



2016/0288(COD)

10.5.2017

OPINION

of the Committee on Culture and Education

for the Committee on Industry, Research and Energy

on the proposal for a directive of the European Parliament and of the Council
establishing the European Electronic Communications Code (Recast)
(COM(2016)0590 – C8-0379/2016 – 2016/0288(COD))

Rapporteur: Curzio Maltese

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SHORT JUSTIFICATION

I. Introductory remarks

On September 14, 2016, the Commission, within the framework of its Digital Single Market Strategy (DSM), adopted its recast proposal for a new European code of electronic communications. The proposal reviews the existing legislative framework for telecommunications by amending four Directives: Framework, Authorisation, Access and Universal services Directives.

The code is designed to take into account of the significant changes in the markets, consumer trends and technologies since 2009 when the framework was last modified.

In this respect the Commission's proposal includes measures to stimulate investment and employment in the Union in very high capacity networks, new rules for the distribution of spectrum for mobile and 5G connectivity, as well as changes to governance, spectrum management, universal service regime, services and end-user protection rules, numbering and emergency communications.

The recast proposal addresses a wide variety of issues, which aim to allow European consumers to benefit from a greater selection of products at lower prices and a supply of innovative and high quality services.

II. Position of the Rapporteur

The Rapporteur welcomes the proposal's objective of simplifying and clarifying the current legal framework on electronic communications. However, the Rapporteur would like to address specific issues such as media pluralism and cultural diversity, aspects relating to accessibility to users with disabilities, pluralism of information, end-users protection, radio access, better access for remote regions, and makes several suggestions accordingly.

The main two points of the opinion are:

(i) General objectives (Article 3)

The Rapporteur considers it to be essential that national regulatory and other competent authorities contribute within their competencies to ensure the implementation of policies aimed at the promotion of cultural and linguistic diversity, as well as media pluralism. In that regard, the Rapporteur suggest to replace “may” by “shall” so as to make that objective a legal imperative.

(ii) Powers and responsibilities of the national regulatory authorities with regard to access and interconnection (Article 59)

The Rapporteur suggests including media pluralism in the list of the policy objectives that national regulatory agencies should pursue in imposing access obligations. This is legally

consistent with the objective referred to in Article 3, paragraph 1.

AMENDMENTS

The Committee on Culture and Education calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Member States should ensure that citizens of the Union have universal access to a wide range of information and high-quality and public value content, in the interest of media pluralism and cultural diversity, taking into account the rapid evolution of distribution systems and business models currently affecting the media sector.

Justification

This new recital is needed to reinforce one of the main purposes of this recast which is to ensure that this Directive can properly safeguard media pluralism and cultural diversity in respect of the changes that have taken place in the media sector. This addition is necessary to ensure the internal logic of the text.

Amendment 2

Proposal for a directive

Recital 8

Text proposed by the Commission

Amendment

(8) This Directive does not affect the application to radio equipment of Directive 2014/53/EU, but does cover consumer equipment used for digital television.

(8) This Directive does not affect the application to radio equipment of Directive 2014/53/EU, but does cover consumer equipment used for **radio and** digital television.

Justification

This amendment is needed to ensure the internal logic and coherence of the text. It is

important for regulators to encourage network operators and terminal equipment manufacturers to cooperate in order to facilitate access by disabled users to electronic communications services included radio services.

Amendment 3

Proposal for a directive Recital 9

Text proposed by the Commission

(9) In order to allow national regulatory authorities to meet the objectives set out in this Directive, in particular concerning end-to-end interoperability, the scope of the Directive should cover certain aspects of radio equipment as defined in Directive 2014/53/EU of the European Parliament and of the Council²² and consumer equipment used for digital television, in order to facilitate access for disabled users. It is important for regulators to encourage network operators and equipment manufacturers to cooperate in order to ***facilitate*** access by ***disabled*** users to electronic communications services. The non-exclusive use of spectrum for the self-use of radio terminal equipment, although not related to an economic activity, should also be subject to this directive in order to guarantee a coordinated approach with regard to their authorisation regime.

²² Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).

Amendment

(9) In order to allow national regulatory authorities to meet the objectives set out in this Directive, in particular concerning end-to-end interoperability, the scope of the Directive should cover certain aspects of radio equipment as defined in Directive 2014/53/EU of the European Parliament and of the Council²² and consumer equipment used for digital television, in order to facilitate access for disabled users. It is important for regulators to encourage network operators and equipment manufacturers to cooperate in order to ***enable*** access by users ***with disabilities*** to electronic communications services. The non-exclusive use of spectrum for the self-use of radio terminal equipment, although not related to an economic activity, should also be subject to this directive in order to guarantee a coordinated approach with regard to their authorisation regime.

²² Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).

Amendment 4

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to ***what a network based*** on optical fibre ***elements*** at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to a multi-dwelling building, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air

Amendment

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to ***those*** on optical fibre ***networks*** at least up to the distribution point at the serving location can deliver ***such as fibre to the home networks***. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to a multi-dwelling building, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based

interfaces and a more densified network architecture.

on enhanced air interfaces and a more densified network architecture.

Amendment 5

Proposal for a directive Recital 21

Text proposed by the Commission

(21) National regulatory and other competent authorities should have a harmonised set of objectives and principles to underpin their work, and should, where necessary, coordinate their actions with the authorities of other Member States and with BEREC in carrying out their tasks under this regulatory framework.

Amendment

(21) National regulatory and other competent authorities should have a harmonised set of objectives and principles to underpin their work, and should, where necessary, coordinate their actions with the **regulatory** authorities of other Member States and with BEREC in carrying out their tasks under this regulatory framework.

Justification

This recast is designed to simplify and update the current legal framework. Considering that the promotion of media pluralism and cultural diversity is intrinsic part of this legal framework, this addition is needed to ensure that coordination between national authorities must take place at regulatory level. This addition is therefore necessary to ensure the internal logic of the text.

Amendment 6

Proposal for a directive Recital 22

Text proposed by the Commission

(22) The activities of competent authorities established under this Directive contribute to the fulfilment of broader policies in the areas of culture, employment, the environment, social cohesion and town and country planning.

Amendment

(22) The activities of competent authorities established under this Directive contribute to the fulfilment of broader policies in the areas of culture **and cultural diversity, media pluralism**, employment, the environment, social cohesion and town and country planning.

Justification

This amendment is needed to align the text with the objectives in Article 3. This amendment is therefore necessary to ensure the internal logic of the text.

Amendment 7

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) In order to translate the political aims of the Digital Single Market strategy into regulatory terms, the framework should, in addition to the existing three primary objectives of promoting competition, internal market and end-user interests, pursue an additional connectivity objective, articulated in terms of outcomes: widespread access to and take-up of very high capacity fixed and mobile connectivity for all Union citizens and businesses on the basis of reasonable price and choice, enabled by effective and fair competition, by efficient investment and open innovation, by efficient use of spectrum, by common rules and predictable regulatory approaches in the internal market and by the necessary sector-specific rules to safeguard the interests of citizens. For the Member States, the national regulatory authorities and other competent authorities and the stakeholders, that connectivity objective translates on the one hand into aiming for the highest capacity networks and services economically sustainable in a given area, and on the other hand into pursuing territorial cohesion, in the sense of convergence in capacity available in different areas.

