

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 I

**FRAMEWORK (GENERAL RULES FOR THE ORGANISATION OF THE SECTOR)**

TITLE I

**SCOPE, AIM AND OBJECTIVES, DEFINITIONS**

*CHAPTER II*

***Objectives***

*Article 3*

**General objectives**

1 Member States shall ensure that in carrying out the regulatory tasks specified in this Directive, the national regulatory and other competent authorities take all reasonable measures which are necessary and proportionate for achieving the objectives set out in paragraph 2. Member States, the Commission, the Radio Spectrum Policy Group ('RSPG'), and BEREC shall also contribute to the achievement of those objectives.

National regulatory and other competent authorities shall contribute within their competence to ensuring the implementation of policies aimed at the promotion of freedom of expression and information, cultural and linguistic diversity, as well as media pluralism.

2 In the context of this Directive, the national regulatory and other competent authorities as well as BEREC, the Commission and the Member States shall pursue each of the following general objectives, which are not listed in order of priority:

- a promote connectivity and access to, and take-up of, very high capacity networks, including fixed, mobile and wireless networks, by all citizens and businesses of the Union;
- b promote competition in the provision of electronic communications networks and associated facilities, including efficient infrastructure-based competition, and in the provision of electronic communications services and associated services;
- c contribute to the development of the internal market by removing remaining obstacles to, and facilitating convergent conditions for, investment in, and the provision of, electronic communications networks, electronic communications services, associated facilities and associated services, throughout the Union, by developing common rules and predictable regulatory approaches, by favouring the effective, efficient and coordinated use of radio spectrum, open innovation, the establishment and development of trans-European networks, the provision, availability and interoperability of pan-European services, and end-to-end connectivity;

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- d promote the interests of the citizens of the Union, by ensuring connectivity and the widespread availability and take-up of very high capacity networks, including fixed, mobile and wireless networks, and of electronic communications services, by enabling maximum benefits in terms of choice, price and quality on the basis of effective competition, by maintaining the security of networks and services, by ensuring a high and common level of protection for end-users through the necessary sector-specific rules and by addressing the needs, such as affordable prices, of specific social groups, in particular end-users with disabilities, elderly end-users and end-users with special social needs, and choice and equivalent access for end-users with disabilities.

3 Where the Commission establishes benchmarks and reports on the effectiveness of Member States' measures towards achieving the objectives referred to in paragraph 2, the Commission shall, where necessary, be assisted by Member States, national regulatory authorities, BEREC and the RSPG.

4 The national regulatory and other competent authorities shall, in pursuit of the policy objectives referred to in paragraph 2 and specified in this paragraph, inter alia:

- a promote regulatory predictability by ensuring a consistent regulatory approach over appropriate review periods and through cooperation with each other, with BEREC, with the RSPG and with the Commission;
- b ensure that, in similar circumstances, there is no discrimination in the treatment of providers of electronic communications networks and services;
- c apply Union law in a technologically neutral fashion, to the extent that this is consistent with the achievement of the objectives set out in paragraph 2;
- d promote efficient investment and innovation in new and enhanced infrastructures, including by ensuring that any access obligation takes appropriate account of the risk incurred by the investing undertakings and by permitting various cooperative arrangements between investors and parties seeking access to diversify the risk of investment, while ensuring that competition in the market and the principle of non-discrimination are preserved;
- e take due account of the variety of conditions relating to infrastructure, competition, the circumstances of end-users and, in particular, consumers in the various geographic areas within a Member State, including local infrastructure managed by natural persons on a not-for-profit basis;
- f impose ex ante regulatory obligations only to the extent necessary to secure effective and sustainable competition in the interest of end-users and relax or lift such obligations as soon as that condition is fulfilled.

Member States shall ensure that the national regulatory and other competent authorities act impartially, objectively, transparently and in a non-discriminatory and proportionate manner.

#### *Article 4*

### **Strategic planning and coordination of radio spectrum policy**

1 Member States shall cooperate with each other and with the Commission in the strategic planning, coordination and harmonisation of the use of radio spectrum in the Union in accordance with Union policies for the establishment and functioning of the internal market in electronic communications. To that end, they shall take into consideration, inter alia, the economic, safety, health, public interest, freedom of expression, cultural, scientific, social and technical aspects of Union policies, as well as the various interests of radio spectrum user

communities, with the aim of optimising the use of radio spectrum and avoiding harmful interference.

2 By cooperating with each other and with the Commission, Member States shall promote the coordination of radio spectrum policy approaches in the Union and, where appropriate, harmonised conditions with regard to the availability and efficient use of radio spectrum necessary for the establishment and functioning of the internal market in electronic communications.

3 Member States shall, through the RSPG, cooperate with each other and with the Commission in accordance with paragraph 1, and upon their request with the European Parliament and with the Council, in support of the strategic planning and coordination of radio spectrum policy approaches in the Union, by:

- a developing best practices on radio spectrum related matters, with a view to implementing this Directive;
- b facilitating the coordination between Member States with a view to implementing this Directive and other Union law and to contributing to the development of the internal market;
- c coordinating their approaches to the assignment and authorisation of use of radio spectrum and publishing reports or opinions on radio spectrum related matters.

BEREC shall participate on issues concerning its competence relating to market regulation and competition related to radio spectrum.

4 The Commission, taking utmost account of the opinion of the RSPG, may submit legislative proposals to the European Parliament and to the Council for the purpose of establishing multiannual radio spectrum policy programmes, setting out the policy orientations and objectives for the strategic planning and harmonisation of the use of radio spectrum in accordance with this Directive, as well as for the purpose of releasing harmonised radio spectrum for shared use or for use not subject to individual rights.