



**2016/0288(COD)**

6.4.2017

# **AMENDMENTS**

## **583 - 832**

**Draft report**  
**Pilar del Castillo Vera**  
(PE601.017v01-00)

European Electronic Communications Code (Recast)

Proposal for a directive  
(COM(2016)0590 – C8-0379/2016 – 2016/0288(COD))



**Amendment 583**  
**Edouard Martin**

**Proposal for a directive**  
**Article 42 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Member States may allow the competent authority to impose fees for the rights of use for radio spectrum or rights to install facilities on, over or under public or private property that are used for the provision of electronic communications services or networks and associated facilities which ensure the optimal use of these resources. Member States shall ensure that such fees shall be objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose **and** shall take into account the objectives in Articles 3, 4 and 45(2), **as well as:**

*Amendment*

1. Member States may allow the competent authority to impose fees for the rights of use for radio spectrum or rights to install facilities on, over or under public or private property that are used for the provision of electronic communications services or networks and associated facilities which ensure the optimal use of these resources. Member States shall ensure that such fees shall be objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose; **they** shall take into account the objectives in Articles 3, 4 and **abide by the spectrum management rules of Article 45.**

Or. en

**Amendment 584**  
**Edouard Martin**

**Proposal for a directive**  
**Article 42 – paragraph 1 – point a**

*Text proposed by the Commission*

**(a) being service and technology neutral, subject only to limitations in line with Article 45(4) and (5), while promoting the effective and efficient use of spectrum and maximising social and economic utility of spectrum;**

*Amendment*

**deleted**

Or. en

**Amendment 585**  
**Edouard Martin**

**Proposal for a directive**  
**Article 42 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

*(b) taking into account the need to foster the development of innovative services; and*

*deleted*

Or. en

**Amendment 586**  
**Edouard Martin**

**Proposal for a directive**  
**Article 42 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

*(c) taking into account possible alternative uses of the resources.*

*deleted*

Or. en

**Amendment 587**  
**Michał Boni, Françoise Grossetête, Anne Sander, Jerzy Buzek**

**Proposal for a directive**  
**Article 42 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Member States shall ensure that reserve prices established as minimum fees for rights of use for radio spectrum reflect the additional costs entailed by conditions attached to these rights in pursuit of the objectives under Articles 3, 4 and 45(2), such as coverage obligations that would fall outside normal commercial standards, in accordance with paragraph 1.

2. Member States shall ensure that reserve prices established as minimum fees for rights of use for radio spectrum reflect ***and be proportionate to*** the additional costs entailed by conditions attached to these rights in pursuit of the objectives under Articles 3, 4 and 45(2), such as coverage obligations that would fall outside normal commercial standards, in accordance with paragraph 1 ***or the value of the spectrum for its next best use.***

Or. en

## *Justification*

*The reserve prices should be set based on the opportunity of the next best use of the spectrum, (taking into account uneconomic coverage obligations). In addition, reserve prices should also take into account the competitive situation in the concerned market. Indeed, in some cases, the value of the spectrum is impaired by the need to make additional investment prompted by market conditions. This was already provided by recital 95, but needs to be expressly mentioned in the Article.*

### **Amendment 588** **Edouard Martin**

#### **Proposal for a directive** **Article 42 – paragraph 2**

##### *Text proposed by the Commission*

2. Member States shall ensure that reserve prices established as minimum fees for rights of use for radio spectrum reflect the additional costs entailed by conditions attached to these rights in pursuit of the objectives under Articles 3, 4 and **45(2)**, such as coverage obligations that would fall outside normal commercial standards, in accordance with paragraph 1.

##### *Amendment*

2. Member States shall ensure that reserve prices established as minimum fees for rights of use for radio spectrum reflect the additional costs entailed by conditions attached to these rights in pursuit of the objectives under Articles 3, 4 and **rules under Article 45**, such as coverage obligations that would fall outside normal commercial standards, in accordance with paragraph 1.

Or. en

### **Amendment 589** **Edouard Martin**

#### **Proposal for a directive** **Article 42 – paragraph 3**

##### *Text proposed by the Commission*

3. Member States shall apply payment modalities linked to the actual availability of the radio spectrum in question, which do not unduly burden any **additional investments** in networks and associated facilities necessary for the efficient use of the radio spectrum and the provision of related services.

##### *Amendment*

3. Member States shall apply payment modalities linked to the actual availability of the radio spectrum in question, which do not unduly burden any **timely investment** in networks and associated facilities necessary for the efficient use of the radio spectrum and the provision of related services.

**Amendment 590**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

**Proposal for a directive**

**Article 43 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2 a. Member States shall ensure that an effective appeal mechanism exists for undertakings whose requests for the granting of rights to install facilities are refused or otherwise not granted. The appeals body shall be independent of the parties involved and shall render a decision on appeal within two months.**

Or. en

*Justification*

*Rights of way are essential for undertakings in order to be able to deploy networks to the end-users. Therefore a strong and independent specific appeal mechanism against refusals to grant rights of way should be available, with a decision to be rendered in a reasonable timeframe, so as to ensure regulatory certainty.*

**Amendment 591**

**José Blanco López, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz**

**Proposal for a directive**

**Article 43 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2 a. Member States shall ensure that an effective mechanism exist to allow undertakings to appeal against decisions on the granting of rights to install facilities to a body that is independent of the parties involved.**

Or. en

### *Justification*

*Rights of way are essential to deploy networks to the end-users. A strong and independent appeal mechanism against refusals to grant rights of way should be available..*

#### **Amendment 592**

**David Borrelli, Dario Tamburrano**

#### **Proposal for a directive**

#### **Article 45 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

Taking due account of the fact that radio spectrum is a public good that has an important social, cultural and economic value, Member States shall ensure the effective management of radio spectrum for electronic communications services and networks in their territory in accordance with Articles 3 and 4. They shall ensure that radio spectrum allocation used for electronic communications services and networks and issuing general authorisations or individual rights of use for such radio spectrum by competent authorities are based on objective, transparent, non-discriminatory and proportionate criteria.

##### *Amendment*

Taking due account of the fact that radio spectrum is a public good that has an important social, cultural and economic value, Member States shall ensure the effective management of radio spectrum for electronic communications services and networks in their territory in accordance with Articles 3 and 4. They shall ensure that radio spectrum allocation used for electronic communications services and networks and issuing general authorisations or individual rights of use for such radio spectrum by competent authorities are based on objective, transparent, *pro-competitive*, non-discriminatory and proportionate criteria.

Or. en

### *Justification*

*The amendment aims to promote competition criteria in radio spectrum assignment procedures.*

#### **Amendment 593**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Martina Werner, Flavio Zanonato**

#### **Proposal for a directive**

#### **Article 45 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

Taking due account of the fact that radio spectrum is a public good that has an

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##### *Amendment*

Taking due account of the fact that radio spectrum is a public good that has an

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important social, cultural and economic value, Member States shall ensure the effective management of radio spectrum for electronic communications services and networks in their territory in accordance with Articles 3 and 4. They shall ensure that radio spectrum allocation used for electronic communications services and networks and issuing general authorisations or individual rights of use for such radio spectrum by competent authorities are based on objective, transparent, non-discriminatory and proportionate criteria.

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Or. en

### *Justification*

*Member states should ensure that spectrum is allocated in a way that takes into account the possibility to promote competition in the markets.*

### **Amendment 594** **José Blanco López**

#### **Proposal for a directive** **Article 45 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

Taking due account of the fact that radio spectrum is a public good that has an important social, cultural and economic value, Member States shall ensure the effective management of radio spectrum for electronic communications services and networks in their territory in accordance with Articles 3 and 4. They shall ensure that radio spectrum allocation used for electronic communications services and networks and issuing general authorisations or individual rights of use for such radio spectrum by competent authorities are based on objective, transparent, non-discriminatory and proportionate criteria.

##### *Amendment*

Taking due account of the fact that radio spectrum is a public good that has an important social, cultural and economic value, Member States shall ensure the effective management of radio spectrum for electronic communications services and networks in their territory in accordance with Articles 3 and 4. They shall ensure that radio spectrum allocation used for electronic communications services and networks and issuing general authorisations or individual rights of use for such radio spectrum by competent authorities are based on objective, transparent, *pro-competitive*, non-discriminatory and proportionate criteria.

Or. en



**Amendment 595**

**David Borrelli, Dario Tamburrano**

**Proposal for a directive**

**Article 45 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) ensuring coverage of their national territory and population at high quality and speed, both indoors and outdoors, including along major transport paths, including the trans-European transport network;

*Amendment*

(a) ensuring coverage of their national territory and population at high quality and speed, both indoors and outdoors, including along major transport paths, including the trans-European transport network *as defined in Regulation 1315/2013*;

Or. en

*Justification*

*The reference to the Regulation clarifies the definition of TEN-T.*

**Amendment 596**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda**

**Proposal for a directive**

**Article 45 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) ensuring coverage of their national territory and population at high quality and speed, both indoors and outdoors, including along major transport paths, including the trans-European transport network;

*Amendment*

(a) ensuring coverage of their national territory and population at high quality and speed, both indoors and outdoors, including along major transport paths, including the trans-European transport network *as defined in Regulation 1315/2013*;

Or. en

**Amendment 597**

**Miapetra Kumpula-Natri, Dan Nica, Martina Werner, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

**Proposal for a directive**

**Article 45 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) ensuring coverage of their national territory and population at high quality and speed, both indoors and outdoors, including along major transport paths, including the trans-European transport network;

*Amendment*

(a) ensuring coverage of their national territory and population at high quality and speed, both indoors and outdoors, including along major transport paths, including the trans-European transport network *as defined in Regulation 1315/2013*;

Or. en

*Justification*

*The reference to the Trans-European networks clarifies the definition, keeping railways in the scope.*

**Amendment 598**

**José Blanco López**

**Proposal for a directive**

**Article 45 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) ensuring coverage of their national territory and population at high quality and speed, both indoors and outdoors, including along major transport paths, including the trans-European transport network;

*Amendment*

(a) ensuring coverage of their national territory and population at high quality and speed, both indoors and outdoors, including along major transport paths, including the trans-European transport network *as defined in Regulation 1315/2013*;

Or. en

**Amendment 599**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Flavio Zanonato, Theresa Griffin**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

*(c a) ensuring predictability and consistency in the way rights are granted, renewed or modified in order to promote long term investments*

Or. en

*Justification*

*Predictability lowers the risk for investments*

**Amendment 600**  
**José Blanco López**

**Proposal for a directive**  
**Article 45 – paragraph 2 – subparagraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(c a) ensuring predictability and consistency in the way rights are granted, renewed or modified in order to promote long term investments*

Or. en

**Amendment 601**  
**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

**Proposal for a directive**  
**Article 45 – paragraph 2 – subparagraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

(e) promoting the shared use of radio spectrum between similar and/or different uses of spectrum through appropriate established sharing rules and conditions, including the protection of existing rights of use, in accordance with Union law;

(e) promoting the shared use of radio spectrum between similar and/or different uses of spectrum; ***promoting competition*** through appropriate established sharing rules and conditions, including the protection of existing rights of use, in accordance with Union law;

Or. en

*Justification*

*Competition criteria in radio spectrum procedures are important when the procedures are designed. Fair and non-discriminatory wholesale access conditions and consumer choice should be enhanced.*

**Amendment 602**

**David Borrelli, Dario Tamburrano**

**Proposal for a directive**

**Article 45 – paragraph 2 – subparagraph 1 – point e**

*Text proposed by the Commission*

(e) promoting the shared use of radio spectrum between similar and/or different uses of spectrum through appropriate established sharing rules and conditions, including the protection of existing rights of use, in accordance with Union law;

*Amendment*

(e) promoting the shared use of radio spectrum between similar and/or different uses of spectrum ***promoting competition*** through appropriate established sharing rules and conditions, including the protection of existing rights of use, in accordance with Union law;

Or. en

*Justification*

*The amendment aims to promote competition in radio spectrum assignment procedures.*

**Amendment 603**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Marisa Matias, Cornelia Ernst**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

***(e a) The Commission shall establish a programme aiming to release spectrum for shared and unlicensed uses. This programme shall include the development of a European database of shared and unlicensed spectrum.***

Or. en

## *Justification*

*Innovation and freedom of expression need a broad access to shared and unlicensed uses of , as stressed in article 6 of the 2012 Radio Spectrum Policy Programme. Increasing this access is thus a major challenge. Following the success of the release of the 1,2 Ghz frequencies within the Radio spectrum policy programme (Article 3 of Decision 243/2012/EU), the European Commission shall launch such a programme aiming at the release of shared spectrum. A database of shared spectrum would greatly facilitate and encourage the release of shared spectrum.*

### **Amendment 604**

**Evžen Tošenovský**

#### **Proposal for a directive**

#### **Article 45 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*When adopting technical harmonisation measures under Decision No 676/2002/EC, the Commission may, taking utmost account of the opinion of Radio Spectrum Policy Group, adopt an implementing measure setting out whether, pursuant to Article 46 of this Directive, rights in the harmonised band shall be subject to a general authorisation or to individual rights of use. Those implementing measures shall be adopted in accordance with the examination procedure referred to in Article 110(4).*

*deleted*

Or. en

### **Amendment 605**

**Miapetra Kumpula-Natri, Dan Nica, Edouard Martin, Theresa Griffin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

#### **Proposal for a directive**

#### **Article 45 – paragraph 2 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

Where the Commission is considering acting to provide for measures in accordance with Article 39, it *may* seek the advice of the Radio Spectrum Policy

Where the Commission is considering acting to provide for measures in accordance with Article 39, it *shall* seek the advice of the Radio Spectrum Policy

Group with regard to the implications of any such standard or specification for the coordination, harmonisation and availability of radio spectrum. The Commission shall take utmost account of the advice of the Radio Spectrum Policy Group in taking any subsequent steps.

Group with regard to the implications of any such standard or specification for the coordination, harmonisation and availability of radio spectrum. The Commission shall take utmost account of the advice of the Radio Spectrum Policy Group in taking any subsequent steps.

Or. en

### *Justification*

*Advice of RSPG is essential to assess the impact of measures linked to spectrum harmonisation.*

### **Amendment 606** **Pervenche Berès, Edouard Martin**

#### **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 243/2012/EU establishing a multiannual radio spectrum policy programme (RSPP) and Decision .../2017/EU concerning the use of the 470-790 MHz frequency band in the Union,*** 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:

Or. fr

### **Amendment 607** **Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Edouard Martin**

#### **Proposal for a directive** **Article 45 – paragraph 3 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*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, 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:

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 243/2012/EU establishing a multiannual radio spectrum policy programme (RSPP) and Decision No .../2017/EU on the use of the 470-790 MHz frequency band in the Union**, 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:

Or. en

*Justification*

*Any of the proposed measures in Article 45, paragraph 3 should not put into question the specific solutions retained in Decision 243/2012/EU establishing a multiannual radio spectrum policy programme (RSPP) and Decision No .../2017/EU on the use of the UHF band.*

**Amendment 608**  
**José Blanco López**

**Proposal for a directive**  
**Article 45 – paragraph 3 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*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, 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:

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 243/2012/EU establishing a multiannual radio spectrum policy programme (RSPP) and Decision No .../2017/EU on the use of the 470-790 MHz frequency band in the Union**, 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 609**

**Eva Kaili**

**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 243/2012/EU establishing a multiannual radio spectrum policy programme (RSPP) and Decision No .../2017/EU on the use of the 470-790 MHz frequency band in the Union**, 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:

Or. en

**Amendment 610**

**Kaja Kallas**

**Proposal for a directive**

**Article 45 – paragraph 3 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) the finding of a lack of market demand for the use of the harmonised band is based on a public consultation in line with Article 23;

*Amendment*

(a) the finding of a lack of market demand for the use of the harmonised band is based on a public consultation in line with Article 23 **and on a forward-looking assessment of the market competitive conditions** ;

Or. en



*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 611**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Marisa Matias, Cornelia Ernst**

**Proposal for a directive**

**Article 45 – paragraph 4 – subparagraph 2 – introductory part**

*Text proposed by the Commission*

Member States *may, however*, provide for proportionate and non-discriminatory restrictions to the types of radio network or wireless access technology used for electronic communications services *where this is necessary* to:

*Amendment*

Member States *shall* provide for proportionate and non-discriminatory restrictions to the types of radio network or wireless access technology used for electronic communications services *in order* to:

Or. en

**Amendment 612**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Edouard Martin, Theresa Griffin**

**Proposal for a directive**

**Article 45 – paragraph 4 – subparagraph 2 – introductory part**

*Text proposed by the Commission*

Member States *may*, however, provide for proportionate and non-discriminatory restrictions to the types of radio network or wireless access technology used for electronic communications services *where this is necessary* to:

*Amendment*

Member States *shall*, however, provide for proportionate and non-discriminatory restrictions to the types of radio network or wireless access technology used for electronic communications services *in order* to:

Or. en

*Justification*

*Avoiding harmful interferences in the safety-critical tasks can be an obligation for safety reasons.*

**Amendment 613**

**Miapetra Kumpula-Natri, Dan Nica, Theresa Griffin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Martina Werner**

**Proposal for a directive**

**Article 45 – paragraph 4 – subparagraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(d a) promote interconnection in Europe along major transport paths;***

Or. en

*Justification*

*Achieving interoperability is essential for the creation of smart, single transportation area in Europe. The seamless and safe circulation of passengers and goods on roads and railways across the EU. Seamless interconnection can boost the efficiency and safety of logistics and passenger traffic and contribute to environment-friendly transport in the internal market.*

**Amendment 614**

**José Blanco López**

**Proposal for a directive**

**Article 45 – paragraph 4 – subparagraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(d a) promote interconnection in Europe along major transport paths;***

Or. en

**Amendment 615**

**Françoise Grossetête, Anne Sander**

**Proposal for a directive**

**Article 45 – paragraph 5 – subparagraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(d a) the promotion of interconnection in Europe along major transport paths.***

**Amendment 616**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda**

**Proposal for a directive**

**Article 45 – paragraph 5 – subparagraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(d a) the promotion of interconnection  
in Europe along major transport paths*

**Amendment 617**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda**

**Proposal for a directive**

**Article 45 – paragraph 5 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

A measure which prohibits the provision of any other electronic communications service in a specific band may only be provided for where justified by the need to protect safety of life services. Member States may, exceptionally, also extend such a measure in order to fulfil other general interest objectives as defined by Member States in accordance with Union law.