Amendment

(23) In order to translate the political aims of the Digital Single Market strategy into regulatory terms, the framework should, in addition to the existing three primary objectives of promoting ***sustainable*** competition, internal market and end-user interests, pursue an additional connectivity objective, articulated in terms of outcomes: widespread access to and take-up of very high capacity fixed and mobile connectivity for all Union citizens and businesses on the basis of reasonable price and choice, enabled by effective and fair competition, by efficient investment and open innovation, by efficient use of spectrum, by common rules and predictable regulatory approaches in the internal market and by the necessary sector-specific rules to safeguard the interests of citizens, ***in particular media pluralism and cultural diversity***. For the Member States, the national regulatory authorities and other competent authorities and the stakeholders, that connectivity objective translates on the one hand into aiming for the highest capacity networks and services economically sustainable in a given area, and on the other hand into pursuing territorial cohesion, in the sense of convergence in capacity available in different areas.

Amendment 8

Proposal for a directive Recital 25

Text proposed by the Commission

(25) Both efficient investment and competition should be encouraged in tandem, in order to increase economic growth, innovation and consumer choice.

Amendment

(25) Both efficient investment and **sustainable** competition should be encouraged in tandem, in order to increase economic growth, innovation and consumer choice, **in order to guarantee the accessibility of consumers to services of high quality and at an affordable price.**

Justification

The addition of 'sustainable' is needed in order to ensure consistency with the amendment to Recital 23. Moreover the further addition is justified because one of the main purposes of the proposal is to improve consumers' access to universal services, and therefore this change is therefore necessary to ensure the internal logic of the text.

Amendment 9

Proposal for a directive Recital 101

Text proposed by the Commission

(101) Radio spectrum is a scarce public resource with an important public and market value. It is an essential input for radio-based electronic communications networks and services and, in so far as it relates to such networks and services, should therefore be efficiently allocated and assigned by national regulatory authorities according to harmonised objectives and principles governing their action as well as to objective, transparent and non-discriminatory criteria, taking into account the democratic, social, linguistic and cultural interests related to the use of frequencies.. Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum

Amendment

(101) Radio spectrum is a scarce public resource with an important public and market value. **Radio spectrum serves the public interest in a wide range of societal, cultural, social and economic objectives, for public access to information, the right of freedom of expression and media pluralism.** It is an essential input for radio-based electronic communications networks and services and, in so far as it relates to such networks and services, should therefore be efficiently allocated and assigned by national regulatory authorities according to harmonised objectives and principles governing their action as well as to objective, transparent and non-discriminatory criteria, taking into account the democratic, social, linguistic and cultural interests related **to national and**

Decision)³³ establishes a framework for harmonisation of radio spectrum,.

regional characteristics to the use of frequencies.. Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)³³ establishes a framework for harmonisation of radio spectrum,

³³ Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002).

³³ Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ L 108, 24.4.2002).

Justification

This amendment is needed to align the text with the rest of the Articles. This amendment is therefore necessary to ensure the internal logic of the text.

Amendment 10

Proposal for a directive Recital 102

Text proposed by the Commission

(102) Radio spectrum policy activities in the Union should be without prejudice to measures taken, at Union or national level, in accordance with Union law, to pursue general interest objectives, in particular with regard to content regulation and audiovisual and media policies, and the right of Member States to organise and use their radio spectrum for public order, public security and defence. As use of spectrum for military and other national public security purposes impacts on the availability of spectrum for the internal market, radio spectrum policy should take into account all sectors and aspects of Union policies and balance their respective needs, while respecting Member States' rights.

Amendment

(102) Radio spectrum policy activities in the Union should be without prejudice to measures taken, at Union or national level, in accordance with Union law, to pursue general interest objectives, in particular with regard to content regulation and audiovisual and media policies, and the right of Member States to organise and use their radio spectrum for public order, public security and defence. As use of spectrum for military and other national public security purposes impacts on the availability of spectrum for the internal market, radio spectrum policy should take into account all sectors and aspects of Union policies and balance their respective needs, while respecting Member States' rights ***and competences in this field and the cultural, audiovisual and media***

policies of the Member States.

Justification

This amendment is needed to align the text with the rest of the Articles.

Amendment 11

Proposal for a directive
Recital 144

Text proposed by the Commission

(144) Competition rules alone may not be sufficient to ensure cultural diversity and media pluralism in the area of digital television. Technological and market developments make it necessary to review obligations to provide conditional access on fair, reasonable and non-discriminatory terms on a regular basis, either by a Member State for its national market or the Commission for the Union, in particular to determine whether there is justification for extending obligations to electronic programme guides (EPGs) and application programme interfaces (APIs), to the extent that is necessary to ensure accessibility for end-users to specified digital broadcasting services. Member States may specify the digital broadcasting services to which access by end-users must be ensured by any legislative, regulatory or administrative means that they deem necessary.

Amendment

(144) Competition rules alone may not be sufficient to ensure cultural diversity and media pluralism in the area of digital television. Technological and market developments make it necessary to review obligations to provide conditional access on fair, reasonable and non-discriminatory terms on a regular basis, either by a Member State for its national market or the Commission for the Union, in particular to determine whether there is justification for extending obligations to electronic programme guides (EPGs) and application programme interfaces (APIs), to the extent that is necessary to ensure accessibility for end-users to specified digital broadcasting services. Member States may specify the digital broadcasting services to which access by end-users must be ensured by any legislative, regulatory or administrative means that they deem necessary. ***The concept of the electronic programme guide needs to be defined in a future-proof and dynamic way, with respect both to emerging navigation and listing facilities on platforms and to developments in connected television and radio services.***

Justification

The concept of the electronic programme guide needs to be future-proof. This amendment is therefore necessary to ensure the internal logic of the text.

Amendment 12

Proposal for a directive Recital 196

Text proposed by the Commission

(196) A fundamental requirement of universal service is to ensure that all end-users have access at an affordable price to available functional internet access and voice communications services, at **least at** a fixed location. Member States should also have the **possibility to** ensure affordability of services not provided at a fixed location but to citizens on the move, **where they deem** this necessary to ensure their full social and economic participation in society. There should be no limitations on the technical means by which the connection is provided, allowing for wired or wireless technologies, nor any limitations on the category of operators which provide part or all of universal service obligations.

Amendment 13

Proposal for a directive Recital 201

Text proposed by the Commission

(201) It should no longer be possible to refuse end-users access to the minimum set of connectivity services. A right to contract with an undertaking should mean that end-users who might face refusal, in particular those with low incomes or special social needs, should have the possibility to enter into a contract for the provision of affordable functional internet access and voice communications services at **least at** a fixed location with any undertaking providing such services in that location. In order to minimise the financial risks such as non-payment of bills, undertakings should be free to provide the contract under

Amendment

(196) A fundamental requirement of universal service is to ensure that all end-users have access at an affordable price to available functional internet access and voice communications services, at a fixed location **and by way of mobile connection**. Member States should also have the ensure affordability of services not provided at a fixed location but to citizens on the move, **as** this necessary to ensure their full social and economic participation in society. There should be no limitations on the technical means by which the connection is provided, allowing for wired or wireless technologies, nor any limitations on the category of operators which provide part or all of universal service obligations.

