

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 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).