A measure which prohibits the provision of any other electronic communications service in a specific band may only be provided for where justified by the need to protect safety of life services. Member States may, exceptionally, also extend such a measure in order to fulfil other general interest objectives as defined by **the Union and** Member States in accordance with Union law.

**Amendment 618**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

**Proposal for a directive**

### **Article 45 – paragraph 5 – subparagraph 3**

*Text proposed by the Commission*

A measure which prohibits the provision of any other electronic communications service in a specific band may only be provided for where justified by the need to protect safety of life services. Member States may, exceptionally, also extend such a measure in order to fulfil other general interest objectives as defined by Member States in accordance with Union law.

*Amendment*

A measure which prohibits the provision of any other electronic communications service in a specific band may only be provided for where justified by the need to protect safety of life services. Member States may, exceptionally, also extend such a measure in order to fulfil other general interest objectives as defined by Member States **and the EU** in accordance with Union law.

Or. en

*Justification*

*Safety of life services need to be acknowledged on Member State and EU level.*

### **Amendment 619**

**José Blanco López**

#### **Proposal for a directive**

### **Article 45 – paragraph 5 – subparagraph 3**

*Text proposed by the Commission*

A measure which prohibits the provision of any other electronic communications service in a specific band may only be provided for where justified by the need to protect safety of life services. Member States may, exceptionally, also extend such a measure in order to fulfil other general interest objectives as defined by Member States in accordance with Union law.

*Amendment*

A measure which prohibits the provision of any other electronic communications service in a specific band may only be provided for where justified by the need to protect safety of life services. Member States may, exceptionally, also extend such a measure in order to fulfil other general interest objectives as defined by Member States **and the EU** in accordance with Union law.

Or. en

### **Amendment 620**

**Kaja Kallas, Marietje Schaake**

#### **Proposal for a directive**

### **Article 46 – paragraph 1 – subparagraph 1**

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*Text proposed by the Commission*

Member States shall facilitate the use of radio spectrum, including shared use, under general authorisations and limit the granting of individual rights of use for radio spectrum to situations ***where such rights are necessary to maximise efficient use in the light of demand and, taking into account the criteria set out in the second subparagraph. In all other cases, they shall set out the conditions for the use of radio spectrum in a general authorisation.***

*Amendment*

Member States shall facilitate the use of radio spectrum, including shared use, under general authorisations and limit the granting of individual rights of use for radio spectrum to situations

Or. en

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 621**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Theresa Griffin, Edouard Martin**

**Proposal for a directive**

**Article 46 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall facilitate the use of radio spectrum, including shared use, under general authorisations and limit the granting of individual rights *of* use for radio spectrum *to situations* where ***such rights are necessary to maximise efficient use in the light of demand and, taking into account the criteria set out in the second subparagraph. In all other cases, they shall set out the conditions for the use of radio spectrum in a general authorisation.***

*Amendment*

Member States shall ***decide on the most appropriate regime for authorising the use of radio spectrum***, facilitate the use of radio spectrum, including shared use, under general authorisations and limit the granting of individual rights *or* use for radio spectrum where ***necessary in order to:***

- ***avoid harmful interference,***
- ***ensure technical quality of service,***
- ***ensure coverage and performance of mobile network along all major roads and railways;***
- ***safeguard efficient use of spectrum, or***
- ***fulfil other objectives of general interest as defined by Member States in***

*conformity with the Union law.*

Or. en

*Justification*

*We should aim at bringing the text closer to current Article 5 Authorisation Directive in regard to the balance between general authorisation and individual rights, while stressing the shared use of spectrum in view of new future innovations.*

**Amendment 622**

**Eva Kaili**

**Proposal for a directive**

**Article 46 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall facilitate the use of radio spectrum, including shared use, under general authorisations and limit the granting of individual rights *of* use for radio spectrum *to situations* where *such rights are necessary to maximise efficient use in the light of demand and, taking into account the criteria set out in the second subparagraph. In all other cases, they shall set out the conditions for the use of radio spectrum in a general authorisation.*

*Amendment*

Member States shall *decide on the most appropriate regime for authorising the use of radio spectrum*, facilitate the use of radio spectrum, including shared use, under general authorisations and limit the granting of individual rights *or* use for radio spectrum where *necessary in order to*:

- *avoid harmful interference,*
- *ensure technical quality of service,*
- *ensure coverage and performance of mobile network along all major roads and railways;*
- *safeguard efficient use of spectrum, or*
- *fulfil other objectives of general interest as defined by Member States in conformity with the Union law.*

Or. en

**Amendment 623**

**Barbara Kappel, Lorenzo Fontana, Angelo Ciocca**

**Proposal for a directive**

**Article 46 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall facilitate the use of

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*Amendment*

Member States shall facilitate the use of

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radio spectrum, including shared use, under general authorisations and limit the granting of individual rights of use for radio spectrum to situations where such rights are necessary to maximise efficient use in the light of demand and, taking into account the criteria set out in the second subparagraph. In all other cases, they shall set out the conditions for the use of radio spectrum in a general authorisation.

radio spectrum, including shared use, under general authorisations and limit the granting of individual rights of use for radio spectrum to situations where such rights are necessary to maximise efficient use in the light of demand and, taking into account the criteria set out in the second subparagraph ***and the continuity of services already operating in the same radio spectrum***. In all other cases, they shall set out the conditions for the use of radio spectrum in a general authorisation.

Or. en

**Amendment 624**  
**Cora van Nieuwenhuizen**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall facilitate the use of radio spectrum, including shared use, under general authorisations and limit the granting of individual rights of use for radio spectrum to situations where such rights are necessary to maximise efficient use in the light of demand and, taking into account the criteria set out in the second subparagraph. In all other cases, they shall set out the conditions for the use of radio spectrum in a general authorisation.

*Amendment*

Member States shall facilitate the use of radio spectrum, including shared use, under general authorisations and limit the granting of individual rights of use for radio spectrum to situations where such rights are necessary to maximise efficient use in the light of demand and, taking into account the criteria set out in the second subparagraph ***and the continuity of existing services relying on the same radio spectrum***. In all other cases, they shall set out the conditions for the use of radio spectrum in a general authorisation.

Or. en

**Amendment 625**  
**Miapetra Kumpula-Natri, Dan Nica, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Theresa Griffin**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***To this end, Member States shall decide on the most appropriate regime for authorising the use of radio spectrum, taking account :*** ***deleted***

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

***(b) the need to protect against harmful interference;***

***(c) the requirements for a reliable sharing arrangement, where appropriate;***

***(d) the appropriate level of receiver resilience to ensure technical quality of communications or service;***

***(e) objectives of general interest as defined by Member States in conformity with Union law.***

Or. en

*Justification*

*We have incorporated this part to the AM above.*

## **Amendment 626**

**Kaja Kallas, Marietje Schaake**

### **Proposal for a directive**

#### **Article 46 – paragraph 1 – subparagraph 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

***To this end, Member States shall decide on the most appropriate regime for authorising the use of radio spectrum, taking account :*** ***where such rights are necessary to :***

Or. en

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*



**Amendment 627**  
**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

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

Or. en

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 628**  
**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the need to protect against harmful interference;

(b) the need to ***avoid an*** protect against harmful interference;

Or. en

**Amendment 629**  
**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) ***the need to protect against*** harmful interference;

(b) ***avoid*** harmful interference;

Or. en

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 630**

**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**

**Article 46 – paragraph 1 – subparagraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) *the requirements for a reliable sharing arrangement, where appropriate;*

(c) *safeguard efficient use of spectrum;*

Or. en

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 631**

**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**

**Article 46 – paragraph 1 – subparagraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(d) *the appropriate level of receiver resilience to ensure technical quality of communications or service;*

(d) ensure technical quality of *service* ;

Or. en

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 632**

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**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(d a) requirements for coverage and performance of mobile network along all major roads and railways;*

Or. en

**Amendment 633**  
**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 2 – point d b (new)**

*Text proposed by the Commission*

*Amendment*

*(d b) suitable metrics to track the fulfilment of subparagraph (e), which are representative of end-user experience (voice and data);*

Or. en

**Amendment 634**  
**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 2 – point e**

*Text proposed by the Commission*

*Amendment*

(e) objectives of general interest as defined by Member States in conformity with Union law.

(e) *fulfil other* objectives of general interest as defined by Member States in conformity with Union law.

Or. en

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 635**

**Françoise Grossetête, Anne Sander**

**Proposal for a directive**

**Article 46 – paragraph 1 – subparagraph 2 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(e a) requirements for coverage and performance of mobile network along all major roads and railways;***

Or. en

**Amendment 636**

**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**

**Article 46 – paragraph 1 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

***When applying a general authorisation or individual rights taking in account measures adopted under Decision No 676/2002/EC where the radio spectrum band concerned has been harmonised, Member States shall seek to minimise problems of harmful interference, including in cases of shared use of radio spectrum on the basis of a combination of general authorisation and individual rights of use. In so doing, they shall have regard to the need:***

***2. Where appropriate, Member States shall consider the possibility to authorise the use of radio spectrum based on a combination of general authorisation and individual rights of use. They shall in particular consider the possibility of the gradual transfer from general authorisation to individual rights of use where necessary to foster innovation and facilitate market entry of smaller market participants. They shall favour technological solutions for the management of potential harmful interference with a view to choose the least restrictive authorisation regime possible.***

Or. en

### *Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

#### **Amendment 637**

**Françoise Grossetête, Anne Sander**

#### **Proposal for a directive**

#### **Article 46 – paragraph 1 – subparagraph 3 – introductory part**

##### *Text proposed by the Commission*

When applying a general authorisation or individual rights taking in account measures adopted under Decision No 676/2002/EC where the radio spectrum band concerned has been harmonised, Member States shall seek to *minimise* problems of harmful interference, including in cases of shared use of radio spectrum on the basis of a combination of general authorisation and individual rights of use. In so doing, they shall have regard to the need:

##### *Amendment*

When applying a general authorisation or individual rights taking in account measures adopted under Decision No 676/2002/EC where the radio spectrum band concerned has been harmonised, Member States shall seek to *avoid* problems of harmful interference, including in cases of shared use of radio spectrum on the basis of a combination of general authorisation and individual rights of use. In so doing, they shall have regard to the need:

Or. en

#### **Amendment 638**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda**

#### **Proposal for a directive**

#### **Article 46 – paragraph 1 – subparagraph 3 – introductory part**

##### *Text proposed by the Commission*

When applying a general authorisation or individual rights taking in account measures adopted under Decision No 676/2002/EC where the radio spectrum band concerned has been harmonised, Member States shall seek to *minimise* problems of harmful interference, including in cases of shared use of radio

##### *Amendment*

When applying a general authorisation or individual rights taking in account measures adopted under Decision No 676/2002/EC where the radio spectrum band concerned has been harmonised, Member States shall seek to *avoid* problems of harmful interference, including in cases of shared use of radio

spectrum on the basis of a combination of general authorisation and individual rights of use. In so doing, they shall have regard to the need:

spectrum on the basis of a combination of general authorisation and individual rights of use. In so doing, they shall have regard to the need:

Or. en

### **Amendment 639**

**Kaja Kallas, Marietje Schaake**

#### **Proposal for a directive**

#### **Article 46 – paragraph 1 – subparagraph 3 – indent 1**

*Text proposed by the Commission*

*Amendment*

- *to maintain incentives for incorporation of resilient receiver technologies in devices;* *deleted*

Or. en

#### *Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

### **Amendment 640**

**Kaja Kallas, Marietje Schaake**

#### **Proposal for a directive**

#### **Article 46 – paragraph 1 – subparagraph 3 – indent 2**

*Text proposed by the Commission*

*Amendment*

- *to prevent impediments caused by alternative users;* *deleted*

Or. en

#### *Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 641**  
**Cora van Nieuwenhuizen**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 3 – indent 2**

*Text proposed by the Commission*

- to prevent impediments caused by alternative users;

*Amendment*

- to prevent impediments caused by alternative users, ***for example to services already licensed to operate use the spectrum band;***

Or. en

**Amendment 642**  
**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 3 – indent 3**

*Text proposed by the Commission*

- ***to avoid to the best extent possible the application of the non-interference, non-protection principle to general authorisation regimes; and***

*Amendment*

***deleted***

Or. en

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 643**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 46 – paragraph 1 – subparagraph 3 – indent 4**

*Text proposed by the Commission*

- ***where that principle still applies, to protect against out-of-band interference.***

*Amendment*

***deleted***

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 644**

**Cora van Nieuwenhuizen**

**Proposal for a directive**

**Article 46 – paragraph 1 – subparagraph 3 – indent 4**

*Text proposed by the Commission*

- where that principle still applies, to protect against out-of-band interference.

*Amendment*

- where that principle still applies, to protect against ***in-band and*** out-of-band interference.

Or. en

**Amendment 645**

**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**

**Article 46 – paragraph 1 – subparagraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***When authorising the shared use of spectrum, Member States shall minimise the restrictions to the use of radio spectrum to what is necessary to avoid harmful interference, including by limiting to the best extent possible the application of the non-interference, non-protection principle. Where such principles shall apply, Member States shall take measures to ensure protection against out-of-and interference from adjacent bands.***

Or. en

**Amendment 646**

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**Proposal for a directive**  
**Article 46 – paragraph 2**

*Text proposed by the Commission*

2. When taking a decision pursuant to paragraph 1 with a view to facilitating the shared use of radio spectrum, the competent authorities shall ensure that the rules and conditions for the shared use of radio spectrum are clearly set out and concretely specified in the acts of *authorisation*.

*Amendment*

2. When taking a decision pursuant to paragraph 1 with a view to facilitating the shared use of radio spectrum, the competent authorities shall ensure that the rules and conditions for the shared use of radio spectrum are clearly set out and concretely specified in the acts of *authorization*. ***Such rules shall include fair and non-discriminatory wholesale access conditions for all operators, including virtual operators, and facilitate efficient spectrum use, competition and innovation;***

Or. en

*Justification*

*While facilitating the shared use of spectrum, the authorities should ensure that conditions promote competition and innovations.*

**Amendment 647**  
**Fulvio Martusciello**

**Proposal for a directive**  
**Article 46 – paragraph 2**

*Text proposed by the Commission*

2. When taking a decision pursuant to paragraph 1 with a view to facilitating the shared use of radio spectrum, the competent authorities shall ensure that the rules and conditions for the shared use of radio spectrum are clearly set out and concretely specified in the acts of *authorisation*.

*Amendment*

2. When taking a decision pursuant to paragraph 1 with a view to facilitating the shared use of radio spectrum, the competent authorities shall ensure that the rules and conditions for the shared use of radio spectrum ***promoting competition*** are clearly set out and concretely specified in the acts of *authorization*. ***Such rules shall include fair and non-discriminatory wholesale access conditions for MVNOs.***

Or. en

**Amendment 648**

**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**

**Article 46 – paragraph 2**

*Text proposed by the Commission*

2. ***When taking a decision pursuant to paragraph 1 with a view to facilitating the shared use of radio spectrum, the competent authorities*** shall ensure that the rules and conditions for the shared use of radio spectrum are clearly set out and concretely specified in the acts of authorisation.

*Amendment*

2. ***Member States*** shall ensure that the rules and conditions for the shared use of radio spectrum ***where applied*** are clearly set out and concretely specified in the acts of authorisation.