Amendment

(201) It should no longer be possible to refuse end-users access to the minimum set of connectivity services. A right to contract with an undertaking should mean that end-users who might face refusal, in particular those with low incomes or special social needs, should have the possibility to enter into a contract for the provision of affordable functional internet access and voice communications services at a fixed location **and by way of mobile connection** with any undertaking providing such services in that location. In order to minimise the financial risks such as non-payment of bills, undertakings should be

pre-payment terms, on the basis of affordable individual pre-paid units.

free to provide the contract under pre-payment terms, on the basis of affordable individual pre-paid units.

Amendment 14

Proposal for a directive Recital 206

Text proposed by the Commission

(206) Member States should introduce measures to promote the creation of a market for affordable products and services incorporating facilities for **disabled end-users**, including **equipment with** assistive technologies. This can be achieved, inter alia, by referring to European standards, or by introducing requirements in accordance with Directive xxx/YYYY/EU of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services³⁸ Member States should define appropriate measures according to national circumstances, which gives flexibility for Member States to take specific measures for instance if the market is not delivering affordable products and services incorporating facilities for **disabled end-users** under normal economic conditions.

³⁸ OJ C [...], [...], p. [...].

Amendment

(206) Member States should introduce measures to promote the creation of a market for affordable **and accessible** products and services incorporating facilities for **end-users with disabilities**, including **when necessary** assistive technologies **interoperable with publicly available electronic communication equipment and services**. This can be achieved, inter alia, by referring to European standards, or by introducing requirements in accordance with Directive xxx/YYYY/EU of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services³⁸ Member States should define appropriate measures according to national circumstances, which gives flexibility for Member States to take specific measures for instance if the market is not delivering affordable **and accessible** products and services incorporating facilities for **end-users with disabilities** under normal economic conditions.

³⁸ OJ C [...], [...], p. [...].

Justification

This amendment is needed for further alignment of the text with the rest of the amendments and in particular to clarify the difference between accessible mainstream products and assistive technologies (e.g. special devices for deaf-blind persons).

Amendment 15

Proposal for a directive Recital 211

Text proposed by the Commission

(211) The costs of ensuring the availability of a connection capable of delivering functional internet access service as identified in accordance with Article 79 (2) and voice communications service at a fixed location at an affordable price within the universal service obligations should be estimated, in particular by assessing the expected financial burden for undertakings and users in the electronic communications sector.

Amendment

(211) The costs of ensuring the availability of a connection capable of delivering functional internet access service as identified in accordance with Article 79 (2) and voice communications service at a fixed location **and by way of mobile connection** at an affordable price within the universal service obligations should be estimated, in particular by assessing the expected financial burden for undertakings and users in the electronic communications sector.

Amendment 16

Proposal for a directive Recital 213

Text proposed by the Commission

(213) When an undertaking designated to ensure the availability at a fixed location of functional internet access or voice communications services, as identified in Article 81 of this Directive, chooses to dispose of a substantial part, viewed in light of its universal service obligation, or all, of its local access network assets in the national territory to a separate legal entity under different ultimate ownership, the national regulatory authority should assess the effects of the transaction in order to ensure the continuity of universal service obligations in all or parts of the national territory. To this end, the national regulatory authority which imposed the universal service obligations should be informed by the undertaking in advance of the disposal. The assessment of the national regulatory authority should not prejudice the completion of the transaction.

Amendment

(213) When an undertaking designated to ensure the availability at a fixed location **and by way of mobile connection** of functional internet access or voice communications services, as identified in Article 81 of this Directive, chooses to dispose of a substantial part, viewed in light of its universal service obligation, or all, of its local access network assets in the national territory to a separate legal entity under different ultimate ownership, the national regulatory authority should assess the effects of the transaction in order to ensure the continuity of universal service obligations in all or parts of the national territory. To this end, the national regulatory authority which imposed the universal service obligations should be informed by the undertaking in advance of the disposal. The assessment of the national regulatory authority should not

prejudice the completion of the transaction.

Amendment 17

Proposal for a directive Recital 214

Text proposed by the Commission

(214) In order to provide stability and support a gradual transition, Member States should be able to continue to ensure the provision of universal services in their territory, other than functional internet access and voice communications services at a fixed location, that are included in the scope of their universal obligations on the basis of Directive 2002/22/EC at the entry into force of this Directive, provided the services or comparable services are not available under normal commercial circumstances. Allowing the continuation of the provision of public payphones, directories and directory enquiry services under the universal service regime, as long as the need is still demonstrated, would give Member States the flexibility necessary to duly take into account the varying national circumstances. However, the financing of such services should be done via public funds as for the other universal service obligations.

Amendment

(214) In order to provide stability and support a gradual transition, Member States should be able to continue to ensure the provision of universal services in their territory, other than functional internet access and voice communications services at a fixed location **and by way of mobile connection**, that are included in the scope of their universal obligations on the basis of Directive 2002/22/EC at the entry into force of this Directive, provided the services or comparable services are not available under normal commercial circumstances. Allowing the continuation of the provision of public payphones, directories and directory enquiry services under the universal service regime, as long as the need is still demonstrated, would give Member States the flexibility necessary to duly take into account the varying national circumstances. However, the financing of such services should be done via public funds as for the other universal service obligations.

Amendment 18

Proposal for a directive Recital 254

Text proposed by the Commission

(254) In line with the objectives of the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of Persons with Disabilities, the regulatory framework should ensure that all users, including

Amendment

(254) In line with the objectives of the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of Persons with Disabilities, the regulatory framework should ensure that all users, including **end-**

disabled end-users, the elderly, and users with special social needs, have easy access to affordable high quality services. Declaration 22 annexed to the final Act of Amsterdam provides that the institutions of the Union shall take account of the needs of persons with *a disability* in drawing up measures under Article 114 of the TFEU.

users with disabilities, older people, and users with special social needs, have easy *and equal* access to affordable *and accessible* high quality services. Declaration 22 annexed to the final Act of Amsterdam provides that the institutions of the Union shall take account of the needs of persons with *disabilities* in drawing up measures under Article 114 of the TFEU.

Justification

This amendment is needed for further alignment of the text with the rest of the amendments. This amendment is therefore necessary to ensure the internal logic of the text.

Amendment 19

Proposal for a directive Recital 265

Text proposed by the Commission

(265) End-users should be able to enjoy a guarantee of interoperability in respect of all equipment sold in the Union for the reception of digital television. Member States should be able to require minimum harmonised standards in respect of such equipment. Such standards could be adapted from time to time in the light of technological and market developments.

Amendment

(265) End-users should be able to enjoy a guarantee of interoperability in respect of all equipment sold in the Union for the reception of *radio and* digital television. Member States should be able to require minimum harmonised standards in respect of such equipment. Such standards could be adapted from time to time in the light of technological and market developments.

