested parties.

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4 Where information referred to in paragraph 3 is held at different levels of government, in particular information regarding procedures and conditions on rights to install facilities, the competent authority shall make all reasonable efforts, having regard to the costs involved, to create a user-friendly overview of all such information, including information on the relevant levels of government and the responsible authorities, in order to facilitate applications for rights to install facilities.

5 Member States shall ensure that the specific obligations imposed on undertakings under this Directive are published and that the specific product and service, and geographical markets are identified. Subject to the need to protect commercial confidentiality, they shall ensure that up-to-date information is made publicly available in a manner that guarantees all interested parties easy access to that information.

6 Member States shall provide the Commission with information that they make publicly available pursuant to paragraph 5. The Commission shall make that information available in a readily accessible form, and shall distribute the information to the Communications Committee as appropriate.

Article 121 U.K.

Notification and monitoring

1 National regulatory authorities shall notify to the Commission by 21 December 2020, and immediately following any change thereafter, the names of undertakings designated as having universal service obligations under Article 85(2), Article 86 or 87.

2 National regulatory authorities shall notify to the Commission the names of undertakings designated as having significant market power for the purposes of this Directive, and the obligations imposed upon them under this Directive. Any changes affecting the obligations imposed upon undertakings or of the undertakings affected under this Directive shall be notified to the Commission without delay.

Article 122 U.K.

Review procedures

1 By 21 December 2025 and every five years thereafter, the Commission shall review the functioning of this Directive and report to the European Parliament and to the Council.

Those reviews shall evaluate in particular the market implications of Article 61(3) and Articles 76, 78 and 79 and whether the ex ante and other intervention powers pursuant to this Directive are sufficient to enable national regulatory authorities to address uncompetitive oligopolistic market structures, and to ensure that competition in electronic communications markets continues to thrive to the benefit of end-users.

To that end, the Commission may request information from the Member States, which shall be supplied without undue delay.

2 By 21 December 2025, and every five years thereafter, the Commission shall review the scope of universal service, in particular with a view to proposing to the European Parliament and to the Council that the scope be changed or redefined.

That review shall be undertaken in light of social, economic and technological developments, taking into account, inter alia, mobility and data rates in light of the

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prevailing technologies used by the majority of end-users. The Commission shall submit a report to the European Parliament and to the Council regarding the outcome of the review.

3 BEREC shall, by 21 December 2021 and every three years thereafter, publish an opinion on the national implementation and functioning of the general authorisation, and on their impact on the functioning of the internal market.

The Commission may, taking utmost account of the BEREC opinion, publish a report on the application of Chapter II of Title II of Part I and of Annex I, and may submit a legislative proposal to amend those provisions where it considers this to be necessary for the purpose of addressing obstacles to the proper functioning of the internal market.

Article 123 U.K.

Specific review procedure on end-user rights

1 BEREC shall monitor the market and technological developments regarding the different types of electronic communications services and shall, by 21 December 2021 and every three years thereafter, or upon a reasoned request from at least two of its Member State members, publish an opinion on such developments and on their impact on the application of Title III of Part III.

In that opinion, BEREC shall assess to what extent Title III of Part III meets the objectives set out in Article 3. The opinion shall in particular take into account the scope of Title III of Part III as regards the types of electronic communications services covered. As a basis for the opinion, BEREC shall in particular analyse:

a to what extent end-users of all electronic communications services are able to make free and informed choices, including on the basis of complete contractual information, and are able to switch easily their provider of electronic communications services;

b to what extent any lack of abilities referred to in point (a) has resulted in market distortions or end-user harm;

c to what extent effective access to emergency services is appreciably threatened, in particular due to an increased use of number-independent interpersonal communications services, by a lack of interoperability or technological developments;

d the likely cost of any potential readjustments of obligations in Title III of Part III or impact on innovation for providers of electronic communications services.

2 The Commission, taking utmost account of the BEREC opinion, shall publish a report on the application of Title III of Part III and shall submit a legislative proposal to amend that Title where it considers this to be necessary to ensure that the objectives set out in Article 3 continue to be met.

Article 124 U.K.

Transposition

1 Member States shall adopt and publish, by 21 December 2020, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately communicate the text of those measures to the Commission.

Member States shall apply those measures from 21 December 2020.

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When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2 By way of derogation from paragraph 1 of this Article, Article 53(2), (3) and (4) of this Directive shall apply from 20 December 2018 where harmonised conditions have been set by technical implementing measures in accordance with Decision No 676/2002/EC in order to enable the radio spectrum use for wireless broadband networks and services. In relation to radio spectrum bands for which harmonised conditions have not been set by 20 December 2018, Article 53(2), (3) and (4) of this Directive shall apply from the date of the adoption of the technical implementing measures in accordance with Article 4 of Decision No 676/2002/EC.

By way of derogation from paragraph 1 of this Article, Member States shall apply the measures necessary to comply with Article 54 from 31 December 2020.

3 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 125 U.K.

Repeal

Directives 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC, as listed in Annex XII, Part A, are repealed with effect from 21 December 2020, without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law and the dates of application of the Directives set out in Annex XII, Part B.

Article 5 of Decision No 243/2012/EU is deleted with effect from 21 December 2020.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex XIII.

Article 126 U.K.

Entry into force

This Directive shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

Article 127 U.K.

Addressees

This Directive is addressed to the Member States.