Or. en

*Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 649**

**Evžen Tošenovský**

**Proposal for a directive**

**Article 46 – paragraph 3**

*Text proposed by the Commission*

3. ***The Commission may, taking utmost account of the opinion of the Radio Spectrum Policy Group, adopt implementing measures on the modalities of application of the criteria, rules and conditions referred to in paragraphs 1 and 2 with regard to harmonised radio spectrum. It shall adopt these measures in accordance with the examination procedure referred to in Article 110(4).***

*Amendment*

***deleted***

Or. en

## **Amendment 650**

**András Gyürk**

### **Proposal for a directive**

#### **Article 46 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The Commission may, taking utmost account of the opinion of the Radio Spectrum Policy Group, adopt implementing measures on the modalities of application of the criteria, rules and conditions referred to in paragraphs 1 and 2 with regard to harmonised radio spectrum. It shall adopt these measures in accordance with the examination procedure referred to in Article 110(4).**

**deleted**

Or. en

*Justification*

*In our opinion, in principle proper spectrum management at EU level should not be based on delegated and implementing acts, therefore we propose to delete this provision. The current system, based on acts adopted under ordinary legislative procedure should be kept.*

## **Amendment 651**

**Kaja Kallas, Marietje Schaake**

### **Proposal for a directive**

#### **Article 46 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The Commission may, taking utmost account of the opinion of the Radio Spectrum Policy Group, adopt implementing measures on the modalities of application of the criteria, rules and conditions referred to in paragraphs 1 and 2 with regard to harmonised radio spectrum. It shall adopt these measures in accordance with the examination procedure referred to in Article 110(4).**

**3. The Commission may, taking utmost account of the opinion of the Radio Spectrum Policy Group, adopt implementing measures on the modalities of application of the criteria, rules and conditions referred to in paragraphs 1 and 4 with regard to harmonised radio spectrum. It shall adopt these measures in accordance with the examination procedure referred to in Article 110(4).**

Or. en

### *Justification*

*There is a need to simplify the procedure as proposed. In addition, in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

#### **Amendment 652**

**Gunnar Hökmark, Michal Boni, Bendt Bendtsen**

#### **Proposal for a directive**

#### **Article 47 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

Competent authorities shall attach conditions to individual rights and general authorisations to use radio spectrum in accordance with Article 13(1) in such a way as to ensure the most effective and efficient use of radio spectrum by the beneficiaries of the general authorisation or the holders of individual rights or by any third party to which an individual right or part thereof has been traded or leased. They shall clearly define any such conditions including the level of use required and the possibility to trade and lease in relation to this obligation in order to ensure the implementation of those conditions in line with Article 30. Conditions attached to renewals of right of use for radio spectrum may not provide undue advantages to existing holders of those rights.

##### *Amendment*

Competent authorities shall attach conditions to individual rights and general authorisations to use radio spectrum in accordance with Article 13(1) in such a way as to ensure ***a sufficiently high level of network resilience and cyber security, in addition to ensuring*** the most effective and efficient use of radio spectrum by the beneficiaries of the general authorisation or the holders of individual rights or by any third party to which an individual right or part thereof has been traded or leased. They shall clearly define any such conditions including the level of use required and the possibility to trade and lease in relation to this obligation in order to ensure the implementation of those conditions in line with Article 30. Conditions attached to renewals of right of use for radio spectrum may not provide undue advantages to existing holders of those rights.

Or. en

#### **Amendment 653**

**Fulvio Martusciello**

#### **Proposal for a directive**

#### **Article 47 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

##### *Amendment*

Competent authorities shall attach conditions to individual rights and general authorisations to use radio spectrum in accordance with Article 13(1) in such a way as to ensure the most effective and efficient use of radio spectrum by the beneficiaries of the general authorisation or the holders of individual rights or by any third party to which an individual right or part thereof has been traded or leased. They shall clearly **define** any such conditions including the level of use required and the possibility to trade and lease in relation to this obligation in order to ensure the implementation of those conditions in line with Article 30. Conditions attached to renewals of right of use for radio spectrum may not provide undue advantages to existing holders of those rights.

Competent authorities shall attach conditions to individual rights and general authorisations to use radio spectrum in accordance with Article 13(1) in such a way as to ensure the most effective and efficient use of radio spectrum by the beneficiaries of the general authorisation or the holders of individual rights or by any third party to which an individual right or part thereof has been traded or leased. They shall **promote competition by defining** any such conditions including the level of use required and the possibility to trade and lease in relation to this obligation in order to ensure the implementation of those conditions in line with Article 30. Conditions attached to renewals of right of use for radio spectrum may not provide undue advantages to existing holders of those rights.

Or. en

## **Amendment 654** **Fulvio Martusciello**

### **Proposal for a directive** **Article 47 – paragraph 2**

#### *Text proposed by the Commission*

2. When attaching conditions to individual rights of use for radio spectrum, competent authorities may **authorise** the sharing of passive or active infrastructure, or of radio spectrum, as well as commercial roaming access agreements, or **the** joint roll-out of infrastructures for the provision of services or networks which rely on the use of radio spectrum, in particular with a view to ensuring effective and efficient use of radio spectrum or promoting coverage. Conditions attached to the rights of use shall not prevent the sharing of radio spectrum. Implementation by undertakings of conditions attached pursuant to this paragraph shall remain subject to competition law.

#### *Amendment*

2. When attaching conditions to individual rights of use for radio spectrum, competent authorities may **impose where appropriate** the sharing of passive or active infrastructure, or of radio spectrum, as well as commercial roaming access agreements, or **they may authorize** joint roll-out of infrastructures for the provision of services or networks which rely on the use of radio spectrum, in particular with a view to ensuring effective and efficient use of radio spectrum or promoting coverage **or deployment of innovative technologies**. Conditions attached to the rights of use shall not prevent the sharing of radio spectrum. Implementation by undertakings of conditions attached pursuant to this

paragraph shall remain subject to competition law.

Or. en

#### **Amendment 655**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Martina Werner, Flavio Zanonato**

#### **Proposal for a directive**

#### **Article 47 – paragraph 2**

##### *Text proposed by the Commission*

2. When attaching conditions to individual rights of use for radio spectrum, competent authorities may authorise the sharing of passive or active infrastructure, or of radio spectrum, as well as commercial roaming access agreements, ***or the joint roll-out of infrastructures*** for the provision of services or networks which rely on the use of radio spectrum, in particular with a view to ensuring effective and efficient use of radio spectrum or promoting coverage. Conditions attached to the rights of use shall not prevent the sharing of radio spectrum. Implementation by undertakings of conditions attached pursuant to this paragraph shall remain subject to competition law.

##### *Amendment*

2. When attaching conditions to individual rights of use for radio spectrum, competent authorities may authorise the sharing of passive or active infrastructure, or of radio spectrum, as well as commercial roaming access agreements for the provision of services or networks which rely on the use of radio spectrum, in particular with a view to ensuring effective and efficient use of radio spectrum or promoting coverage ***of close to 100 percent of Europeans as well as the deployment of innovative technologies***. Conditions attached to the rights of use shall not prevent the sharing of radio spectrum. Implementation by undertakings of conditions attached pursuant to this paragraph shall remain subject to competition law.

Or. en

##### *Justification*

*While we should assess the need for authorities to mandate joint roll-out, we must bridge digital divide and foster innovative technologies.*

#### **Amendment 656**

**Eva Kaili**

#### **Proposal for a directive**

#### **Article 47 – paragraph 2**

*Text proposed by the Commission*

2. When attaching conditions to individual rights of use for radio spectrum, competent authorities may authorise the sharing of passive or active infrastructure, or of radio spectrum, as well as commercial roaming access agreements, **or the joint roll-out of infrastructures** for the provision of services or networks which rely on the use of radio spectrum, in particular with a view to ensuring effective and efficient use of radio spectrum or promoting coverage. Conditions attached to the rights of use shall not prevent the sharing of radio spectrum. Implementation by undertakings of conditions attached pursuant to this paragraph shall remain subject to competition law.

*Amendment*

2. When attaching conditions to individual rights of use for radio spectrum, competent authorities may authorise the sharing of passive or active infrastructure, or of radio spectrum, as well as commercial roaming access agreements for the provision of services or networks which rely on the use of radio spectrum, in particular with a view to ensuring effective and efficient use of radio spectrum or promoting coverage **of close to 100 percent of Europeans as well as the deployment of innovative technologies**. Conditions attached to the rights of use shall not prevent the sharing of radio spectrum. Implementation by undertakings of conditions attached pursuant to this paragraph shall remain subject to competition law.

Or. en

**Amendment 657**  
**Gunnar Hökmark, Bendt Bendtsen**

**Proposal for a directive**  
**Article 47 – paragraph 2**

*Text proposed by the Commission*

2. When attaching conditions to individual rights of use for radio spectrum, competent authorities may authorise the sharing of passive or active infrastructure, or of radio spectrum, as well as commercial roaming access agreements, or the joint roll-out of infrastructures for the provision of services or networks which rely on the use of radio spectrum, in particular with a view to ensuring effective and efficient use of radio spectrum or promoting coverage. Conditions attached to the rights of use shall **not prevent** the sharing of radio spectrum. Implementation by undertakings of conditions attached pursuant to this paragraph shall remain

*Amendment*

2. When attaching conditions to individual rights of use for radio spectrum, competent authorities may authorise the sharing of passive or active infrastructure, or of radio spectrum, as well as commercial roaming access agreements, or the joint roll-out of infrastructures for the provision of services or networks which rely on the use of radio spectrum, in particular with a view to ensuring effective and efficient use of radio spectrum or promoting coverage. Conditions attached to the rights of use shall **facilitate, by different means**, the sharing of radio spectrum. Implementation by undertakings of conditions attached pursuant to this paragraph shall remain subject to

subject to competition law.

competition law.

Or. en

### **Amendment 658**

**Evžen Tošenovský**

#### **Proposal for a directive Article 47 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. *The Commission may adopt implementing measures in order to specify the modalities of applying the conditions that Member States may attach to authorisations to use harmonised radio spectrum in accordance with paragraphs 1 and 2, with the exception of fees pursuant to Article 42.***

*deleted*

***With regard to the coverage requirement under Part D of Annex I, any implementing measure shall be limited to specifying criteria to be used by the competent authority to define and measure coverage obligations, taking into account similarities of regional geographical characteristics, population density, economic development or network development for specific types of electronic communications and evolution of demand. Implementing measures shall not extend to the definition of specific coverage obligations.***

***Those implementing measures shall be adopted in accordance with the examination procedure referred to in Article 110(4), taking utmost account of any opinion of the Radio Spectrum Policy Group.***

Or. en

### **Amendment 659**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

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**Proposal for a directive**  
**Article 47 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

The Commission may adopt implementing measures in order to specify the modalities of applying the conditions that Member States may attach to authorisations to use **harmonised** radio spectrum in accordance with paragraphs 1 and 2, with the exception of fees pursuant to Article 42.

*Amendment*

The Commission may adopt implementing measures in order to specify the modalities of applying the conditions that Member States may attach to authorisations to use radio spectrum in accordance with paragraphs 1 and 2, with the exception of fees pursuant to Article 42.

Or. en

**Amendment 660**  
**Fulvio Martusciello**

**Proposal for a directive**  
**Article 48 – paragraph 2**

*Text proposed by the Commission*

2. Without prejudice to specific criteria and procedures adopted by Member States to grant rights of use for radio spectrum to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Union law, the rights of use for radio spectrum shall be granted through open, objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 45.

*Amendment*

2. Without prejudice to specific criteria and procedures adopted by Member States to grant rights of use for radio spectrum to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Union law, the rights of use for radio spectrum shall be granted through open, objective, **pro-competitive**, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 45.

Or. en

**Amendment 661**  
**David Borrelli, Dario Tamburrano**

**Proposal for a directive**  
**Article 48 – paragraph 2**

*Text proposed by the Commission*

2. Without prejudice to specific criteria and procedures adopted by Member States to grant rights of use for radio spectrum to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Union law, the rights of use for radio spectrum shall be granted through open, objective, transparent, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 45.

*Amendment*

2. Without prejudice to specific criteria and procedures adopted by Member States to grant rights of use for radio spectrum to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with Union law, the rights of use for radio spectrum shall be granted through open, objective, transparent, **pro-competitive**, non-discriminatory and proportionate procedures, and, in the case of radio frequencies, in accordance with the provisions of Article 45.

Or. en

*Justification*

*The amendment aims to promote competition criteria in radio spectrum assignment procedures.*

**Amendment 662**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda**

**Proposal for a directive**

**Article 48 – paragraph 3**

*Text proposed by the Commission*

3. An exception to the requirement of open procedures may apply in cases where the granting of individual rights of use for radio spectrum to the providers of radio or television broadcast content services is necessary to achieve a general interest objective as defined by Member States in conformity with Union law.

*Amendment*

3. An exception to the requirement of open procedures may apply in cases where the granting of individual rights of use for radio spectrum to the providers of radio or television broadcast content services is necessary to achieve a general interest objective as defined by **the Union and the** Member States in conformity with Union law.

Or. en

**Amendment 663**

**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**  
**Article 49 – paragraph 1**

*Text proposed by the Commission*

1. Where Member States authorise the use of radio spectrum through individual rights of use for a limited period of time, they shall ensure that the authorisation is granted for a period that is appropriate in view of the objective pursued taking due account of the need to ensure effective and efficient use **and** promote efficient investments, including by allowing for an appropriate period for investment amortisation.

*Amendment*

1. Where Member States authorise the use of radio spectrum through individual rights of use for a limited period of time, they shall ensure that the authorisation is granted for a period that is appropriate in view of the objective pursued taking due account of the need to ensure effective and efficient use, promote efficient investments, including by allowing for an appropriate period for investment amortisation, ***promote innovation and allow for the evolution of services and technologies.***

Or. en

*Justification*

*in accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 664**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Martina Werner**

**Proposal for a directive**  
**Article 49 – paragraph 1**

*Text proposed by the Commission*

1. Where Member States authorise the use of radio spectrum through individual rights of use for a limited period of time, they shall ensure that the authorisation is granted for a period that is appropriate in view of the objective pursued taking due account of the need to ensure effective and efficient use and promote efficient investments, including by allowing for an appropriate period for investment amortisation.

*Amendment*

1. Where Member States authorise the use of radio spectrum through individual rights of use for a limited period of time, they shall ensure that the authorisation is granted for a period that is appropriate in view of the objective pursued taking due account of the need to ensure ***competition as well as*** effective and efficient use and promote efficient investments, including by allowing for an appropriate period for investment amortisation.

Or. en

*Justification*

*We should strengthen the criteria not only towards investment but also competition.*

**Amendment 665**

**András Gyürk**

**Proposal for a directive  
Article 49 – paragraph 2**

*Text proposed by the Commission*

2. *Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for a duration of at least 25 years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.*

*Amendment*

*deleted*

Or. en

**Amendment 666**

**Edouard Martin**

**Proposal for a directive  
Article 49 – paragraph 2**

*Text proposed by the Commission*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for a duration of at least **25** years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.

*Amendment*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for a duration of at least **15** years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands, **and subject to the provisions of Article 19 and 30. Where the rights of use duration goes beyond 15 years, a mid-term assessment shall be convened after 10 years of granting the rights of use. Rights of use may be withdrawn or adjusted by the Member**

*States pursuant to this assessment if such allocation prevents:*

- ensuring the efficient and effective use of radio spectrum,*
- pursuing a general interest objective, such as the achievement of the Union connectivity targets, or*
- organising and using radio spectrum for public order, public security purposes or defence.*

*In case of withdrawal, the rights of use can only be revoked after a transitional period.*

Or. en

#### *Justification*

*The harmonised license duration is set as a minimum but it remains up to the MS to decide to grant it for a longer period. The proposal here aims at guaranteeing at the same time a degree of visibility and certainty for market players (15 years) across the EU, while introducing flexibility safeguards in case MS decide to grant rights of use for a longer period.*

#### **Amendment 667**

**Eva Kaili**

#### **Proposal for a directive Article 49 – paragraph 2**

##### *Text proposed by the Commission*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use ***for harmonised radio spectrum shall be valid for a duration of at least 25 years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.***

##### *Amendment*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, ***they shall ensure*** those rights of use ***remain valid for a minimum period of [15] years subject to a mid-term assessment after [7-10] years of granting the rights of use. Rights of use may be withdrawn or adjusted by the Member States after the mid-term assessment if such*** rights prevent:  
***- ensuring the efficient and effective use of radio spectrum,***  
***- pursuing a general interest objective, such as the achievement of the Union connectivity targets, or***  
***- organising and using radio spectrum for public order, public security purposes or defence.***

*In case of withdrawal, the rights of use can only be revoked after a transitional period.*

Or. en

#### **Amendment 668**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Martina Werner**

#### **Proposal for a directive**

#### **Article 49 – paragraph 2**

##### *Text proposed by the Commission*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use **for harmonised radio spectrum shall be valid for a duration of at least 25 years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.**

##### *Amendment*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, **they shall ensure** those rights of use **remain valid for a minimum period of [15] years subject to a mid-term assessment after [7-10] years of granting the rights of use. Rights of use may be withdrawn or adjusted by the Member States after the mid-term assessment if such rights prevent:**

- **ensuring the efficient and effective use of radio spectrum,**
- **pursuing a general interest objective, such as the achievement of the Union connectivity targets, or**
- **organising and using radio spectrum for public order, public security purposes or defence.**

**In case of withdrawal, the rights of use can only be revoked after a transitional period.**

Or. en

##### *Justification*

*We need to ensure effective and efficient use of spectrum and promotion of efficient investments by bringing certainty to the markets. Setting a licence duration might be one means to achieve this. However, trusting the scarce resource of radio spectrum to limited amount of players in society for a long time may hamper innovations and technological development as well as harm the competitive market dynamics and the ability of new entrants to access spectrum reliant markets, which all may result in less positive impact for citizens and consumers. We should keep in mind that there might not be a single duration that is suitable for all situations and Member States. Further than that, betting the 30 years licence*

*to a wrong horse in 1987 could have created significant obstacles for European digital development.*

**Amendment 669**  
**José Blanco López**

**Proposal for a directive**  
**Article 49 – paragraph 2**

*Text proposed by the Commission*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use ***for harmonised radio spectrum shall be valid for a duration of at least 25 years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.***

*Amendment*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, ***they shall ensure*** those rights of use ***remain valid for a minimum period of [15] years subject to a mid-term assessment after [7-10] years of granting the rights of use. Rights of use may be withdrawn or adjusted by the Member States after the mid-term assessment if such rights prevent:***

- ensuring the efficient and effective use of radio spectrum,***
- pursuing a general interest objective, such as the achievement of the Union connectivity targets, or***
- organising and using radio spectrum for public order, public security purposes or defence.***

***In case of withdrawal, the rights of use can only be revoked after a transitional period.***

Or. en

**Amendment 670**  
**Kaja Kallas, Marietje Schaake**

**Proposal for a directive**  
**Article 49 – paragraph 2**

*Text proposed by the Commission*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be

*Amendment*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be

valid for a duration of **at least** 25 years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.

valid for a **maximum** duration of 25 years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.