Justification

The addition of 'radio' is justified because one of the main purposes of the proposal is to improve consumers' access to universal services as well as interoperability of the related equipment - in both these respects, radio should be regarded as equally important as digital television. This change is therefore necessary to ensure the internal logic of the text.

Amendment 20

Proposal for a directive Recital 269

Text proposed by the Commission

(269) Member States should be able to

Amendment

(269) Member States should be able to

lay down proportionate obligations on undertakings under their jurisdiction, in the interest of legitimate public policy considerations; but such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law and should be proportionate and transparent. ‘Must carry’ obligations may be applied to specified radio and television broadcast channels and complementary services supplied by a specified media service provider. Obligations imposed by Member States should be reasonable, that is they should be proportionate and transparent in the light of clearly defined general interest objectives. Member States should provide an objective justification for the ‘must carry’ obligations that they impose in their national law so as to ensure that such obligations are transparent, proportionate and clearly defined. ***The obligations should be designed in a way which provides sufficient incentives for efficient investment in infrastructure.*** Obligations should be subject to periodic review at least every five years in order to keep them up-to-date with technological and market evolution and in order to ensure that they continue to be proportionate to the objectives to be achieved. Obligations could, where appropriate, entail a provision for proportionate remuneration.

lay down proportionate obligations on undertakings under their jurisdiction, in the interest of legitimate public policy considerations; but such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law and should be proportionate and transparent. ‘Must carry’ obligations may be applied to specified radio and television broadcast channels and complementary services supplied by a specified media service provider. Obligations imposed by Member States should be reasonable, that is they should be proportionate and transparent in the light of clearly defined general interest objectives, ***for instance, media pluralism and cultural diversity.*** Member States should provide an objective justification for the ‘must carry’ obligations that they impose in their national law so as to ensure that such obligations are transparent, proportionate and clearly defined. Obligations should be subject to periodic review at least every five years in order to keep them up-to-date with technological and market evolution and in order to ensure that they continue to be proportionate to the objectives to be achieved. Obligations could, where appropriate, entail a provision for proportionate remuneration.

Justification

The legitimacy of ‘must carry’ rules should not be reduced to whether they can help to generate investment in infrastructure. These objectives are not only economic in nature, but also relate to social and cultural policy. They help ensure media pluralism, cultural diversity and democratic participation. This amendment is therefore necessary to ensure the internal logic of the text.

Amendment 21

Proposal for a directive Recital 270

Text proposed by the Commission

(270) Networks used for the distribution of radio or television broadcasts to the public include cable, IPTV, satellite and terrestrial broadcasting networks. They might also include other networks to the extent that a significant number of end-users use such networks ***as their principal means*** to receive radio and television broadcasts. Must carry obligations can include the transmission of services specifically designed to enable appropriate access by disabled users. Accordingly complementary services include, amongst others, services designed to improve accessibility for end-users with disabilities, such as videotext, subtitling, audio description and sign language. Because of the growing provision and reception of connected TV services and the continued importance of electronic programme guides for user choice the transmission of programme-related data supporting those functionalities can be included in must carry obligations.

Amendment

(270) ***Electronic communications*** networks ***and services*** used for the distribution of radio or television broadcasts to the public include cable, IPTV, satellite and terrestrial broadcasting networks. They might also include other networks ***and services*** to the extent that a significant number of end-users use such networks to receive radio and television broadcasts. Must carry obligations can include the transmission of services specifically designed to enable appropriate access by disabled users. Accordingly complementary services include, amongst others, services designed to improve accessibility for end-users with disabilities, such as videotext, subtitling, audio description and sign language. Because of the growing provision and reception of connected TV services and the continued importance of electronic programme guides ***and other navigation facilities*** for user choice the transmission of programme-related data supporting those functionalities can be included in must carry obligations.

Justification

These changes are to ensure that the wording is future-proof. Users now also access content via electronic communications services and not solely via electronic communications networks. Furthermore, communications networks are no longer used as the 'principal means'. This amendment is necessary to ensure the internal logic of the text.

Amendment 22

Proposal for a directive

Article 2 – paragraph 1 – point 2

Text proposed by the Commission

(2) 'very high capacity network' means an electronic communications network which ***either*** consists wholly of optical fibre elements at least up to the distribution

Amendment

(2) 'very high capacity network' means an electronic communications network which consists wholly of optical fibre elements at least up to the distribution

point at the serving location **or** which is capable of delivering under usual peak-time conditions similar network performance in terms of available down- and uplink bandwidth, resilience, error-related parameters, and latency and its variation. Network performance **can be considered similar regardless of whether the** end-user experience varies due to the inherently different characteristics of the medium by which the network ultimately connects with the network termination point.

point at the serving location **under a fibre to the home configuration or any other type of network** which is capable of delivering under usual peak-time conditions similar network performance in terms of available down- and uplink bandwidth, resilience, error-related parameters, and latency and its variation. Network performance **will be assessed solely on the basis of technical parameters.**

Justification

The Commission has proposed to use regulatory incentives to foster investment in very high capacity networks that will be rolled-out in order for Europe to have the best communications infrastructure possible. The cultural and audio-visual sector is very advanced in the process of digitisation. It will benefit immensely from such high speed fibre to the home and 5G mobile networks or any other network that can deliver the same or a better performance.

Amendment 23

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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 and BEREC shall also contribute to the achievement of these objectives.

Amendment

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** and BEREC shall also contribute to the achievement of these objectives.

Justification

This Article is essential because it defines the grand objectives that all public action should aim to achieve in the sector. In doing so, all public institutions play an important role, including the European Commission.

Amendment 24

Proposal for a directive

Article 3 – paragraph 1 – subparagraph 2

Text proposed by the Commission

National regulatory and other competent authorities **may** contribute within their competencies to ensuring the implementation of policies aimed at the promotion of cultural and linguistic diversity, as well as media pluralism.

Amendment

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

Justification

Properly safeguarding media pluralism and cultural diversity, should be one of the main purposes of this recast. The term 'may' should therefore be replaced by 'shall' to ensure internal logic of the text.

Amendment 25

Proposal for a directive

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. The national regulatory and other competent authorities as well as BEREC shall:

Amendment

2. The national regulatory and other competent authorities as well as BEREC **and the Commission, in discharging their respective responsibilities under this Directive, shall pursue each of the general objectives listed below. The expression of the list in the order from (a) to (d) does not constitute a ranking of the general objectives:**

Justification

The regulatory objectives are of equal importance and are therefore not to be prioritised. The Commission should actively contribute to and be held accountable for achieving the objectives of the framework.

