

Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast) (Text with EEA relevance)

PART II

NETWORKS

TITLE I

MARKET ENTRY AND DEPLOYMENT

CHAPTER III

Access to radio spectrum

Section 2

Rights of use

Article 51

Transfer or lease of individual rights of use for radio spectrum

1 Member States shall ensure that undertakings may transfer or lease to other undertakings individual rights of use for radio spectrum.

Member States may determine that this paragraph does not apply where the undertaking's individual right of use for radio spectrum was initially granted free of charge or assigned for broadcasting.

2 Member States shall ensure that an undertaking's intention to transfer or lease rights of use for radio spectrum, as well as the effective transfer thereof is notified in accordance with national procedures to the competent authority and is made public. In the case of harmonised radio spectrum, any such transfer shall comply with such harmonised use.

3 Member States shall allow the transfer or lease of rights of use for radio spectrum where the original conditions attached to the rights of use are maintained. Without prejudice to the need to ensure the absence of a distortion of competition, in particular in accordance with Article 52, Member States shall:

- a submit transfers and leases to the least onerous procedure possible;
- b not refuse the lease of rights of use for radio spectrum where the lessor undertakes to remain liable for meeting the original conditions attached to the rights of use;
- c not refuse the transfer of rights of use for radio spectrum unless there is a clear risk that the new holder is unable to meet the original conditions for the right of use.

Any administrative charge imposed on undertakings in connection with processing an application for the transfer or lease of rights of use for radio spectrum shall comply with Article 16.

Points (a), (b) and (c) of the first subparagraph are without prejudice to the Member States' competence to enforce compliance with the conditions attached to the rights of use at any time, both with regard to the lessor and the lessee, in accordance with their national law.

Competent authorities shall facilitate the transfer or lease of rights of use for radio spectrum by giving consideration to any request to adapt the conditions attached to the rights in a timely manner and by ensuring that those rights or the relevant radio spectrum may to the best extent be partitioned or disaggregated.

In light of any transfer or lease of rights of use for radio spectrum, competent authorities shall make relevant details relating to tradable individual rights publicly available in a standardised electronic format when the rights are created and keep those details for as long as the rights exist.

The Commission may adopt implementing acts specifying those relevant details.

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