***Where rights of use have been granted for a duration of 25 years, Member states shall conduct reviews at regular intervals of every 5 years to assess if the use of spectrum is the most efficient in light of technological or market evolution, and where justified and necessary shall amend such rights in accordance with articles 50 and 51.***

Or. en

#### *Justification*

*In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

#### **Amendment 671**

**Gunnar Hökmark, Michał Boni, Bendt Bendtsen**

#### **Proposal for a directive**

#### **Article 49 – paragraph 2**

##### *Text proposed by the Commission*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for a duration of at least **25** years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.

##### *Amendment*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for a duration of at least **30** years, ***provided there are conditions to facilitate trading, leasing and sharing of rights***, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.

Or. en

#### **Amendment 672**

**David Borrelli, Dario Tamburrano**



**Proposal for a directive**  
**Article 49 – paragraph 2**

*Text proposed by the Commission*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for a duration of at least **25** years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.

*Amendment*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for a duration of at least **10** years, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.

Or. en

*Justification*

*The amendment aims to shorten the duration of 25 years for licenses, which is too long.*

**Amendment 673**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 49 – paragraph 2**

*Text proposed by the Commission*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for ***a duration of at least 25 years***, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.

*Amendment*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for ***an appropriate duration***, except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.

Or. en

**Amendment 674**  
**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Marisa Matias, Cornelia Ernst**

**Proposal for a directive**

## Article 49 – paragraph 2

*Text proposed by the Commission*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for a duration of **at least** 25 years, **except in the case of temporary rights, temporary extension of rights pursuant to paragraph 3 and rights for secondary use in harmonised bands.**

*Amendment*

2. Where Member States grant rights of use for harmonised radio spectrum for a limited period of time, those rights of use for harmonised radio spectrum shall be valid for a **maximum** duration of 25 years, **reviewed at regular intervals of maximum 5 years for assessing and amending the rights according to laydown procedures.**

Or. en

*Justification*

*The draft Code proposes to extend to a minimum of 25 years the duration of rights to use the radio spectrum. This is disproportionate and unnecessary. Experience shows us that 20 years is already too long, especially considering that the regulation does not enable regulators to act when necessary, e.g. by withdrawing authorisation, even if the operator fails to honor its commitments. Allocating spectrum for more than 5 years would necessitate adding a revision clause/sunset date regularly, with sanctions if the operator fails its obligations. The maximum length of allocation shall be 25 years, with such scheduled sunset dates.*

*The "use it or lose it" clause proposed in the Code is insufficient to enable NRAs to withdraw authorisation if necessary. The capacities of the NRAs should thus be enhanced and more detailed in order to control the use of the licences, preventing holders from "parking" frequencies for too long, thereby hindering connectivity and innovation.*

### Amendment 675

Michał Boni, Françoise Grossetête, Anne Sander

### Proposal for a directive

### Article 49 – paragraph 3

*Text proposed by the Commission*

3. Member States may extend the duration of rights of use for a **short** period of time to ensure the simultaneous expiry of rights in one or several bands.

*Amendment*

3. Member States may **without prejudice to Article 53**, extend the duration of rights of use for a period of time to ensure the simultaneous expiry of rights in one or several bands, **which shall be as short as possible.**

Or. en

### *Justification*

*It is important that any attempt to ensure the simultaneous expiry of rights does not interfere with attempts to secure the coordinated use of harmonised radio spectrum in the Union in accordance with Article 53.*

#### **Amendment 676**

**Evžen Tošenovský**

#### **Proposal for a directive**

#### **Article 50 – paragraph 1**

##### *Text proposed by the Commission*

1. Competent authorities shall take a decision on the renewal of individual rights of use for harmonised radio spectrum, ***at least 3 years*** before the expiry of those rights. They shall consider such renewal, whether at their own initiative or upon request by the right holder, ***in the latter case not earlier than 5 years prior to expiry of the rights concerned***. This shall be without prejudice to renewal clauses applicable to existing rights.

##### *Amendment*

1. Competent authorities shall take a decision on the renewal of individual rights of use for harmonised radio spectrum, before the expiry of those rights. They shall consider such renewal, whether at their own initiative or upon ***timely*** request by the right holder. This shall be without prejudice to renewal clauses applicable to existing rights.

Or. en

#### **Amendment 677**

**Michal Boni, Françoise Grossetête, Anne Sander**

#### **Proposal for a directive**

#### **Article 50 – paragraph 2 – point a a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

***(a a) the need to avoid service disruption with detrimental impact on users' experience;***

Or. en

### *Justification*

*When taking a decision according to Art. 50 the disruptive effect that the non-renewal of existing spectrum licences in certain cases can have on existing customers (e.g. use of M2M services on 2G technology in the 900 MHz band previously used for GSM only) should be*

*recognised. It is therefore suggested to reverse the order of 2. (a) and (f) to emphasise the importance of avoiding service disruption. In addition, certainty over whether existing rights are renewed or not will have a significant impact on the investment of the rights holder. This is why this criterion should be taken into account by the competent authority.*

#### **Amendment 678**

**Michał Boni, Françoise Grossetête, Anne Sander**

#### **Proposal for a directive**

#### **Article 50 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) review of the appropriate ***implementation of*** the conditions attached to the right concerned;

(c) review of the appropriate ***compliance with*** the conditions attached to the right concerned;

Or. en

*Justification*

*When taking a decision according to Art. 50 competent authorities must recognise the conditions that have been attached to the right concerned in order to ensure legal certainty.*

#### **Amendment 679**

**Miapetra Kumpula-Natri, Dan Nica, Theresa Griffin, Flavio Zanonato, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

#### **Proposal for a directive**

#### **Article 50 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(d) the need to promote, or avoid any distortion of, competition in line with Article 52;

(d) the need to promote, or avoid any distortion of, competition in line with Article 52, ***in particular by making necessary adjustments to existing spectrum assignments where justified in accordance with Article 49 to ensure effective competition and spectrum availability for potential new entrants;***

Or. en

*Justification*

*We should ensure that competition and new entrants are considered in radio spectrum assignment/management and regulators provided with the tools to adjust existing spectrum*

*assignments to ensure the most efficient use of spectrum and to guarantee effective competition.*

**Amendment 680**  
**Fulvio Martusciello**

**Proposal for a directive**  
**Article 50 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) the need to promote, or avoid any distortion of, competition in line with Article 52;

*Amendment*

(d) the need to promote, or avoid any distortion of, competition in line with Article 52 ***by ensuring that new entrants can benefit from a redistribution of the spectrum as appropriate;***

Or. en

**Amendment 681**  
**Michał Boni, Françoise Grossetête, Anne Sander**

**Proposal for a directive**  
**Article 50 – paragraph 2 – point f**

*Text proposed by the Commission*

(f) the ***need to avoid severe service disruption.***

*Amendment*

(f) the ***likely effects on existing and future investments by the right holder.***

Or. en

*Justification*

*When taking a decision according to Art. 50 the disruptive effect that the non-renewal of existing spectrum licences in certain cases can have. It is suggested to add the likely effects of the decision on the existing and future investment by the current right holder to the list of criteria to be taken into account by the competent authority.*

**Amendment 682**  
**Fulvio Martusciello**

**Proposal for a directive**  
**Article 50 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

If as a result of the consultation pursuant to the first subparagraph, there is evidence of market demand from undertakings other than those holding rights of use for spectrum in the band concerned, the competent authority shall grant the rights pursuant to **Article 54**.

*Amendment*

If as a result of the consultation pursuant to the first subparagraph, there is evidence of market demand from undertakings other than those holding rights of use for spectrum in the band concerned, the competent authority shall grant the rights pursuant to **Articles 52 and 54**. ***By doing so, the authority shall ensure that any new entrant can effectively benefit from a redistribution of the spectrum.***

Or. en

**Amendment 683**

**Michal Boni, Françoise Grossetête, Anne Sander**

**Proposal for a directive**

**Article 50 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

If as a result of the consultation pursuant to the first subparagraph, there is evidence of market demand from undertakings other than those holding rights of use for spectrum in the band concerned, the competent authority shall grant the rights pursuant to Article 54.

*Amendment*

If as a result of the consultation pursuant to the first subparagraph, there is ***clear*** evidence of market demand from undertakings other than those holding rights of use for spectrum in the band concerned, ***that would result in more effective and efficient use***, the competent authority shall grant the rights pursuant to Article 54 ***if there are alternatives available***.

Or. en

*Justification*

*It is suggested to emphasise that any decision pursuant to Article 50 paragraph 3 subparagraph takes into account the need to secure the effective and efficient use of spectrum.*

**Amendment 684**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Theresa Griffin**

**Proposal for a directive**

**Article 50 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

If as a result of the consultation pursuant to the first subparagraph, there is evidence of market demand from undertakings other than those holding rights of use for spectrum in the band concerned, the competent authority shall grant the rights pursuant to Article 54.

If as a result of the consultation pursuant to the first subparagraph, there is evidence of market demand from undertakings other than those holding rights of use for spectrum in the band concerned, the competent authority shall grant the rights pursuant to Article 54 ***and in compliance with the objectives set in articles 45 and 52.***

Or. en

*Justification*

*Regulators should ensure the most efficient use of spectrum and guarantee effective competition, in compliance with the societal objectives.*

**Amendment 685**

**Michal Boni, Françoise Grossetête, Anne Sander**

**Proposal for a directive**

**Article 52 – paragraph 2 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

When Member States grant, amend or renew rights of use for radio spectrum, their national regulatory authorities may take appropriate measures such as:

When Member States grant, amend or renew rights of use for radio spectrum, their national regulatory authorities, ***after having completed a proper market assessment, may whenever it is indispensable to ensure competition*** may take appropriate measures such as:

Or. en

*Justification*

*The Code provides for measures that can be adopted by Member States in order to foster competition and provides that national regulatory authorities should base their decision on a competitive assessment of the market. While limiting the amount of spectrum or reserving spectrum may be an adequate measure of market regulation through the design of spectrum auctions, it can also have significant negative effects on consumer prices and competition. It should therefore be ensured that such measures are only adopted after a thorough competitive assessment of the concerned markets and after proper verification that such limitation or reservation of spectrum are indispensable to ensure effective competition on those markets.*

**Amendment 686**  
**Gunnar Hökmark, Bendt Bendtsen**

**Proposal for a directive**  
**Article 52 – paragraph 2 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

When Member States grant, amend or renew rights of use for radio spectrum, their national regulatory authorities *may take* appropriate measures such as:

*Amendment*

When Member States grant, amend or renew rights of use for radio spectrum, their national regulatory authorities *should, if necessary in order to ensure effective competition pursuant to point 1 of this Article, consider* appropriate measures such as:

Or. en

**Amendment 687**  
**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

**Proposal for a directive**  
**Article 52 – paragraph 2 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

When Member States grant, amend or renew rights of use for radio spectrum, their national regulatory authorities *may* take appropriate measures such as:

*Amendment*

When Member States grant, amend or renew rights of use for radio spectrum, their national regulatory authorities *shall* take appropriate measures such as, *inter alia*:

Or. en

*Justification*

*Competition is useful to secure investments and end-user benefits.*

**Amendment 688**  
**Fulvio Martusciello**

**Proposal for a directive**  
**Article 52 – paragraph 2 – subparagraph 1 – introductory part**



*Text proposed by the Commission*

*Amendment*

When Member States grant, amend or renew rights of use for radio spectrum, their national regulatory authorities *may* take appropriate measures such as:

When Member States grant, amend or renew rights of use for radio spectrum, their national regulatory authorities *shall* take appropriate measures such as:

Or. en

**Amendment 689**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Edouard Martin**

**Proposal for a directive**

**Article 52 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) limiting the amount of radio spectrum for which rights of use are granted to any undertaking, or attaching conditions to such rights of use, such as the provision of *wholesale access*, national or regional roaming, in certain bands or in certain groups of bands with similar characteristics;

(a) limiting the amount of radio spectrum for which rights of use are granted to any undertaking, or attaching conditions to such rights of use, such as the provision of *passive or active network sharing*, national or regional roaming, *wholesale access*, in certain bands or in certain groups of bands with similar characteristics

Or. en

*Justification*

*Spectrum should not be an asset of dominant players to limit competition. Thus, spectrum policy should be pro-competitive and regulators should have a pro-competitive opportunities in the allocation of rights of use*

**Amendment 690**

**Fulvio Martusciello**

**Proposal for a directive**

**Article 52 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) limiting the amount of radio spectrum for which rights of use are granted to any undertaking, or attaching

(a) limiting the amount of radio spectrum for which rights of use are granted to any undertaking, or attaching

conditions to such rights of use, such as the provision of *wholesale access*, national or regional roaming, in certain bands or in certain groups of bands with similar characteristics;

conditions to such rights of use, such as the provision of *network facility sharing*, national or regional roaming, *wholesale access*, in certain bands or in certain groups of bands with similar characteristics;

Or. en

## **Amendment 691**

**Michał Boni, Françoise Grossetête, Anne Sander**

### **Proposal for a directive**

#### **Article 52 – paragraph 2 – subparagraph 1 – point b**

##### *Text proposed by the Commission*

(b) reserving, if appropriate in regard to an exceptional situation in the national market, a certain part of a frequency band or group of bands *for assignment to new entrants*;

##### *Amendment*

(b) reserving, if appropriate in regard to an exceptional situation in the national market, a certain part of a frequency band or group of bands *certain types of authorisation holders or applicants. Such reservation shall take due account of all elements relevant to the market and operators concerned, including the overall position of the beneficiary of the reservation of rights across all possible activities likely to benefit from such reservation*;

Or. en

##### *Justification*

*The Code provides for measures that can be adopted by Member States in order to foster competition and provides that national regulatory authorities should base their decision on a competitive assessment of the market. While limiting the amount of spectrum or reserving spectrum may be an adequate measure of market regulation through the design of spectrum auctions, it can also have significant negative effects on consumer prices and competition. It should therefore be ensured that such measures are only adopted after a thorough competitive assessment of the concerned markets and after proper verification that such limitation or reservation of spectrum are indispensable to ensure effective competition on those markets.*

## **Amendment 692**

**Fulvio Martusciello**

### **Proposal for a directive**

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## Article 52 – paragraph 2 – subparagraph 1 – point b

*Text proposed by the Commission*

*Amendment*

(b) reserving, if appropriate ***in regard to an exceptional situation in the national market***, a certain part of a frequency band or group of bands for assignment to new entrants;

(b) reserving, if appropriate, a certain part of a frequency band or group of bands for assignment to new entrants;

Or. en

### Amendment 693

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Edouard Martin, Theresa Griffin**

#### Proposal for a directive

## Article 52 – paragraph 2 – subparagraph 1 – point b

*Text proposed by the Commission*

*Amendment*

(b) reserving, if appropriate ***in regard to an exceptional situation in the national market***, a certain part of a frequency band or group of bands for assignment to new entrants;

(b) reserving, if appropriate, a certain part of a frequency band or group of bands for assignment to new entrants, ***or, if appropriate, to exceptional situations in national markets***;

Or. en

### *Justification*

*Auctions can be used to secure the existence of new or late entrants on the markets. Therefore, reserving, if appropriate – as stated in the Decision 243/2012/UE, some block could be a norm, not only a measure in exceptional situations.*

### Amendment 694

**Michal Boni**

#### Proposal for a directive

## Article 52 – paragraph 2 – subparagraph 1 – point d

*Text proposed by the Commission*

*Amendment*

(d) prohibiting or imposing conditions on transfers of rights of use for radio spectrum, ***not subject to national or Union merger control***, where such transfers are likely to result in significant harm to

(d) prohibiting or imposing conditions on transfers of rights of use for radio spectrum, where such transfers are likely to result in significant harm to competition;

competition;

Or. en

*Justification*

*The Code provides for measures that can be adopted by Member States in order to foster competition and provides that national regulatory authorities should base their decision on a competitive assessment of the market.*

**Amendment 695**

**Michal Boni, Françoise Grossetête, Anne Sander**

**Proposal for a directive**

**Article 52 – paragraph 3**

*Text proposed by the Commission*

3. When applying paragraph 2, national regulatory authorities shall act in accordance with the ***procedures provided in*** Articles 18, 19, 23 and 35 of this Directive.

*Amendment*

3. When applying paragraph 2, national regulatory authorities shall act in accordance with the Articles **3,18**, 19, 23 and 35 of this Directive.