Amendment 26

Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

(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, associated facilities and services and electronic communications services throughout the Union, by developing common rules and predictable regulatory approaches, by favouring the effective, efficient and coordinated use of spectrum, open innovation, the establishment and development of trans-European networks, the availability and interoperability of pan-European services, and end-to-end connectivity;

Amendment

(c) contribute to the development of the internal market ***in particular by ensuring effective and fair competition, as well as social and territorial cohesion*** by removing remaining obstacles to, and facilitating convergent conditions for, investment in and the provision of electronic communications networks, associated facilities and services and electronic communications services throughout the Union, by developing common rules and predictable regulatory approaches, by favouring the effective, efficient and coordinated use of spectrum, open innovation, the establishment and development of trans-European networks, the availability and interoperability of pan-European services, and end-to-end connectivity ***and equivalent access for all end-users***;

Amendment 27

Proposal for a directive
Article 3 – paragraph 3 – point e

Text proposed by the Commission

(e) taking due account of the variety of conditions relating to infrastructure, competition and ***consumers*** that exist in the various geographic areas within a Member State;

Amendment

(e) taking due account of the variety of conditions relating to infrastructure, ***as well as service*** competition and ***end-users' circumstances*** that exist in the various geographic areas within a Member State;

Amendment 28

Proposal for a directive
Article 4 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *The provisions of this Directive shall be without prejudice to existing Union law and to measures taken at national level for the allocation of radio spectrum as a valuable public asset which aims to pursue general interest objectives to organise and use spectrum for public order, security and defence and to promote media pluralism and cultural, linguistic and media diversity.*

Amendment 29

Proposal for a directive

Article 5 – paragraph 1 – subparagraph 2 – indent 8

Text proposed by the Commission

– ***dealing with issues*** related to open internet access;

Amendment

– ***ensuring compliance with rules*** related to open internet access;

Amendment 30

Proposal for a directive

Article 26 – paragraph 1

Text proposed by the Commission

1. In the event of a dispute arising in connection with existing obligations under this Directive between undertakings providing electronic communications networks or services in a Member State, or between such undertakings and other undertakings in the Member State benefiting from obligations of access and/or interconnection or between undertakings providing electronic communications networks or services in a Member State and providers of associated facilities, the national regulatory authority concerned shall, at the request of either party, and without prejudice to paragraph 2, issue a binding decision to resolve the

Amendment

1. In the event of a dispute arising in connection with existing obligations under this Directive between undertakings providing electronic communications networks or services in a Member State, or between such undertakings and other undertakings in the Member State benefiting from obligations of access and/or interconnection or between undertakings providing electronic communications networks or services in a Member State and providers of associated facilities, the national regulatory authority concerned shall, at the request of either party, and without prejudice to paragraph 2, issue a binding decision to resolve the

dispute in the shortest possible time frame and in any case within four months, except in exceptional circumstances. The Member State concerned shall require that all parties cooperate fully with the national regulatory authority.

dispute in the shortest possible time frame ***on the basis of clear and efficient procedures and guidelines*** and in any case within four months, except in exceptional circumstances. The Member State concerned shall require that all parties cooperate fully with the national regulatory authority.

Justification

This recast is designed to simplify and update the current legal framework. The proposed addition would help clarify the dispute resolution procedure and therefore ensure the internal logic of the text.

Amendment 31

Proposal for a directive

Article 28 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States and their competent authorities shall ensure that the use of radio spectrum is organised on their territory in a way that no other Member State is impeded, in particular due to cross-border harmful interference between Member States, from allowing on its territory the use of ***harmonised*** radio spectrum in accordance with Union legislation.

Amendment

Member States and their competent authorities shall ensure that the use of radio spectrum is organised on their territory in a way that no other Member State is impeded, in particular due to cross-border harmful interference between Member States, from allowing on its territory the use of radio spectrum in accordance with Union legislation.

Justification

Radio spectrum is used for different types of wireless transmissions (radio, TV, mobile telecommunications, Wi-Fi, wireless microphones) the uses of which are not all harmonised in the meaning of the proposed Directive. To ensure that all uses can benefit for the principle of no cross-border harmful interference, 'harmonised' is removed.

Amendment 32

Proposal for a directive

Article 28 – paragraph 1 – subparagraph 2

Text proposed by the Commission

They shall take all necessary measures to this effect without prejudice to their obligations under international law and relevant international agreements such as the ITU Radio Regulations.

Amendment

They shall take all necessary measures to this effect ***whilst taking into account their national needs*** without prejudice to their obligations under international law and relevant international agreements such as the ITU Radio Regulations.

Justification

Member states should be able to decide upon spectrum harmonisation/coordination taking into account their national needs such as for instance spectrum requirements for broadcasting services.

Amendment 33

Proposal for a directive

Article 28 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall cooperate with each other, through the Radio Spectrum Policy Group, in the cross-border coordination of the use of radio spectrum in order to:

Amendment

2. Member States shall cooperate with each other, ***in particular*** through the Radio Spectrum Policy Group, in the cross-border coordination of the use of radio spectrum in order to:

Amendment 34

Proposal for a directive

Article 30 – paragraph 3 – subparagraph 2 – point b

Text proposed by the Commission

(b) orders to cease or delay provision of a service or bundle of services which, if continued, would result in significant harm to competition, pending compliance with access obligations imposed following a

Amendment

(b) orders to cease or delay provision of a service or bundle of services which, if continued, would result in significant harm to ***fair*** competition, pending compliance with access obligations imposed following

market analysis carried out in accordance with Article 65.

a market analysis carried out in accordance with Article 65.

Justification

Fair competition is an essential element in ensuring that media pluralism and cultural diversity are properly safeguarded. This addition is therefore necessary to ensure the internal logic of the text.

Amendment 35

Proposal for a directive

Article 32 – paragraph 3 – subparagraph 2

Text proposed by the Commission

it shall make the draft measure accessible to the Commission, BEREC, and the national regulatory authorities in other Member States, at the same time, together with the reasoning on which the measure is based, in accordance with Article 20(3), and inform the Commission, BEREC and other national regulatory authorities thereof. National regulatory authorities, BEREC and the Commission may make comments to the national regulatory authority concerned only within one month. The one-month period may not be extended.

Amendment

it shall make the draft measure accessible to the Commission, BEREC, and the national regulatory authorities in other Member States, at the same time, together with the reasoning on which the measure is based, in accordance with Article 20(3), and inform the Commission, BEREC and other national regulatory authorities ***and stakeholders*** thereof. National regulatory authorities, BEREC and the Commission may make comments to the national regulatory authority concerned only within one month. The one-month period may not be extended.

Amendment 36

Proposal for a directive

Article 33 – paragraph 5 – point c

Text proposed by the Commission

(c) take a decision requiring the national regulatory authority concerned to withdraw the draft measure, where BEREC shares the serious doubts of the Commission. The decision shall be accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted, together with specific proposals

Amendment

deleted

for amending the draft measure. In this case, the procedure referred to in Article 32 (6) shall apply mutatis mutandis.

Justification

This amendment is needed to ensure that the text is logical and coherent. Indeed, we believe it is crucial that NRBs continue to be able to regulate national markets and for them to be able, therefore, to adopt the necessary corrective measures against companies dominating the market, bearing specific national circumstances in mind (which the Commission itself recognises as fundamental, above all in relation to regulations on wholesale access).