Or. en

*Justification*

*The Code provides for measures that can be adopted by Member States in order to foster competition and provides that national regulatory authorities should base their decision on a competitive assessment of the market. It is important to highlight here, that national regulatory authorities take into account the general objectives of the Code as provided for in Article 3 (such as promoting regulatory predictability, competition and the interest of the citizens).*

**Amendment 696**

**Gunnar Hökmark, Bendt Bendtsen**

**Proposal for a directive**

**Article 53 – paragraph 1 – introductory part**

*Text proposed by the Commission*

In order to coordinate the use of harmonised radio spectrum in the Union and taking due account of the different national market situations, the Commission

*Amendment*

In order to ***ensure efficient use of spectrum and*** coordinate the use of harmonised radio spectrum in the Union and taking due account of the different national market situations, the Commission

may, by way of an implementing measure:

may, by way of an implementing measure:

Or. en

**Amendment 697**

**Paul Rübiger**

**Proposal for a directive**

**Article 53 – paragraph 1 – introductory part**

*Text proposed by the Commission*

In order to coordinate the use of harmonised radio spectrum in the Union and taking due account of the different national market situations, the Commission *may*, by way of an implementing measure:

*Amendment*

In order to coordinate the use of harmonised radio spectrum in the Union and taking due account of the different national market situations, the Commission *shall*, by way of an implementing measure:

Or. en

**Amendment 698**

**Angelika Niebler, Herbert Reul, Markus Pieper**

**Proposal for a directive**

**Article 53 – paragraph 1 – point b**

*Text proposed by the Commission*

*(b) where necessary to ensure the effectiveness of coordination, adopt any transitional measure regarding the duration of rights pursuant to Article 49, such as an extension or a reduction of their duration, in order to adapt existing rights or authorisations to such harmonised date.*

*Amendment*

*deleted*

Or. de

*Justification*

*It is not for the Commission to shorten the duration of rights.*

**Amendment 699**

**Evžen Tošenovský**

**Proposal for a directive**  
**Article 53 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

*(b) where necessary to ensure the effectiveness of coordination, adopt any transitional measure regarding the duration of rights pursuant to Article 49, such as an extension or a reduction of their duration, in order to adapt existing rights or authorisations to such harmonised date.*

*deleted*

Or. en

**Amendment 700**  
**Paul Rübzig**

**Proposal for a directive**  
**Article 53 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(b a) establish a common award procedure on the basis of EU-wide principles for the selection process including parameters of spectrum economic valuation measures,*

Or. en

*Justification*

*A truly functioning Digital Single Market requires consistent and therefore harmonized rules and general conditions for spectrum allocation. Moreover an economically optimised spectrum allocation constitutes a prerequisite for the efficient uptake of innovative technologies like 5G.*

**Amendment 701**  
**Gunnar Hökmark, Bendt Bendtsen**

**Proposal for a directive**  
**Article 53 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*The Commission shall, in its efforts to establish common maximum dates by which the use of specific harmonised radio spectrum bands shall be authorised, as set out in this Article, take into utmost consideration the need to ensure a swift harmonisation of spectrum bands which have been identified by the RSPG in its opinion on spectrum related aspects for next-generation wireless systems (5G) as 'pioneer' bands for use by 2020, in particular spectrum in the 3.4-3.8 GHz and the 24.25-27.5 GHz, as well as additional bands which the RSPG identifies as particularly important to this end.*

Or. en

**Amendment 702**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Cornelia Ernst**

**Proposal for a directive**

**Article 55 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

Where that provision is not commercial in character or is ancillary to another commercial activity or public service which is not dependent on the conveyance of signals on those networks, any undertaking, public authority or *end-user* providing such access shall not be subject to any general authorisation for the provision of electronic communications networks or services pursuant to Article 12, to obligations regarding *end-users* rights pursuant to Title III of Part III of this Directive nor to obligations to interconnect their networks pursuant to Article 59 (1).

*Amendment*

Where that provision is not commercial in character or is ancillary to another commercial activity or public service which is not dependent on the conveyance of signals on those networks, any undertaking, public authority or *user* providing such access shall not be subject to any general authorisation for the provision of electronic communications networks or services pursuant to Article 12, to obligations regarding *users* rights pursuant to Title III of Part III of this Directive nor to obligations to interconnect their networks pursuant to Article 59 (1). ***Individuals providing such access not-for-profit shall not be liable for information transmitted by third parties over such access.***

### *Justification*

*The Proposal intends to foster the development of radio local area networks, especially where they provide services which are not commercial in character. The development of such networks mainly depends on the personal participation of individual volunteers, who expend the networks by managing their own relays and access points. However, such a participation is hindered by several laws which seek to prevent the sharing of Internet connections amongst several users by making people responsible (and potentially liable) for all communication made through their Wi-Fi connection, and create legal risks for people sharing their connection. In Germany, rights-holders have used a "secondary liability" doctrine to chill the growth of the community networks movement. In France too, copyright law imposes a secondary liability regime that creates significant legal uncertainty for people sharing their network connections with other users. The so-called "mere conduit", inscribed in EU law since 2000 in the directive on information society services, needs to be clearly guaranteed and expanded to small-area wireless access points. In the same spirit, contract clauses that forbid subscribers to share their connections with others should be prohibited in any case: the possibility to share their connections should not be limited to specific offers. Promoting a right to share Internet connections is all the more vital considering the economic and ecological crises, as well as the rapid increase of populations that cannot afford access to the Internet. In this context, connection sharing can play a critical role in fostering a more equitable and sustainable use of telecommunications infrastructure.*

#### **Amendment 703**

**Kaja Kallas, Marietje Schaake**

#### **Proposal for a directive**

#### **Article 55 – paragraph 2**

##### *Text proposed by the Commission*

2. Competent authorities shall not prevent providers of public communications networks or publicly available electronic communications services from allowing access to their networks to the public, through radio local area networks, which may be located at an end-user's premises, subject to compliance with the applicable general authorisation conditions and the prior informed agreement of the end-user.

##### *Amendment*

2. Competent authorities shall not prevent providers of public communications networks or publicly available electronic communications services from allowing access to their networks to the public, through radio local area networks, which may be located at an end-user's premises, subject to compliance with the applicable general authorisation conditions and the prior informed agreement of the end-user. ***Individuals providing access to their networks for non-commercial purposes shall not be liable for information transmitted by third parties through the use of such access.***



### *Justification*

*In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

#### **Amendment 704**

**José Blanco López, Sergio Gutiérrez Prieto, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz**

#### **Proposal for a directive**

#### **Article 55 – paragraph 2**

##### *Text proposed by the Commission*

2. Competent authorities shall not prevent providers of public communications networks or publicly available electronic communications services from allowing access to their networks to the public, through radio local area networks, which may be located at an end-user's premises, subject to compliance with the applicable general authorisation conditions and the prior informed agreement of the end-user.

##### *Amendment*

2. Competent authorities shall not prevent providers of public communications networks or publicly available electronic communications services from allowing access to their networks to the public, through radio local area networks, which may be located at an end-user's premises, subject to compliance with the applicable general authorisation conditions and the prior informed **and explicit** agreement of the end-user.

Or. en

### *Justification*

*Sharing of consumers' private Wi-Fi networks may bring benefits to consumers as they can use additional access points. However, it is imperative that such additional networks are only installed on consumers' private equipment with their explicit consent and that the consumer whose internet access service is being shared is under no circumstance responsible nor liable for any use that other person might do while connected to his Wi-Fi network.*

#### **Amendment 705**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Cornelia Ernst**

#### **Proposal for a directive**

#### **Article 55 – paragraph 2**

##### *Text proposed by the Commission*

2. Competent authorities shall not prevent providers of public  
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##### *Amendment*

2. Competent authorities shall not prevent providers of public

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communications networks or publicly available electronic communications services from allowing access to their networks to the public, through radio local area networks, which may be located at an *end-user's* premises, subject to compliance with the applicable general authorisation conditions and the prior informed agreement of the *end-user*.

communications networks or publicly available electronic communications services from allowing access to their networks to the public, through radio local area networks, which may be located at an *user's* premises, subject to compliance with the applicable general authorisation conditions and the prior informed agreement of the *user*.

Or. en

#### **Amendment 706**

**José Blanco López, Sergio Gutiérrez Prieto, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz**

#### **Proposal for a directive**

#### **Article 55 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2 a. End-users allowing access to their internet access service as set out in paragraph 2 shall not be liable for any use that other end-users might do while connected to their network.**

Or. en

#### *Justification*

*Sharing of consumers' private Wi-Fi networks may bring benefits to consumers as they can use additional access points. However, it is imperative that such additional networks are only installed on consumers' private equipment with their explicit consent and that the consumer whose internet access service is being shared is under no circumstance responsible nor liable for any use that other person might do while connected to his Wi-Fi network.*

#### **Amendment 707**

**Evžen Tošenovský**

#### **Proposal for a directive**

#### **Article 55 – paragraph 3 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

In line in particular with Article 3(1) of Regulation 2015/2120 of the European

In line in particular with Article 3(1) of Regulation 2015/2120 of the European

Parliament and of the Council,<sup>48</sup> competent authorities shall ensure that providers of public communications networks or publicly available electronic communications services do not unilaterally restrict:

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<sup>48</sup> Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union, OJ L 310, 26.11.2015, p. 1

Parliament and of the Council,<sup>48</sup> competent authorities shall ensure that providers of public communications networks or **number-based** publicly available electronic communications services do not unilaterally restrict:

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<sup>48</sup> Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union, OJ L 310, 26.11.2015, p. 1

Or. en

**Amendment 708**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 55 – paragraph 3 – subparagraph 1 – point a**

*Text proposed by the Commission*

a) *the right of end-users to accede to radio local area networks of their choice provided by third parties;*

*Amendment*

*deleted*

Or. en

**Amendment 709**  
**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 55 – paragraph 3 – subparagraph 1 – point a**

*Text proposed by the Commission*

a) the right of **end-users** to accede to

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*Amendment*

a) the right of **users** to accede to radio

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radio local area networks of their choice provided by third parties;

local area networks of their choice provided by third parties;

Or. en

**Amendment 710**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 55 – paragraph 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

b) *the right of end-users to allow reciprocally or more generally access to the networks of such providers by other end-users through radio local area networks, including on the basis of third-party initiatives which aggregate and make publicly accessible the radio local area networks of different end-users.*

*deleted*

Or. en

**Amendment 711**  
**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 55 – paragraph 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

b) the right of *end-users* to allow reciprocally or more generally access to the networks of such providers by other end-users through radio local area networks, including on the basis of third-party initiatives which aggregate and make publicly accessible the radio local area networks of different end-users.

b) the right of *users* to allow reciprocally or more generally access to the networks of such providers by other end-users through radio local area networks, including on the basis of third-party initiatives which aggregate and make publicly accessible the radio local area networks of different end-users.

Or. en

**Amendment 712**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 55 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*To that end, providers of public communications networks or publicly available electronic communications services shall make available and actively offer, clearly and transparently, products or specific offers allowing its end-users to provide access to third parties through a radio local area network.*

*deleted*

Or. en

**Amendment 713**  
**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 55 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*To that end, providers of public communications networks or publicly available electronic communications services shall make available and actively offer, clearly and transparently, products or specific offers allowing its end-users to provide access to third parties through a radio local area network.*

*deleted*

Or. en

*Justification*

*Contract clauses that forbid subscribers to share their connections with others should be prohibited in any case: the possibility to share their connections should not be limited to specific offers.*

**Amendment 714**

**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 55 – paragraph 4**

*Text proposed by the Commission*

4. Competent authorities shall not restrict the right of *end-users* to allow reciprocally or more generally access to their radio local area networks by other end-users, including on the basis of third-party initiatives which aggregate and make the radio local area networks of different end-users publicly accessible.

*Amendment*

4. Competent authorities shall not restrict the right of *users* to allow reciprocally or more generally access to their radio local area networks by other end-users, including on the basis of third-party initiatives which aggregate and make the radio local area networks of different end-users publicly accessible.

Or. en

**Amendment 715**  
**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 55 – paragraph 5 – point b**

*Text proposed by the Commission*

(b) by initiatives of non-governmental organisations or public authorities to aggregate and make reciprocally or more generally accessible the radio local area networks of different *end-users*, including, where applicable, the radio local area networks to which public access is provided in accordance with point (a).

*Amendment*

(b) by initiatives of non-governmental organisations or public authorities to aggregate and make reciprocally or more generally accessible the radio local area networks of different *users*, including, where applicable, the radio local area networks to which public access is provided in accordance with point (a).

Or. en

**Amendment 716**  
**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

**Proposal for a directive**  
**Article 58 – paragraph 2**

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*Text proposed by the Commission*

2. Without prejudice to Article 21 of this Directive, Member States shall require that undertakings which acquire information from another undertaking before, during or after the process of negotiating access or interconnection arrangements use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored. The received information shall not be passed on to any other party, in particular other departments, subsidiaries or partners, for whom such information could provide a competitive advantage.

*Amendment*

2. Without prejudice to Article 21 of this Directive, Member States shall require that undertakings which acquire information from another undertaking before, during or after the process of negotiating access or interconnection arrangements use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored. ***Where the conditions of competition demand it, access negotiations may be conducted via a neutral third party. Access negotiations should not unreasonably impede either party from acting unilaterally.*** The received information shall not be passed on to any other party, in particular other departments, subsidiaries or partners, for whom such information could provide a competitive advantage.

Or. en

*Justification*

*Third party could ensure, if needed, that competing network operators could do not enter into negotiation jus to spy on their competitor's deployment plans and/or just to delay the competitor's deployment plans.*

**Amendment 717**

**Pervenche Berès, Edouard Martin**

**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

*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, 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.

competition, *media pluralism, cultural diversity*, 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.

Or. fr

### **Amendment 718**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

#### **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, 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.

Or. en

##### *Justification*

*Significant Market Power (SMP) is an important barrier for regulatory intervention. Oligopolistic structures are increasingly commonplace as a result of market consolidation and NRAs should be able to regulate oligopolistic market structures when necessary. We*



*should either delete the part on very high capacity networks or ensure that the objectives in Article 3 are in fact equal.*

**Amendment 719**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda**

**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, 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.

Or. en

*Justification*

*The tools that NRAs are given by telecom regulation are mainly focused on situations where Significant Market Power (SMP) is demonstrable. This is an important barrier for regulatory intervention that is not easy for NRAs to overcome. Importantly, as BEREC rightly points out, situations of Significant Market Power are not the only threats to competition. Oligopolistic structures where the market is dominated by not one but a reduced number of players are also problematic and increasingly commonplace as a result of market consolidation. Member States must be entitled to empower their NRAs to deal with oligopolistic market structures.*

**Amendment 720**

**Theresa Griffin**

**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**, 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.

Or. en

**Amendment 721**  
**Pervenche Berès**

**Proposal for a directive**  
**Article 59 – paragraph 1 – subparagraph 2 – introductory part**

*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**:

Or. fr

**Amendment 722**  
**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 59 – paragraph 1 – subparagraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

*(c) in justified cases, obligations on providers of number-independent interpersonal communications services to make their services interoperable, namely where access to emergency services or end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services.* **deleted**

Or. en

**Amendment 723**  
**Olle Ludvigsson**

**Proposal for a directive**  
**Article 59 – paragraph 1 – subparagraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

*(c) in justified cases, obligations on providers of number-independent interpersonal communications services to make their services interoperable, namely where access to emergency services or end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services.* **deleted**

Or. en

**Amendment 724**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 59 – paragraph 1 – subparagraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

*(c) in justified cases, obligations on* **deleted**

*providers of number-independent interpersonal communications services to make their services interoperable, namely where access to emergency services or end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services.*

Or. en

#### **Amendment 725**

**Gunnar Hökmark, Henna Virkkunen, Krišjānis Kariņš, Bendt Bendtsen**

#### **Proposal for a directive**

**Article 59 – paragraph 1 – subparagraph 2 – point c**

*Text proposed by the Commission*

(c) in justified cases, ***obligations on providers of number-independent interpersonal communications services to make their services interoperable, namely*** where access to emergency services or end-to-end ***connectivity*** between end-users is ***endangered*** due to a lack of interoperability between interpersonal communications services.

*Amendment*

(c) in justified cases ***where the reach, coverage and user uptake corresponds to that of number-based services and*** where ***strictly necessary in order to ensure*** access to emergency services or end-to-end ***communication*** between end-users is due to a lack of interoperability between interpersonal communications services, ***obligations on providers of number-independent interpersonal communications services to make their services interoperable.***

Or. en

#### **Amendment 726**

**Pervenche Berès, Edouard Martin**

#### **Proposal for a directive**

**Article 59 – paragraph 1 – subparagraph 2 – point d**

*Text proposed by the Commission*

(d) to the extent that is necessary to ensure accessibility for end-users to ***digital radio and television broadcasting*** services specified by the Member State, obligations on operators to provide access to the other

*Amendment*

(d) to the extent that is necessary to ensure accessibility for end-users to ***radio broadcasting and audiovisual media services as well as related complementary*** services specified by the Member State,

facilities referred to in Annex II, Part II on fair, reasonable and non-discriminatory terms.

obligations on operators to provide access to the other facilities referred to in Annex II, Part II on fair, reasonable and non-discriminatory terms.

Or. fr

#### **Amendment 727**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Theresa Griffin**

#### **Proposal for a directive**

#### **Article 59 – paragraph 1 – subparagraph 2 – point d**

##### *Text proposed by the Commission*

(d) to the extent that is necessary to ensure accessibility for end-users to digital radio and **television broadcasting** services specified by the Member State, obligations on operators to provide access to the other facilities referred to in Annex II, Part II on fair, reasonable and non-discriminatory terms.

##### *Amendment*

(d) to the extent that is necessary to ensure accessibility for end-users to digital radio and **audiovisual media services and related complementary** services specified by the Member State, obligations on operators to provide access to the other facilities referred to in Annex II, Part II on fair, reasonable and non-discriminatory terms.