Amendment 37

Proposal for a directive

Article 35 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

(b) ensure effective and efficient use of radio spectrum; and

Amendment

(b) ensure effective and efficient use of radio spectrum, ***but at the same time taking into account the public interest and the social, cultural and economic value of spectrum as a whole***; and

Amendment 38

Proposal for a directive

Article 35 – paragraph 4 – point f a (new)

Text proposed by the Commission

Amendment

(fa) the principles of services and technological neutrality and of effective and efficient use of spectrum;

Justification

It is important to stress the neutrality principle and the efficient use of spectrum.

Amendment 39

Proposal for a directive

Article 45 – paragraph 2 – subparagraph 1 – point h a (new)

(ha) ensuring that any change in policy with regard to the efficient use of spectrum takes account of its impact on the public interest in terms of interference and costs;

Amendment 40

Proposal for a directive

Article 45 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

In case of a national or regional lack of market demand for the use of a harmonised band, and subject to the harmonisation measure adopted under Decision No 676/2002/EC, Member States may allow an alternative use of all or part of that band, including the existing use, in accordance with paragraphs 4 and 5, provided that:

Amendment

In case of a national or regional lack of market demand for the use of a harmonised band, and subject to the harmonisation measure adopted under Decision No 676/2002/EC ***and without prejudice to Decision No 243/2012/EU of the European Parliament and of the Council^{1a} and Decision No .../2017/EU of the European Parliament and of the Council^{1b}***, Member States may allow an alternative use of all or part of that band, including the existing use, in accordance with paragraphs 4 and 5, provided that:

^{1a} Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7).

^{1b} Decision No .../2017/EU of the European Parliament and of the Council of 17 May 2017 on the use of the 470 790 MHz frequency band in the Union (2017/0027(COD), not published in the Official Journal yet).

Amendment 41

Proposal for a directive

Article 46 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

(a) the specific characteristics of the radio spectrum concerned;

Amendment

(a) the specific characteristics of the radio spectrum concerned ***and the current and planned use of different available radio spectrum bands***;

Amendment 42

Proposal for a directive

Article 59 – paragraph 1 – subparagraph 1

Text proposed by the Commission

National regulatory authorities shall, acting in pursuit of the objectives set out in Article 3, encourage and where appropriate ensure, in accordance with the provisions of this Directive, adequate access and interconnection, and the interoperability of services, exercising their responsibility in a way that promotes efficiency, sustainable competition, the deployment of very high capacity networks, efficient investment and innovation, and gives the maximum benefit to end-users. They shall provide guidance and make publicly available the procedures applicable to gain access and interconnection to ensure that small and medium-sized enterprises and operators with a limited geographical reach can benefit from the obligations imposed.

Amendment

National regulatory authorities shall, acting in pursuit of the objectives set out in Article 3, encourage and where appropriate ensure, in accordance with the provisions of this Directive, adequate access and interconnection, and the interoperability of services, exercising their responsibility in a way that promotes efficiency, sustainable competition, ***media pluralism***, the deployment of very high capacity networks, efficient investment and innovation, and gives the maximum benefit to end-users. They shall provide guidance and make publicly available the procedures applicable to gain access and interconnection to ensure that small and medium-sized enterprises and operators with a limited geographical reach can benefit from the obligations imposed.

Justification

Media pluralism should be explicitly included in the list of policy objectives that NRAs may pursue in imposing access obligations. Such reference to media pluralism is in line with the provision of Article 3(1), and ensures legal consistency in the implementation of the European Electronic Communications Code by Member States. One of the main purposes of this recast is to ensure that this Directive can properly safeguard media pluralism. This addition is necessary to ensure the internal logic of the text.

Amendment 43

Proposal for a directive

Article 59 – paragraph 1 – subparagraph 2 – introductory wording

Text proposed by the Commission

In particular, without prejudice to measures that may be taken regarding undertakings with significant market power in accordance with Article 66, national regulatory authorities shall be able to impose:

Amendment

In particular, without prejudice to measures that may be taken regarding undertakings with significant market power in accordance with Article 66, national regulatory authorities shall be able to impose ***inter alia***:

Justification

This recast is designed to update the current legal framework. This change grants greater latitude to national regulatory authorities to impose obligations as referred to in Article 59, paragraph 1. This addition is necessary to ensure the internal logic of the text.

Amendment 44

Proposal for a directive

Article 59 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that national regulatory authorities have the power to impose on undertakings providing or authorised to provide electronic communications networks obligations in relation to the sharing of passive or active infrastructure, obligations to conclude localised roaming access agreements, or the joint roll-out of infrastructures directly necessary for the local provision of services which rely on the use of spectrum, in compliance with Union law, where it is justified on the grounds that,

Amendment

3. Member States shall ensure that national regulatory authorities have the power to impose on undertakings providing or authorised to provide electronic communications networks obligations in relation to the sharing of passive or active infrastructure, obligations to conclude localised roaming access agreements ***in remote areas without network*** or the joint roll-out of infrastructures directly necessary for the local provision of services which rely on the use of spectrum, in compliance with Union law, where it is justified on the grounds that,

Justification

In so called ‘white areas’ where no operator invested to roll-out a network, mandatory network deployment and sharing is needed to provide end-users with optimum coverage. In other areas where one or more operator(s) invested to roll-out a network, mandatory network sharing would be strongly deterrent to pursue the deployment. Operators which deploys in areas where investment is hardly profitable would not invest any more if as a result of its effort, it would be forced to share its network.

Amendment 45

Proposal for a directive Article 60 – paragraph 4

Text proposed by the Commission

(4) Conditions applied in accordance with this **Article** are without prejudice to the ability of Member States to impose obligations in relation to the presentational aspect of electronic programme guides and **similar** listing and navigation facilities.

Amendment

(4) Conditions applied in accordance with this **Directive** are without prejudice to the ability of Member States to impose obligations in relation to the presentational aspect of electronic programme guides and **other** listing and navigation facilities.

Justification

The wording in relation to listing and navigation facilities needs to be future-proof and technologically neutral, and it should not refer solely to this Article. The concept of the electronic programme guide needs to be future-proof. This amendment is therefore necessary to ensure the internal logic of the text.

Amendment 46

Proposal for a directive Article 62 – paragraph 3

Text proposed by the Commission

3. National regulatory authorities shall, taking the utmost account of the Recommendation and the SMP guidelines, define relevant markets appropriate to national circumstances, in particular relevant geographic markets within their territory, in accordance with the principles of competition law. National regulatory authorities shall take into account the

Amendment

3. National regulatory authorities shall, taking the utmost account of, **inter alia**, the Recommendation and the SMP guidelines, define relevant markets appropriate to national circumstances, in particular relevant geographic markets within their territory, in accordance with the principles of competition law. National regulatory authorities shall take into

results of the geographical survey conducted in accordance with Article 22(1). They shall follow the procedures referred to in Articles 23 and 32 before defining the markets that differ from those identified in the Recommendation.

account the results of the geographical survey conducted in accordance with Article 22(1). They shall follow the procedures referred to in Articles 23 and 32 before defining the markets that differ from those identified in the Recommendation.

Justification

This recast is designed to update the current legal framework. This change grants greater latitude to national regulatory authorities to take account of national specificities in order to define markets susceptible to ex ante access rules, as deciding whether an entity holds SMP depends on how the relevant market is defined. This addition is therefore necessary to ensure the internal logic of the text.

Amendment 47

Proposal for a directive Article 70 – paragraph 1

Text proposed by the Commission

1. A national regulatory authority may, in accordance with Article 66, impose obligations on operators to meet reasonable requests for access to, and use of, civil engineering including, without limitation, buildings or entries to buildings, **building cables including wiring**, antennae, towers and other supporting constructions, poles, masts, ducts, conduits, inspection chambers, manholes, and cabinets, in situations where the market analysis indicates that denial of access or access given under unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level and would not be in the end-user's interest.

Amendment

1. A national regulatory authority may, in accordance with Article 66, impose obligations on operators to meet reasonable requests for access to, and use of, civil engineering including, without limitation, buildings or entries to buildings, antennae, towers and other supporting constructions, poles, masts, ducts, conduits, inspection chambers, manholes, and cabinets, in situations where the market analysis indicates that denial of access or access given under unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level and would not be in the end-user's interest.

Amendment 48

Proposal for a directive Article 71 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Only where a national regulatory authority

Amendment

A national regulatory authority may, in

concludes that the obligations imposed in accordance with Article 70 would not on their own lead to the achievement of the objectives set out in Article 3, it may, in accordance with the provisions of Article 66, impose obligations on operators to meet reasonable requests for access to, and use of, specific network elements and associated facilities, in situations where the national regulatory authority considers that denial of access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level, and would not be in the end-user's interest.

Amendment 49

Proposal for a directive Article 79 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that all end-users in their territory have access at an affordable price, in the light of specific national conditions, to available functional internet access and voice communications services at the quality specified in their territory, including the underlying connection, ***at least*** at a fixed location.

Amendment 50

Proposal for a directive Article 80 – paragraph 4

Text proposed by the Commission

4. Member States may, in the light of national conditions, ensure that support is provided to low-income or special social needs end-users in view of ensuring affordability of functional internet access and voice communications services at ***least***

accordance with the provisions of Article 66, impose obligations on operators to meet reasonable requests for access to, and use of, specific network elements and associated facilities, in situations where the national regulatory authority considers that denial of access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level, and would not be in the end-user's interest.

Amendment

1. Member States shall ensure that all end-users in their territory have access at an affordable price, in the light of specific national conditions, to available functional internet access and voice communications services at the quality specified in their territory, including the underlying connection, ***both*** at a fixed location ***and by way of mobile connection***.

Amendment

4. Member States may, in the light of national conditions, ensure that support is provided to low-income or special social needs end-users in view of ensuring affordability of functional internet access and voice communications services at a fixed location ***and by way of mobile***

at a fixed location.

connection.

Amendment 51

Proposal for a directive Article 81 – paragraph 3

Text proposed by the Commission

3. In particular, where Member States decide to impose obligations to ensure the availability at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service, they may designate one or more undertakings to guarantee the availability at a fixed location of functional internet access service as identified in accordance with Article 79(2) and of voice communications service in order to cover all the national territory. Member States may designate different undertakings or sets of undertakings to provide functional internet access and voice communications services at a fixed location and/or to cover different parts of the national territory.

Amendment

3. In particular, where Member States decide to impose obligations to ensure the availability at a fixed location **and by way of mobile connection** of functional internet access service as defined in accordance with Article 79(2) and of voice communications service, they may designate one or more undertakings to guarantee the availability at a fixed location of functional internet access service as identified in accordance with Article 79(2) and of voice communications service in order to cover all the national territory. Member States may designate different undertakings or sets of undertakings to provide functional internet access and voice communications services at a fixed location **and by way of mobile connection** and/or to cover different parts of the national territory.

Amendment 52

Proposal for a directive Article 81 – paragraph 4

Text proposed by the Commission

4. When Member States designate undertakings in part or all of the national territory as undertakings having the obligation to ensure the availability at a fixed location of functional internet access service as defined in accordance with Article 79(2) and of voice communications service, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism,

Amendment

4. When Member States designate undertakings in part or all of the national territory as undertakings having the obligation to ensure the availability at a fixed location **and by way of mobile connection** of functional internet access service as defined in accordance with Article 79(2) and of voice communications service, they shall do so using an efficient, objective, transparent and non-

whereby no undertaking is a priori excluded from being designated. Such designation methods shall ensure that functional internet access 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 obligation in accordance with Article 84.

discriminatory designation mechanism, whereby no undertaking is a priori excluded from being designated. Such designation methods shall ensure that functional internet access 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 obligation in accordance with Article 84.

Amendment 53

Proposal for a directive Article 81 – paragraph 5

Text proposed by the Commission

5. When an undertaking designated in accordance with paragraph 3 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 in advance the national regulatory authority 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 functional internet access service as defined in accordance with Article 79(2) and of voice communications service. The national regulatory authority may impose, amend or withdraw specific obligations in accordance with Article 13(2).

Amendment

5. When an undertaking designated in accordance with paragraph 3 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 in advance the national regulatory authority 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 **and by way of mobile connection** of functional internet access service as defined in accordance with Article 79(2) and of voice communications service. The national regulatory authority may impose, amend or withdraw specific obligations in accordance with Article 13(2).

Amendment 54

Proposal for a directive Article 82 – paragraph 1

Text proposed by the Commission

Member States may continue to ensure the availability or affordability of other services than functional internet access

Amendment

Member States may continue to ensure the availability or affordability of other services than functional internet access

service as defined in accordance with Article 79(2) and voice communications service at a fixed location that were in force prior to [set date], if the need for such services is duly demonstrated in the light of national circumstances. When Member States designate undertakings in part or all of the national territory for the provision of those services, Article 81 shall apply. Financing of these obligations shall comply with Article 85.

service as defined in accordance with Article 79(2) and voice communications service at a fixed location **and by way of mobile connection** that were in force prior to [set date], if the need for such services is duly demonstrated in the light of national circumstances. When Member States designate undertakings in part or all of the national territory for the provision of those services, Article 81 shall apply. Financing of these obligations shall comply with Article 85.

Amendment 55

Proposal for a directive Article 97 – paragraph 2

Text proposed by the Commission

2. National regulatory authorities shall specify, taking utmost account of BEREC guidelines, the quality of service parameters to be measured and 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 IX shall be used.

Amendment

2. National regulatory authorities shall specify, taking utmost account of BEREC guidelines, the quality of service parameters to be measured and the applicable measurement methods, and the content, form and manner of the information to be published, including possible quality certification mechanisms, **in order to ensure that end-users, including end-users with disabilities, have access to comprehensive, comparable, reliable and user-friendly information.** Where appropriate, the parameters, definitions and measurement methods set out in Annex IX shall be used.

Amendment 56

Proposal for a directive Article 103 – paragraph 2

Text proposed by the Commission

Amendment

2. *In taking the measures referred to in paragraph 1, Member States shall encourage compliance with the relevant standards or specifications published in accordance with Article 39.* **deleted**

Amendment 57

Proposal for a directive Article 105 – title

Text proposed by the Commission

Amendment

Interoperability of consumer digital television equipment

Interoperability of consumer digital television **and radio** equipment

Amendment 58

Proposal for a directive Article 105 – paragraph 1

Text proposed by the Commission

Amendment

In accordance with the provisions of Annex X, Member States shall ensure the interoperability of the consumer digital television equipment referred to therein.