Or. en

##### *Justification*

*TV broadcasting should be changed in to more technology neutral and future-proof term.*

#### **Amendment 728**

**Eva Kaili**

#### **Proposal for a directive**

#### **Article 59 – paragraph 1 – subparagraph 2 – point d**

##### *Text proposed by the Commission*

(d) to the extent that is necessary to ensure accessibility for end-users to digital radio and **television broadcasting** services specified by the Member State, obligations on operators to provide access to the other facilities referred to in Annex II, Part II on fair, reasonable and non-discriminatory

##### *Amendment*

(d) to the extent that is necessary to ensure accessibility for end-users to digital radio and **audiovisual media services and related complementary** services specified by the Member State, obligations on operators to provide access to the other facilities referred to in Annex II, Part II on

terms.

fair, reasonable and non-discriminatory terms.

Or. en

**Amendment 729**  
**Olle Ludvigsson**

**Proposal for a directive**  
**Article 59 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

*The obligations referred to in point (c) of the second subparagraph may only be imposed:* **deleted**

*(i) to the extent necessary to ensure interoperability of interpersonal communications services and may include obligations relating to the use and implementation of standards or specifications listed in Article 39(1) or of any other relevant European or international standards; and*

*(ii) where the Commission, on the basis of a report that it had requested from BEREC, has found an appreciable threat to effective access to emergency services or to end-to-end connectivity between end-users within one or several Member States or throughout the European Union and has adopted implementing measures specifying the nature and scope of any obligations that may be imposed, in accordance with the examination procedure referred to in Article 110(4).*

Or. en

**Amendment 730**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 59 – paragraph 1 – subparagraph 3**

***The obligations referred to in point (c) of the second subparagraph may only be imposed:*** ***deleted***

***(i) to the extent necessary to ensure interoperability of interpersonal communications services and may include obligations relating to the use and implementation of standards or specifications listed in Article 39(1) or of any other relevant European or international standards; and***

***(ii) where the Commission, on the basis of a report that it had requested from BEREC, has found an appreciable threat to effective access to emergency services or to end-to-end connectivity between end-users within one or several Member States or throughout the European Union and has adopted implementing measures specifying the nature and scope of any obligations that may be imposed, in accordance with the examination procedure referred to in Article 110(4).***

Or. en

### **Amendment 731**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Marisa Matias, Cornelia Ernst**

### **Proposal for a directive**

#### **Article 59 – paragraph 1 – subparagraph 3 – point i**

*Text proposed by the Commission*

*Amendment*

(i) to the extent necessary to ensure interoperability of interpersonal communications services and may include ***obligations relating to the use and implementation*** of standards or specifications listed in Article 39(1) or of any other relevant European or international standards; and

(i) to the extent necessary to ensure interoperability of interpersonal communications services and may include ***an obligation to publish and authorize the use, modification and redistribution of any relevant information or an obligation to use or implement*** of standards or specifications listed in Article 39(1) or of any other relevant European or international standards; and

*Justification*

*Ensuring interoperability of interpersonal communications services requires that the technical information necessary to communicate with the users of such services can be freely accessed, used, modified and redistributed by anyone, whether this information is already public or held by the providers of these services. Encryption should not be jeopardized by such standards.*

**Amendment 732****Kaja Kallas, Marietje Schaake****Proposal for a directive****Article 59 – paragraph 1 – subparagraph 3 – point i***Text proposed by the Commission*

(i) to the extent necessary to ensure interoperability of interpersonal communications services and may include obligations relating to the use and implementation of standards or specifications listed in Article 39(1) or of any other relevant European or international standards; **and**

*Amendment*

(i) to the extent necessary to ensure interoperability of interpersonal communications services and may include obligations relating to the use and implementation of standards or specifications listed in Article 39(1) or of any other relevant European or international standards; ***such obligations shall not lead to the weakening of security standards of these services.***

*Justification*

*In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 733****Kaja Kallas, Marietje Schaake****Proposal for a directive****Article 59 – paragraph 1 – subparagraph 3 – point ii***Text proposed by the Commission*

(ii) where the Commission, on the basis of a report that it had requested from BEREC, has found an appreciable threat to effective access to emergency services or

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*Amendment*

(ii) where the Commission, on the basis of a report that it had requested from BEREC, has found an appreciable threat to effective access to emergency services or



to end-to-end connectivity between end-users within one or several Member States or throughout the European Union and has adopted implementing measures specifying the nature and scope of any obligations that may be imposed, in accordance with the examination procedure referred to in Article 110(4).

to end-to-end connectivity between end-users within one or several Member States or throughout the European Union and has adopted implementing measures specifying the nature and scope of any obligations that may be imposed, in accordance with the examination procedure referred to in Article 110(4). ***Member states may not impose any additional obligations.***

Or. en

*Justification*

*In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 734**

**Angelika Niebler, Herbert Reul, Markus Pieper**

**Proposal for a directive**

**Article 59 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. National regulatory authorities shall impose obligations upon reasonable request to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.***

***deleted***

***National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration***

*or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.*

*National regulatory authorities shall not impose obligations in accordance with the second subparagraph where:*

*(a) a viable and similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and*

*(b) in the case of recently deployed network elements, in particular by smaller local projects, the granting of that access would compromise the economic or financial viability of their deployment.*

Or. de

#### *Justification*

*The EU cost reduction directive (2014/61/EU) contains additional elements of symmetrical regulation. The Commission is to submit a report on the implementation of this directive to the European Parliament and the Council by 1 July 2018. No action should be taken until the findings of the implementation report, which can provide a basis for deciding whether additional elements of symmetrical regulation are needed, are available.*

#### **Amendment 735**

**Kaja Kallas**

#### **Proposal for a directive**

#### **Article 59 – paragraph 2 – subparagraph 1**

##### *Text proposed by the Commission*

*National regulatory authorities shall impose obligations upon reasonable request to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or*

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##### *Amendment*

*Where this is justified on the grounds that replication of such network elements would be economically inefficient or technically impossible and the access to such elements is necessary to foster sustainable competition, national regulatory authorities shall impose*

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on undertakings that have the right to use such wiring and cables, *where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.*

obligations upon reasonable request, to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables. The access conditions imposed may include specific rules on access, *including where necessary to the required associated facilities, on transparency, non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.*

*Such obligations shall only be imposed following a market analysis procedure in accordance with article 65 and shall complement but not replace regulatory measures taken in accordance with article 66 to ensure the effectiveness of the actions of national regulatory authorities to comply with the objectives set out in article 3 of this Directive.*

Or. en

#### *Justification*

*Symmetric obligations being imposed on all undertaking without regard to their market power shall only be imposed where justified and necessary given their potential negative impact on investment and competition. They should therefore be linked to a market analysis procedure to prevent that they achieve the opposite goals that the obligations taken by regulators under the SMP regime seek to achieve. In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

#### **Amendment 736**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod**

#### **Proposal for a directive**

#### **Article 59 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*National* regulatory authorities shall impose obligations **upon** reasonable **request** to grant access to wiring and cables

*Amendment*

*Without prejudice to 59(1), national regulatory authorities shall, **taking full account of the principle of proportionality***

inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, ***which, where appropriate, are adjusted to take into account risk factors.***

impose obligations ***to meet*** reasonable ***requests*** to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside ***but close to*** the building, ***or beyond it to a concentration point close to end-users,*** on the owners of such wiring and cable or on undertakings ***on providers of electronic communications networks or electronic communications services*** that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed ***shall be objective, transparent, non-discriminatory and proportionate in accordance with the principles set out in Article 3(3), and*** may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access. ***These measures should be consistent with the provisions of [Broadband Cost reductions Directive]***

Or. en

#### *Justification*

*The connection between 59(1) and 59(2) should be clarified through the negotiations in the EP and with the Council. In the absence of specific powers for symmetrical obligation, assessing market dominance is difficult. There are links to article 13(2) and to Annex I, Part A, point 7.*

**Amendment 737**  
**Eva Kaili**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*National* regulatory authorities shall impose obligations ***upon*** reasonable ***request*** to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where

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*Amendment*

***Without prejudice to 59(1),*** national regulatory authorities shall, ***taking full account of the principle of proportionality*** impose obligations ***to meet*** reasonable ***requests*** to grant access to wiring and

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that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, ***which, where appropriate, are adjusted to take into account risk factors.***

cables inside buildings or up to the first concentration or distribution point where that point is located outside ***but close to*** the building, ***or beyond it to a concentration point close to end-users***, on the owners of such wiring and cable or on undertakings ***on providers of electronic communications networks or electronic communications services*** that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed ***shall be objective, transparent, non-discriminatory and proportionate in accordance with the principles set out in Article 3(3), and*** may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access. ***These measures should be consistent with the provisions of [Broadband Cost reductions Directive]***

Or. en

### **Amendment 738**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Cornelia Ernst**

### **Proposal for a directive**

### **Article 59 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

***National*** regulatory authorities ***shall*** impose obligations ***upon*** reasonable ***request to grant*** access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, ***on the owners of such wiring and cable or on undertakings*** that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically

*Amendment*

***In particular, and without prejudice to the generalities of 59(1)***, national regulatory authorities ***may*** impose obligations ***to meet*** reasonable ***requests for*** access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building ***or beyond it to a concentration point close to end-users on providers of electronic communications networks or electronic communications services*** that have the right to use such wiring and

impracticable. The access conditions imposed may include specific rules on access, transparency *and* non-discrimination and *for apportioning the costs* of access, which, where appropriate, are adjusted to take into account risk factors.

cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency, non-discrimination and *the price* of access, which, where appropriate, are adjusted to take into account risk factors.

***When imposing access regulation beyond the first concentration or distribution point, national regulatory authorities may under special circumstances impose active or virtual access to such wiring and cables.***

Or. en

#### **Amendment 739**

**Lieve Wierinck, Hilde Vautmans**

#### **Proposal for a directive**

#### **Article 59 – paragraph 2 – subparagraph 1**

##### *Text proposed by the Commission*

National regulatory authorities *shall* impose obligations *upon* reasonable ***request to grant*** access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. ***The*** access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

##### *Amendment*

National regulatory authorities *may* impose obligations ***to meet*** reasonable ***requests for*** access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, ***or beyond it to a concentration point close to end-users***, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. ***These*** access conditions ***should be*** imposed ***on fair and reasonable terms and conditions***, and may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors. ***When imposing access regulation beyond the first concentration or distribution point,***

*national regulatory authorities may, under special circumstances, impose active or virtual access to such wiring and cables.*

Or. en

**Amendment 740**  
**Kathleen Van Brempt**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

National regulatory authorities *shall* impose obligations *upon reasonable request to grant* access to wiring and cables inside buildings *or* up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

*Amendment*

National regulatory authorities *may* impose obligations *to address reasonable requests for* access to wiring and cables inside buildings, up to the first concentration or distribution point where that point is located outside the building, *or beyond that point at a concentration point in proximity of the end-user*, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors. *National regulatory authorities may, when circumstances require it, impose active or virtual access to wiring and cables, in the event of imposing access regulation beyond the first concentration or distribution point.*

Or. en

**Amendment 741**  
**Gunnar Hökmark, Henna Virkkunen, Bendt Bendtsen**

**Proposal for a directive**

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## Article 59 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

National regulatory authorities shall impose obligations ***upon reasonable request to grant*** access to wiring and cables inside buildings or up to ***the first*** concentration or distribution point ***where that point is located outside the building***, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

*Amendment*

National regulatory authorities shall impose obligations ***to meet reasonable requests for*** access to wiring and cables inside buildings or up to ***a*** concentration or distribution point ***as close to end-users as possible***, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors. ***Under special circumstances, when access regulation is imposed beyond the first concentration or distribution point, national regulatory authorities may impose active or virtual access to such wiring and cables.***

Or. en

### Amendment 742 Olle Ludvigsson

## Proposal for a directive Article 59 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

National regulatory authorities shall impose obligations ***upon reasonable request to grant*** access to wiring and cables inside buildings or up to ***the first*** concentration or distribution point ***where that point is located outside the building***, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be

*Amendment*

National regulatory authorities shall impose obligations ***to meet reasonable requests for*** access to wiring and cables inside buildings or up to ***a*** concentration or distribution point ***as close as possible to end-users***, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or



economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency *and* non-discrimination and *for apportioning the costs* of access, which, where appropriate, are adjusted to take into account risk factors.

physically impracticable. The access conditions imposed may include specific rules on access, transparency, non-discrimination and *the price* of access, which, where appropriate, are adjusted to take into account risk factors. *When imposing access regulation beyond the first concentration or distribution point, national regulatory authorities may under special circumstances impose active or virtual access to such wiring and cables.*

Or. en

### **Amendment 743**

**Anne Sander, Françoise Grossetête**

#### **Proposal for a directive**

#### **Article 59 – paragraph 2 – subparagraph 1**

##### *Text proposed by the Commission*

National regulatory authorities shall impose obligations upon reasonable request to grant access to wiring and cables inside buildings or up to *the first* concentration or distribution point *where that point is located outside the building*, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

##### *Amendment*

National regulatory authorities shall impose obligations upon reasonable request to grant access to wiring and cables inside buildings or up to *a* concentration or distribution point *as close as possible to end-users, determined by the national regulatory authority*, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access *to such network elements and to associated facilities and services*, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

Or. en

### **Amendment 744**

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**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*National* regulatory authorities shall impose obligations *upon reasonable request* to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

*Amendment*

*Following the completion of a market analysis carried out in accordance with Article 65*, national regulatory authorities shall impose obligations to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

Or. en

**Amendment 745**

**Edouard Martin**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

National regulatory authorities shall impose obligations upon reasonable request to grant access to wiring and cables inside buildings or up to *the first* concentration or distribution point *where that point is located outside the building*, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be

*Amendment*

National regulatory authorities shall impose obligations upon reasonable request to grant access to wiring and cables inside buildings or up to *a* concentration or distribution point *as close as possible to end-users*, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or

economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

physically impracticable. The access conditions imposed may include specific rules on access *to such network elements and to associated facilities and services*, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

Or. en

**Amendment 746**  
**Fulvio Martusciello**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

National regulatory authorities *shall* impose obligations upon reasonable request to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

*Amendment*

National regulatory authorities *may* impose obligations upon reasonable request to grant access to wiring and cables inside *residential* buildings or up to the first concentration or distribution point where that point is located outside the *residential* building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

Or. en

**Amendment 747**  
**Krišjānis Kariņš**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

National regulatory authorities **shall** impose obligations upon reasonable request to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

*Amendment*

National regulatory authorities **may** impose obligations upon reasonable request to grant access to wiring and cables inside buildings or up to the first concentration or distribution point where that point is located outside the building, on the owners of such wiring and cable or on undertakings that have the right to use such wiring and cables, where this is justified on the grounds that replication of such network elements would be economically inefficient or physically impracticable. The access conditions imposed may include specific rules on access, transparency and non-discrimination and for apportioning the costs of access, which, where appropriate, are adjusted to take into account risk factors.

Or. en

**Amendment 748**

**Lieve Wierinck, Hilde Vautmans**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

***National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.***

*Amendment*

***deleted***

Or. en

**Amendment 749**

**Olle Ludvigsson**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.*

*deleted*

Or. en

**Amendment 750**

**Kathleen Van Brempt**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.*

*deleted*

Or. en

**Amendment 751**

**Gunnar Hökmark, Henna Virkkunen, Krišjānis Kariņš, Bendt Bendtsen**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.*

*deleted*

Or. en

*Justification*

*In correspondence to the amendment on Article 59 - paragraph 2 - subparagraph 1.*

**Amendment 752**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.*

*deleted*

Or. en

## **Amendment 753**

**Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod, Flavio Zanonato**

### **Proposal for a directive**

#### **Article 59 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.*

*Amendment*

*When imposing access regulation beyond the first concentration or distribution point, national regulatory authorities may under special circumstances impose active or virtual access to such wiring and cables beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.*

Or. en

#### *Justification*

*National regulatory authorities should have ability to impose regulation as close as possible to end-users if necessary to address economic or physical barriers, especially in areas with low population density.*

## **Amendment 754**

**José Blanco López, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz**

### **Proposal for a directive**

#### **Article 59 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication in areas with lower population density.

*Amendment*

National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first concentration or distribution point to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication, *in particular* in areas with lower population density.

**Amendment 755**

Anne Sander, Françoise Grossetête

**Proposal for a directive****Article 59 – paragraph 2 – subparagraph 2***Text proposed by the Commission*

National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the *first* concentration or distribution point *to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication* in areas with lower population density.

*Amendment*

National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the concentration or distribution point *mentioned to the first subparagraph where such network element would be economically unviable or physically impossible to replicate* in areas with lower population density.

**Amendment 756**

Edouard Martin

**Proposal for a directive****Article 59 – paragraph 2 – subparagraph 2***Text proposed by the Commission*

National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the *first* concentration or distribution point *to a concentration point as close as possible to end-users, to the extent strictly necessary to address insurmountable economic or physical barriers to replication* in areas with lower population density.

*Amendment*

National regulatory authorities may extend to those owners or undertakings the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the concentration or distribution point *mentioned in the first subparagraph where such network elements would be economically unviable or physically impossible to replicate* in areas with lower population density.



**Amendment 757**

**José Blanco López, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

*National regulatory authorities shall not impose obligations in accordance with the second subparagraph where:*

*deleted*

*(a) a viable and similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and*

*(b) in the case of recently deployed network elements, in particular by smaller local projects, the granting of that access would compromise the economic or financial viability of their deployment.*

Or. en

**Amendment 758**

**Anne Sander, Françoise Grossetête**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

*National regulatory authorities shall not impose obligations in accordance with the second subparagraph where:*

*When national regulatory authorities are considering the appropriateness and proportionality of imposing obligations in accordance with the second subparagraph they shall take into account in particular :*

Or. en

**Amendment 759**

**Edouard Martin**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

*National* regulatory authorities **shall not impose** obligations in accordance with the second subparagraph **where**:

**When** national regulatory authorities **are considering the appropriateness and proportionality of imposing** obligations in accordance with the second subparagraph, **they shall take into account in particular** :

Or. en

**Amendment 760**

**Miapetra Kumpula-Natri, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Dan Nica, Jeppe Kofod**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

National regulatory authorities shall not impose obligations in accordance with the second subparagraph where:

National regulatory authorities shall not impose obligations in accordance with the second subparagraph where, **in particular, but not exclusively**:

Or. en

*Justification*

*To add flexibility*

**Amendment 761**

**Fulvio Martusciello**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

National regulatory authorities shall not impose obligations in accordance with the second subparagraph where:

National regulatory authorities shall not impose obligations in accordance with the second subparagraph where, **in particular but not exclusively**:

Or. en

**Amendment 762**

**Gunnar Hökmark, Henna Virkkunen, Bendt Bendtsen**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

National regulatory authorities shall not impose obligations *in accordance with the second subparagraph* where:

*Amendment*

National regulatory authorities shall not impose obligations *beyond the first concentration or distribution point* where:

Or. en

**Amendment 763**

**Olle Ludvigsson**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

National regulatory authorities shall not impose obligations *in accordance with the second subparagraph* where:

*Amendment*

National regulatory authorities shall not impose obligations *beyond the first concentration or distribution point* where:

Or. en

**Amendment 764**

**Lieve Wierinck, Hilde Vautmans**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

National regulatory authorities shall not impose obligations *in accordance with the second subparagraph* where:

*Amendment*

National regulatory authorities shall not impose obligations *beyond the first concentration or distribution point* where:

Or. en

**Amendment 765**

**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

National regulatory authorities shall not impose obligations *in accordance with the second subparagraph* where:

National regulatory authorities shall not impose obligations *beyond the first concentration or distribution point* where:

Or. en

**Amendment 766**  
**Kathleen Van Brempt**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

National regulatory authorities shall not impose obligations *in accordance with the second subparagraph where:*

National regulatory authorities shall not impose obligations *beyond the first concentration or distribution point when*

Or. en

**Amendment 767**  
**Michel Reimon**  
on behalf of the Verts/ALE Group  
**Julia Reda, Cornelia Ernst**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) *a viable and similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and*

*deleted*

**Amendment 768**  
**Kathleen Van Brempt**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

*(a) a viable and similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and* **deleted**

Or. en

**Amendment 769**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

*(a) a viable and similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and* **deleted**

Or. en

**Amendment 770**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) a viable **and similar** alternative means of access to end-users is made available to any undertaking, provided that **the** access is offered **on** fair and reasonable terms and conditions **to a very high capacity network** by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and

(a) a viable alternative means of access to end-users **provided by the network operator and suitable for the provision of very high capacity networks** is made available to any undertaking, provided that **such** access is offered **under** fair and reasonable terms and conditions by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and

Or. en

*Justification*

*In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 771**

**Edouard Martin**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) a viable and similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network **by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b)**; and

(a) **the existence of** a viable and similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network; and

Or. en

**Amendment 772**

**Anne Sander, Françoise Grossetête**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – point a**

*Text proposed by the Commission*

*Amendment*

(a) **a** viable and similar alternative  
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(a)  
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**the existence of** viable and similar  
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means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network **by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and**

alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network

Or. en

#### **Amendment 773**

**Miapetra Kumpula-Natri, Flavio Zanonato, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Dan Nica, Jeppe Kofod**

#### **Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – point a**

*Text proposed by the Commission*

(a) a viable **and similar** alternative means of access to end-users is **made available to any undertaking**, provided **that the access is offered on fair and reasonable terms and conditions to a** very high capacity **network by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and**

*Amendment*

(a) a viable alternative means of access to end-users is provided **by the network operator and suitable for the provision of** very high capacity **networks, provided that such access is offered on fair and reasonable terms and conditions; or**

Or. en

#### *Justification*

*Symmetric obligations are a relevant tool for NRAs, but should provide for reaching the objectives of the framework.*

#### **Amendment 774**

**Fulvio Martusciello**

#### **Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – point a**

*Text proposed by the Commission*

(a) a viable and similar alternative means of access to end-users is **made available to any undertaking**, provided **that the access is offered on fair and**

*Amendment*

(a) a viable and similar alternative means of access to end-users is provided **by the network operator and suitable for the provision of** very high capacity

*reasonable terms and conditions to a very high capacity network by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); and*

*networks, provided that such access is offered on fair and reasonable terms and conditions; or*

Or. en

**Amendment 775**  
**Olle Ludvigsson**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – point a**

*Text proposed by the Commission*

(a) a viable and similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); **and**

*Amendment*

(a) a viable and **functionally** similar alternative means of access to end-users is made available to any undertaking, provided that the access is offered on fair and reasonable terms and conditions to a very high capacity network by an undertaking meeting the criteria listed in Article 77 paragraphs (a) and (b); **or**

Or. en

**Amendment 776**  
**Fulvio Martusciello**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – point b**

*Text proposed by the Commission*

(b) in the case of recently deployed network elements, in particular by smaller local projects, the granting of that access would compromise the economic or financial viability of their deployment.

*Amendment*

(b) in the case of recently deployed network elements, in particular by smaller local projects, the granting of that access would compromise the economic or financial viability of their deployment; **or these obligations may lead to strengthening the overall market position of undertakings designated as having significant market power. Obligations imposed under this paragraph are without prejudice to the ability of national regulatory authorities to impose obligations on an undertaking in**



*accordance with Articles 66 to 72 and relax or lift obligations imposed under this paragraph on other undertakings in order to safeguard competition on a forward-looking basis.*

Or. en

**Amendment 777**  
**Michal Boni**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – point b**

*Text proposed by the Commission*

(b) in the case of recently deployed network elements, in particular by smaller local projects, the granting of that access would compromise the economic or financial viability of their deployment.

*Amendment*

(b) in the case of recently deployed network elements, in particular by smaller local ***or regional*** projects ***or undertakings***, the granting of that access would compromise the economic or financial viability of their deployment.; ***or***

Or. en

**Amendment 778**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 3 – point b**

*Text proposed by the Commission*

(b) in the case of recently deployed network elements, ***in particular by smaller local projects***, the granting of that access would compromise the economic or financial viability of their deployment.

*Amendment*

(b) in the case of recently deployed network elements, the granting of that access would compromise the economic or financial viability of their deployment.

Or. en

**Amendment 779**  
**Kathleen Van Brempt**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – point b**

*Text proposed by the Commission*

(b) *in the case of recently deployed network elements, in particular by smaller local projects, the granting of that access would compromise the economic or financial viability of their deployment.*

*Amendment*

(b) *the granting of that access would compromise the economic or financial viability of their deployment in the case of recently deployed network elements, in particular by smaller local projects.*

Or. en

**Amendment 780**

**Anne Sander, Françoise Grossetête**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – point b**

*Text proposed by the Commission*

(b) in the case of recently deployed network elements, in particular by smaller local projects, the granting of that access **would compromise** the economic or financial viability of their deployment.

*Amendment*

(b) in the case of recently deployed network elements, in particular by smaller local projects, the **impact of** granting of that access **on** the economic or financial viability of their deployment.

Or. en

**Amendment 781**

**Edouard Martin**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – point b**

*Text proposed by the Commission*

(b) in the case of recently deployed network elements, in particular by smaller local projects, the **granting of** that access **would compromise** the economic or financial viability of their deployment.

*Amendment*

(b) in the case of recently deployed network elements, in particular by smaller local projects, the **impact of granting** that access **on** the economic or financial viability of their deployment.

Or. en

**Amendment 782**

Miapetra Kumpula-Natri, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Dan Nica, Jeppe Kofod

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 3 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(b a) c) these obligations may lead to strengthening the overall market position of undertakings designated as having significant market power. Obligations imposed under this paragraph are without prejudice to the ability of national regulatory authorities to impose obligations on an undertaking in accordance with Articles 66 to 72 and relax or lift obligations imposed under this paragraph on other undertakings in order to safeguard competition on a forward-looking basis.*

Or. en

*Justification*

*While the obligations may be needed in several Member States, access to newly built passive infrastructure of competitors or local actors should not undermine the SMP regime. The national regulatory authority must be able to react to re-monopolisation developments. Broadband Cost Reduction Directive (2014/61/EU) provides NRAs competences for symmetrical obligations and it's evaluation in 2018 might give us an opportunity to assess its impact.*

**Amendment 783**

**Esther de Lange, Pascal Arimont, Gunnar Hökmark**

**Proposal for a directive**

**Article 59 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2 a. Member States may ensure that national regulatory authorities may, on the grounds that the replication of infrastructure to end-users would be economically inefficient or physically impracticable, impose obligations upon reasonable request to grant access to network elements and to settle disputes*

*concerning this access. Such access shall be subject to agreements concluded on the basis of fair and reasonable terms and conditions that allow replicability. When imposing such access the national regulatory authority shall do so proportionately, taking into account the future economic and financial viability of investments in new network elements, and solely if it is aimed at preventing or countering consumer harm and enabling maximum consumer benefits in terms of choice, price and quality on the basis of effective competition. It shall also respect the objective of promoting access to very high capacity data connectivity, both fixed and mobile, by all Union citizens and businesses.*

Or. en

**Amendment 784**  
**Krišjānis Kariņš**

**Proposal for a directive**  
**Article 59 – paragraph 3**

*Text proposed by the Commission*

*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, 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,**

**deleted**

**(a) the replication of such infrastructure would be economically inefficient or physically impracticable, and**

**(b) the connectivity in that area, including along its main transport paths, would be**

*severely deficient, or the local population would be subjected to severe restrictions on choice or quality of service, or on both.*

*National regulatory authorities shall have regard to:*

- (a) the need to maximise connectivity throughout the Union and in particular territorial areas;*
- (b) the efficient use of radio spectrum;*
- (c) the technical feasibility of sharing and associated conditions;*
- (d) the state of infrastructure-based as well as service-based competition;*
- (e) the possibility to significantly increase choice and higher quality of service for end-users;*
- (f) technological innovation;*
- (g) the overriding need to support the incentive of the host to roll out the infrastructure in the first place.*

*Such sharing, access or coordination obligations shall be subject to agreements concluded on the basis of fair and reasonable terms and conditions. In the event of dispute resolution, national regulatory authorities may inter alia impose on the beneficiary of the sharing or access obligation, the obligation to share its spectrum with the infrastructure host in the relevant area.*

Or. en

#### **Amendment 785**

**Anna Záborská, Ivan Štefanec**

#### **Proposal for a directive Article 59 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. Member States shall ensure that national regulatory authorities have the power to impose on undertakings providing or authorised to provide**

*deleted*

*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,*

*(a) the replication of such infrastructure would be economically inefficient or physically impracticable, and*

*(b) the connectivity in that area, including along its main transport paths, would be severely deficient, or the local population would be subjected to severe restrictions on choice or quality of service, or on both.*

*National regulatory authorities shall have regard to:*

*(a) the need to maximise connectivity throughout the Union and in particular territorial areas;*

*(b) the efficient use of radio spectrum;*

*(c) the technical feasibility of sharing and associated conditions;*

*(d) the state of infrastructure-based as well as service-based competition;*

*(e) the possibility to significantly increase choice and higher quality of service for end-users;*

*(f) technological innovation;*

*(g) the overriding need to support the incentive of the host to roll out the infrastructure in the first place.*

*Such sharing, access or coordination obligations shall be subject to agreements concluded on the basis of fair and reasonable terms and conditions. In the event of dispute resolution, national regulatory authorities may inter alia impose on the beneficiary of the sharing or access obligation, the obligation to share its spectrum with the infrastructure host in the relevant area.*

**Amendment 786****Michał Boni****Proposal for a directive****Article 59 – paragraph 3 – subparagraph 1 – introductory part***Text proposed by the Commission*

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*

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 infrastructure, *or* obligations to conclude localised roaming access agreements directly necessary for the provision of *very high capacity networks* which rely on the use of spectrum, in compliance with Union law, *provided no viable and similar alternative means of access to end-users is made available to any undertaking, according to fair and reasonable terms and conditions. However, such access shall be* justified on the grounds that,

Or. en

*Justification*

*Unlike fixed markets in many Member States, mobile markets are widely regarded as very competitive. Any additional regulation of such markets should be treated with utmost care. It is therefore suggest to limit the powers of national regulatory authorities under Article 59 paragraph 3 to cases where no viable and similar alternative means of access to end-users is made available to any undertaking, according to fair and reasonable terms and conditions.*

**Amendment 787****Fulvio Martusciello****Proposal for a directive****Article 59 – paragraph 3 – subparagraph 1 – introductory part***Text proposed by the Commission*

Member States shall ensure that national regulatory authorities have the power to

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*Amendment*

Member States shall ensure that national regulatory authorities have the power to

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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,

impose on undertakings *which have been granted individual rights of use for radio spectrum*, obligations in relation to the sharing of passive or active infrastructure, *and* 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,

Or. en

**Amendment 788**  
**Fulvio Martusciello**

**Proposal for a directive**  
**Article 59 – paragraph 3 – subparagraph 3**

*Text proposed by the Commission*

Such sharing, access *or coordination* obligations shall be subject to agreements concluded on the basis of fair and reasonable terms and conditions. In the event of dispute resolution, national regulatory authorities may inter alia impose on the beneficiary of the sharing or access obligation, the obligation to share its spectrum with the infrastructure host in the relevant area.

*Amendment*

Such sharing access obligations shall be subject to agreements concluded on the basis of fair and reasonable terms and conditions. In the event of dispute resolution, national regulatory authorities may inter alia impose on the beneficiary of the sharing or access obligation, the obligation to share its spectrum with the infrastructure host in the relevant area.

Or. en

**Amendment 789**  
**Anna Záborská, Ivan Štefanec**

**Proposal for a directive**  
**Article 59 – paragraph 4**

*Text proposed by the Commission*

4. Obligations and conditions imposed in accordance with paragraph *1,2 and 3* shall be objective, transparent, proportionate and non-discriminatory, they

*Amendment*

4. Obligations and conditions imposed in accordance with paragraph *1 and 2* shall be objective, transparent, proportionate and non-discriminatory, they shall be



shall be implemented in accordance with the procedures referred to in Articles 23, 32 and 33. *National regulatory authorities shall assess the results of such obligations and conditions within five years from the adoption of the previous measure adopted in relation to the same operators and whether it would be appropriate to withdraw or amend them in the light of evolving conditions. National regulatory authorities shall notify the outcome of their assessment in accordance with the same procedures.*

implemented in accordance with the procedures referred to in Articles 236, 732 and 7a33 of Directive 2002/21/EC (Framework Directive)

Or. en

**Amendment 790**  
Evžen Tošenovský

**Proposal for a directive**  
**Article 59 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

6. *By [entry into force plus 18 months] in order to contribute to a consistent definition of the location of network termination points by national regulatory authorities, BEREC shall, after consulting stakeholders and in close cooperation with the Commission, adopt guidelines on common approaches to the identification of the network termination point in different network topologies. National regulatory authorities shall take utmost account of those guidelines when defining the location of network termination points.*

*deleted*

Or. en

**Amendment 791**  
Pervenche Berès, Edouard Martin

**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 Article **and with Article 59** 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.

Or. fr

**Amendment 792**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda**

**Proposal for a directive**

**Article 61 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

An undertaking shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.

*Amendment*

An undertaking shall be deemed to have significant market power if, either individually or jointly with others, **including through a commercial or a co-investment agreement**, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.

Or. en

*Justification*

*Co-investment in a certain area must be considered an oligopoly of a few powerful actors (on the local level), as the FDN Federation showed in their analysis of the fixed-line market ([www.fdn.org/en/node/129](http://www.fdn.org/en/node/129)) written for a consultation of the ARCEP in 2016. These oligopolies work as a cartel. The co-investors, in a given area, should be regarded as having the position of the incumbent in that area. Such symmetric regulation would allow welcoming all actors into the market.*

**Amendment 793**

**Kathleen Van Brempt**

**Proposal for a directive**  
**Article 61 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

An undertaking shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.