In accordance with the provisions of Annex X, Member States shall ensure the interoperability of the consumer digital television **and radio** equipment referred to therein.

Justification

This amendment is needed to ensure the internal logic and coherence of the text. In accordance with the provisions of Annex X, Member States shall ensure the interoperability of the consumer radio equipment referred to therein.

Amendment 59

Proposal for a directive Article 106 – paragraph 1 – subparagraph 1

Member States may impose reasonable ‘must carry’ obligations, for the transmission of specified radio and television broadcast channels and related complementary services, particularly accessibility services to enable appropriate access for disabled end-users and data supporting connected TV services and electronic programme guides , on undertakings under their jurisdiction providing electronic communications networks used for the distribution of radio or television broadcast channels to the public where a significant number of end-users of such networks use them *as their principal means* to receive radio and television broadcast channels. Such obligations shall only be imposed where they are necessary to meet general interest objectives as clearly defined by each Member State and shall be proportionate and transparent.

Member States may impose reasonable ‘must carry’ obligations, for the transmission of specified radio and television broadcast channels and related complementary services, particularly accessibility services to enable appropriate access for disabled end-users and data supporting connected TV services and electronic programme guides , 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 use them to receive radio and television broadcast channels. Such obligations shall only be imposed where they are necessary to meet general interest objectives as clearly defined by each Member State and shall be proportionate and transparent.

Justification

This amendment is necessary for the internal logic of the text. Users now also access content via electronic communications services and not solely via electronic communications networks. Users can access content via a wide variety of terminal devices and communications infrastructures. The wording here needs to be up-to-date and future-proof. Communications networks are no longer used as the ‘principal means’ and the reference to this should be deleted.

Amendment 60

Proposal for a directive
Article 106 – paragraph 2

Text proposed by the Commission

2. Neither paragraph 1 of this Article nor Article 57(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

Amendment

2. Neither paragraph 1 of this Article nor Article 57(2) shall prejudice the ability of Member States to determine appropriate remuneration, if any, **by legal provisions**, in respect of measures taken in accordance with this Article while ensuring that, in similar circumstances, there is no

the treatment of undertakings providing electronic communications networks. Where remuneration is provided for, Member States shall ensure that it is applied in a proportionate and transparent manner.

discrimination in the treatment of undertakings providing electronic communications networks **and services**. Where remuneration is provided for, Member States shall ensure that it is applied in a proportionate and transparent manner.

Justification

Member States need to provide clarity and legal certainty in relation to remuneration uncertainties to the must-carry rules if they decide that remuneration is going to be provided. This amendment is therefore necessary to ensure the internal logic of the text.

Amendment 61

Proposal for a directive Annex II – part 2 – point b

Text proposed by the Commission

(b) Access to electronic programme guides (EPGs).

Amendment

(b) Access to electronic programme guides (EPGs), ***including data for connected television services and data to access these services.***

Justification

The concept of the electronic programme guide needs to be future-proof.

Amendment 62

Proposal for a directive Annex V – point 11

Text proposed by the Commission

(11) calls and video calls (standard quality)

Amendment

(11) calls and video calls (standard quality ***suitable for sign language use***)

Amendment 63

Proposal for a directive
Annex V – point 11 a (new)

Text proposed by the Commission

Amendment

(11a) radio services

Justification

This amendment is needed to ensure the internal logic and coherence of the text. In accordance with Article 79(2) radio services have to be included in the list of services which the functional internet access service shall be capable of supporting.

Amendment 64

Proposal for a directive
Annex X – part 2 a (new)

Text proposed by the Commission

Amendment

**2a. INTEROPERABILITY FOR
ANALOGUE AND DIGITAL RADIO
RECEIVING DEVICES**

All consumer equipment enabling the reception of radio and/or audio signals made available in the Union, is to possess the capability to receive radio in a technology neutral manner, by analogue and digital broadcasting, and via IP networks.

PROCEDURE – COMMITTEE ASKED FOR OPINION

| | | | | | | | |
|---|---|----|----|----|---|----|---|
| Title | European Electronic Communications Code (Recast) | | | | | | |
| References | COM(2016)0590 – C8-0379/2016 – 2016/0288(COD) | | | | | | |
| Committee responsible Date announced in plenary | ITRE 24.10.2016 | | | | | | |
| Opinion by Date announced in plenary | CULT 24.10.2016 | | | | | | |
| Rapporteur Date appointed | Curzio Maltese 1.12.2016 | | | | | | |
| Discussed in committee | 22.3.2017 | | | | | | |
| Date adopted | 4.5.2017 | | | | | | |
| Result of final vote | <table> <tr> <td>+: </td><td>24</td></tr> <tr> <td>–: </td><td>0</td></tr> <tr> <td>0: </td><td>4</td></tr> </table> | +: | 24 | –: | 0 | 0: | 4 |
| +: | 24 | | | | | | |
| –: | 0 | | | | | | |
| 0: | 4 | | | | | | |
| Members present for the final vote | Isabella Adinolfi, Andrea Bocskor, Silvia Costa, Angel Dzhambazki, María Teresa Giménez Barbat, Giorgos Grammatikakis, Petra Kammerevert, Svetoslav Hristov Malinov, Curzio Maltese, Luigi Morgano, John Procter, Michaela Šojdrová, Yana Toom, Helga Trüpel, Sabine Verheyen, Julie Ward, Bogdan Brunon Wenta, Bogdan Andrzej Zdrojewski, Milan Zver | | | | | | |
| Substitutes present for the final vote | Norbert Erdős, Eider Gardiazabal Rubial, Sylvie Guillaume, Emma McClarkin, Marlene Mizzi, Liadh Ní Riada, Algirdas Saudargas, Remo Sernagiotto | | | | | | |
| Substitutes under Rule 200(2) present for the final vote | Florent Marcellesi | | | | | | |

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

| 24 | + |
|-----------|--|
| ALDE | María Teresa Giménez Barbat, Yana Toom |
| EFDD | Isabella Adinolfi |
| GUE/NGL | Curzio Maltese, Liadh Ní Riada |
| PPE | Andrea Bocskor, Norbert Erdős, Svetoslav Hristov Malinov, Algirdas Saudargas, Sabine Verheyen, Bogdan Brunon Wenta, Bogdan Andrzej Zdrojewski, Milan Zver, Michaela Šojdrová |
| S&D | Silvia Costa, Eider Gardiazabal Rubial, Giorgos Grammatikakis, Sylvie Guillaume, Petra Kammerevert, Marlene Mizzi, Luigi Morgano, Julie Ward |
| Verts/ALE | Florent Marcellesi, Helga Trüpel |

| 0 | - |
|---|---|
| | |

| 4 | 0 |
|-----|--|
| ECR | Angel Dzhambazki, Emma McClarkin, John Procter, Remo Sernagiotto |

Key:

+ : in favour

- : against

0 : abstentions