*Amendment*

An undertaking shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers **or when it is able to disrupt effective competition.**

Or. en

**Amendment 794**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 61 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Two or more undertakings may each be deemed to enjoy a position equivalent to having significant market power when they have the possibility to significantly impede effective competition, taking into account the relevant markets including but not limited to the market shares of other market participants, the market power of an undertaking on closely related markets, barriers to entry, market concentration, product differentiation, capacity constraints and switching costs.***

Or. en

*Justification*

*In light of the increasing trend of convergence between markets, and development of oligopolies in Europe, there is a need to include situations where two or more undertakings can foreclose the markets even without tacit collusion.*

*In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 795**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Cornelia Ernst**

**Proposal for a directive**

**Article 61 – paragraph 2 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***3. Where an undertaking has significant market power on a specific market (the first market), it may also be designated as having significant market power on a closely related market (the second market), where the links between the two markets are such as to allow the market power held in the first market to be leveraged into the second market, thereby strengthening the market power of the undertaking. Consequently, remedies aimed at preventing such leverage may be applied in the second market pursuant to this Directive.***

Or. en

*Justification*

*The Commission's proposal weakens the SMP regime. The deleted provision aims at preventing SMP operators from leveraging their market power from one market to a closely related market. The SMP regime has been instrumental in promoting the objectives of the framework and should therefore remain at its centre. The reinstated provision supports a strong regulatory 'safety net' that provides clarity, predictability, and hence investor certainty. Reinstating the provision also closes an inconsistency in the Commission's proposal, given that the Commission proposes in Article 65 (2)(d) that "regulation imposed on other relevant markets" shall be taken into account during the market analysis. If regulation on relevant markets is taken into account when analysing if a market should be subject to ex ante regulation, then SMP in relevant markets also needs to be taken into account when defining an SMP-operator in the first place.*

**Amendment 796**

**Miapetra Kumpula-Natri, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Dan Nica, Jeppe Kofod**

**Proposal for a directive**

**Article 61 – paragraph 2 – subparagraph 2 a (new)**

***3. Where an undertaking has significant market power on a specific market (the first market), it may also be designated as having significant market power on a closely related market (the second market), where the links between the two markets are such as to allow the market power held in the first market to be leveraged into the second market, thereby strengthening the market power of the undertaking. Consequently, remedies aimed at preventing such leverage may be applied in the second market pursuant to this Directive.***

Or. en

*Justification*

*The SMP regime has been instrumental in promoting the objectives of the framework and should therefore remain at its centre. The reinstated provision supports a strong regulatory ‘safety net’ that provides clarity, predictability, and hence investor certainty.*

**Amendment 797**

**Kaja Kallas**

**Proposal for a directive**

**Article 61 – paragraph 2 – subparagraph 2 a (new)**

***3. Where an undertaking has significant market power on a specific market (the first market), it may also be designated as having significant market power on a closely related market (the second market), where the links between the two markets are such as to allow the market power held in the first market to be leveraged into the second market, thereby strengthening the market power of the undertaking. Consequently, remedies aimed at preventing such leverage may be applied in the second market pursuant to this Directive.***

*Justification*

*In accordance with rule 104 of the rules of procedure, this amendment is necessary because it is inextricably linked to other admissible amendments . This reinstates the deleted provision art 1.16 2009/140/EC In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 798**  
**Fulvio Martusciello**

**Proposal for a directive**  
**Article 61 – paragraph 2 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***3. Where an undertaking has significant market power on a specific market (the first market), it may also be designated as having significant market power on a closely related market (the second market), where the links between the two markets are such as to allow the market power held in the first market to be leveraged into the second market, thereby strengthening the market power of the undertaking. Consequently, remedies aimed at preventing such leverage may be applied in the second market pursuant to this directive.***

Or. en

**Amendment 799**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 61 – paragraph 2 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***Two or more undertakings are each deemed to enjoy a position equivalent to having significant market power when they might significantly impede effective competition.***

**Amendment 800**

**Miapetra Kumpula-Natri, Edouard Martin, Flavio Zanonato, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Dan Nica, Jeppe Kofod**

**Proposal for a directive**

**Article 61 – paragraph 2 – subparagraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

*An undertaking shall be deemed to have unilateral market power where, in the absence of significant market power, it enjoys a position of economic strength by virtue of the weakness of competitive constraints in an oligopolistic market, enabling it to act in a manner which is detrimental to consumer welfare.*

Or. en

*Justification*

*Defining unilateral market power can bring tools for NRAs to ensure competition in markets. Oligopolies have become increasingly commonplace in the EU.*

**Amendment 801**

**Kaja Kallas**

**Proposal for a directive**

**Article 62 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The Commission shall publish, at the latest on the date of entry into force of this Directive, guidelines for market analysis and the assessment of significant market power (hereinafter ‘the SMP guidelines’) which shall be in accordance with the principles of competition law.

2. The Commission shall publish, at the latest on the date of entry into force of this Directive, guidelines for market analysis and the assessment of significant market power (hereinafter ‘the SMP guidelines’), which shall be in accordance with the principles of competition law. ***The SMP guidelines shall in particular provide detailed guidance and criteria to assess situations that give rise to a significant impediment to effective competition.***

*Justification*

*The review of the SMP guidelines should provide clear and concrete guidelines to NRAS on how to assess situations that give rise to a significant impediment to effective competition. In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 802**

**Miapetra Kumpula-Natri, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Dan Nica, Jeppe Kofod, Edouard Martin, Flavio Zanonato**

**Proposal for a directive****Article 62 – paragraph 2***Text proposed by the Commission*

2. The Commission shall publish, at the latest on the date of entry into force of this Directive, guidelines for market analysis and the assessment of significant market power (hereinafter ‘the SMP guidelines’) which shall be in accordance with the principles of competition law.

*Amendment*

2. The Commission shall publish, ***after consulting with BEREC***, at the latest on the date of entry into force of this Directive, guidelines for market analysis and the assessment of significant ***and unilateral*** market power (hereinafter “the SMP guidelines”) which shall be in accordance with the ***relevant*** principles of competition law ***and the objectives of the Code***.

*Justification*

*The Commission should propose guidelines to assess SMP and unilateral market power.*

**Amendment 803**

**José Blanco López**

**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

*Amendment*

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 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.

relevant geographic markets within their territory, in accordance with the principles of competition law. They shall follow the procedures referred to in Articles 23 and 32 before defining the markets that differ from those identified in the Recommendation.

Or. en

#### **Amendment 804**

**Miapetra Kumpula-Natri, Victor Negrescu, Zigmantas Balčytis, Carlos Zorrinho, Dan Nica, Jeppe Kofod**

#### **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 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.

##### *Amendment*

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. They shall follow the procedures referred to in Articles 23 and 32 before defining the markets that differ from those identified in the Recommendation.

Or. en

##### *Justification*

*The proposed Directive also mandates NRAs to take into account operators' announced deployment plans when deciding whether to intervene in a market. As BEREC rightly points out, there is a risk that deployment plans will be announced tactically to condition, avoid or delay regulation. NRAs should therefore not be legally mandated to take future deployment plans into consideration when deciding whether intervening in the market is necessary.*

## **Amendment 805**

**Kaja Kallas**

### **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 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.

*Amendment*

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. They shall follow the procedures referred to in Articles 23 and 32 before defining the markets that differ from those identified in the Recommendation.

Or. en

*Justification*

*Taking into account geographical surveys, that are likely to be detailed at local level, in the market analysis create the risk to further fragment the national markets, and lead to a multiplication of remedies to be applied depending on the local situation. In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

## **Amendment 806**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda**

### **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

*Amendment*

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 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.

relevant geographic markets within their territory, in accordance with the principles of competition law. They shall follow the procedures referred to in Articles 23 and 32 before defining the markets that differ from those identified in the Recommendation.

Or. en

**Amendment 807**  
**Pervenche Berès**

**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 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.

*Amendment*

3. National regulatory authorities shall, taking the utmost account of ***provisions including*** 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 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.

Or. fr

**Amendment 808**  
**Krišjānis Kariņš**

**Proposal for a directive**  
**Article 63 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

**1. After consulting stakeholders and in close cooperation with the Commission, BEREC may adopt a Decision identifying transnational markets in accordance with the principles of competition law and taking utmost account of the Recommendation and SMP Guidelines adopted in accordance with Article 62. BEREC shall conduct an analysis of a potential transnational market if the Commission or at least two national regulatory authorities concerned submit a reasoned request providing supporting evidence.**

*deleted*

Or. en

**Amendment 809**  
**Evžen Tošenovský**

**Proposal for a directive**  
**Article 63 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. After consulting stakeholders and in close cooperation with the Commission, **BEREC** may adopt a Decision identifying transnational markets in accordance with the principles of competition law and taking utmost account of the Recommendation and SMP Guidelines adopted in accordance with Article 62. BEREC shall conduct an analysis of a potential transnational market if the Commission or at least two national regulatory authorities concerned submit a reasoned request providing supporting evidence.

1. After consulting stakeholders and in close cooperation with **BEREC**, the Commission may adopt a Decision identifying transnational markets in accordance with the principles of competition law and taking utmost account of the Recommendation and SMP Guidelines adopted in accordance with Article 62. BEREC shall conduct an analysis of a potential transnational market if the Commission or at least two national regulatory authorities concerned submit a reasoned request providing supporting evidence.

Or. en

**Amendment 810**  
**Krišjānis Kariņš**

**Proposal for a directive**  
**Article 63 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

In the case of transnational markets identified *in accordance with paragraph 1*, the national regulatory authorities concerned shall jointly conduct the market analysis taking the utmost account of the SMP Guidelines and, in a concerted fashion, shall decide on any imposition, maintenance, amendment or withdrawal of regulatory obligations referred to in Article 65(4). The national regulatory authorities concerned shall jointly notify to the Commission with their draft measures regarding the market analysis and any regulatory obligations pursuant to Articles 32 and 33.

*Amendment*

In the case of transnational markets identified, the national regulatory authorities concerned shall jointly conduct the market analysis taking the utmost account of the SMP Guidelines and, in a concerted fashion, shall decide on any imposition, maintenance, amendment or withdrawal of regulatory obligations referred to in Article 65(4). The national regulatory authorities concerned shall jointly notify to the Commission with their draft measures regarding the market analysis and any regulatory obligations pursuant to Articles 32 and 33.

Or. en

**Amendment 811**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 64 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

BEREC shall conduct an analysis of transnational *end-user* demand for products and services *that are provided within the Union in one or more of the markets listed in the Recommendation*, if it receives a reasoned request providing supporting evidence from the Commission *or* from at least two of the national regulatory authorities *concerned indicating that there is a serious demand problem to be addressed. BEREC may also conduct such analysis if it receives a reasoned request from market participants providing sufficient supporting evidence* and considers there is a serious demand problem to be addressed. *BEREC's analysis is without prejudice to any findings of transnational markets in*

*Amendment*

BEREC shall conduct an analysis of transnational demand for products and services , if it receives a reasoned request providing supporting evidence from the Commission, from at least two of the national regulatory authorities, *or upon a reasoned request from market participants, indicating that existing wholesale or retail products and services do not allow to meet a transnational demand, across more than one member state*, and considers there is a serious demand problem to be addressed.

*accordance with Article 63(1) and to any findings of national or sub-national geographical markets by national regulatory authorities in accordance with Article 62(3).*

Or. en

*Justification*

*This amendment aims at simplifying the procedure initially proposed while retaining its purpose. In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 812**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 64 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*That analysis of transnational end-user demand may include products and services that are supplied within product or service markets that have been defined in different ways by one or more national regulatory authorities when taking into account national circumstances, provided that those products and services are substitutable to those supplied in one of the markets listed in the Recommendation.* *deleted*

Or. en

*Justification*

*This amendment aims at simplifying the procedure initially proposed while retaining its purpose. In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 813**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 64 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

***If BEREC concludes that a transnational end-user demand exists, is significant and is not sufficiently met by supply provided on a commercial or regulated basis, it shall, after consulting stakeholders and in close cooperation with the Commission, issue guidelines on common approaches for national regulatory authorities to meet the identified transnational demand, including, where appropriate, when they impose remedies in accordance with Article 66. National regulatory authorities shall take into utmost account these guidelines when performing their regulatory tasks within their jurisdiction.***

***On the basis of this assessment, national regulatory authorities shall consider in subsequent market analyses conducted in accordance with Articles 63(2) or 65, whether to amend regulated wholesale access products, so that the transnational end-user demand is met.***

Or. en

*Justification*

*This amendment aims at simplifying the procedure initially proposed while retaining its purpose. In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

## **Amendment 814**

**Evžen Tošenovský**

### **Proposal for a directive**

#### **Article 64 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. On the basis of BEREC guidelines referred to in paragraph 1, the Commission may adopt a Decision pursuant to Article 38 to harmonise the technical specifications of wholesale access products capable of meeting such identified transnational demand, when they are imposed by national regulatory authorities on operators designated with significant market power in markets where such access products are supplied, as defined according to national circumstances. Article 38(3)(a) second subparagraph first indent shall not apply***

***deleted***

*in such a case.*

Or. en

## **Amendment 815**

**Kaja Kallas**

### **Proposal for a directive Article 64 – paragraph 2**

*Text proposed by the Commission*

2. *On the basis of BEREC guidelines referred to in paragraph 1, the Commission may adopt a Decision pursuant to Article 38 to harmonise the technical specifications of wholesale access products capable of meeting such identified transnational demand, when they are imposed by national regulatory authorities on operators designated with significant market power in markets where such access products are supplied, as defined according to national circumstances. Article 38(3)(a) second subparagraph first indent shall not apply in such a case.*

*Amendment*

2. *BEREC may, after consulting stakeholders and in close cooperation with the Commission, issue guidelines on common approaches for national regulatory authorities to meet the identified transnational demand providing the basis for convergence of wholesale access products across the Union. National regulatory authorities shall take into utmost account these guidelines when performing their regulatory tasks within their jurisdiction, without prejudice to each national regulatory authority decision on the appropriateness of wholesale access products that should be imposed in specific local circumstances.*

Or. en

*Justification*

*This amendment aims at simplifying the procedure initially proposed while retaining its purpose. In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

## **Amendment 816**

**Anna Záborská, Ivan Štefanec**

### **Proposal for a directive Article 65 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. Where a national regulatory authority conducts the analysis required by

*Amendment*

2. Where a national regulatory authority conducts the analysis required by



paragraph 1, it shall consider developments from a forward-looking perspective in the absence of regulation imposed on the basis of this Article in that relevant market, ***and taking into account:***

paragraph 1, it shall consider developments from a forward-looking perspective in the absence of regulation imposed on the basis of this Article in that relevant market ***and determine that a market is such as to justify the imposition of regulatory obligations pursuant to paragraph 1 when the following criteria are cumulatively met:***

Or. en

#### **Amendment 817**

**Patrizia Toia**

#### **Proposal for a directive**

#### **Article 65 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

***(a) the existence of market developments which may increase the likelihood of the relevant market tending towards effective competition, such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;***

***deleted***

Or. en

#### *Justification*

*Deregulation can not only refer to commercial agreement, but it should also give the possibility to the operators to buy and sell guaranteeing a fair competition*

#### **Amendment 818**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Cornelia Ernst**

#### **Proposal for a directive**

#### **Article 65 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

***(a) the existence of market developments which may increase the***

***deleted***

***likelihood of the relevant market tending towards effective competition, such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;***

Or. en

#### *Justification*

*The Commission's proposal weakens the SMP regime. The way in which the 3-criteria test is described in the draft Code differs from the version of the test that has been applied, successfully, by NRAs over the last 15 years and which is set out in Recommendation 2014/710/EU. Article 65 (2) (a) as proposed by the Commission adds a purely speculative element into the market analysis framework. According to BEREC opinion BoR (16) 213 (p.10): "In particular, in order to determine whether a market can be considered for regulation, the new test requires NRAs to take account of market developments which "may increase the likelihood" of a relevant market tending towards effective competition, ultimately making it difficult for NRAs to find that a market can be assessed for SMP." Constraints on NRAs' ability to impose regulations have to be avoided. The focus on commercial agreements undermines the SMP regime, as it is linked to a deregulatory promise and might in the long run create cartel-like oligopolies that cannot easily be treated with anti-trust law. The proposal also neglects the connection between cause and effect. Sufficient competition on the retail market results from functioning wholesale markets and should hence by no means be taken as a criterion to deregulate wholesale access. Effective access regulation to the SMP operator's network is crucial to maintain sustainable retail competition, which in turn leads to lower prices and more choice for consumers.*

#### **Amendment 819** **Evžen Tošenovský**

#### **Proposal for a directive** **Article 65 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

***(a) the existence of market developments which may increase the likelihood of the relevant market tending towards effective competition, such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;***

***deleted***

Or. en

#### **Amendment 820**

Miapetra Kumpula-Natri, Flavio Zanonato, Zigmantas Balčytis, Victor Negrescu,  
Carlos Zorrinho, Dan Nica, Jeppe Kofod

**Proposal for a directive**  
**Article 65 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

(a) *the existence of market developments which may increase the likelihood of the relevant market tending towards effective competition, such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;* *deleted*

Or. en

*Justification*

*Effective competition within the relevant time horizon is needed and deregulation subject to weak safeguards has to be prevented.*

**Amendment 821**  
**Herbert Reul, Markus Pieper, Angelika Niebler**

**Proposal for a directive**  
**Article 65 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

(a) *the existence of market developments which may increase the likelihood of the relevant market tending towards effective competition, such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;*

(a) market developments which *foster effective competition on* the relevant market;

Or. de

*Justification*

*All investment models or access agreements which have been shown to foster sustainable competition should be taken into account when assessing the market.*

**Amendment 822**  
**Fulvio Martusciello**  
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**EN**

**Proposal for a directive**  
**Article 65 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) *the existence of market developments which may increase the likelihood of the relevant market tending towards effective competition, such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;*

*Amendment*

(a) *a market structure which does not tend towards effective competition within the relevant time horizon;*

Or. en

**Amendment 823**  
**David Borrelli, Dario Tamburrano**

**Proposal for a directive**  
**Article 65 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) *the existence of market developments which may increase the likelihood of the relevant market tending towards effective competition, such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;*

*Amendment*

(a) *a market structure which does not tend towards effective competition within the relevant time horizon;*

Or. en

*Justification*

*Necessary to avoid the possibility to deregulate on the sole basis of the existence of commercial access agreements.*

**Amendment 824**  
**Kaja Kallas**

**Proposal for a directive**  
**Article 65 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) the existence of market  
PE602.951v01-00

*Amendment*

(a)  
132/137

the existence of market  
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developments which may increase the likelihood of the relevant market tending towards effective competition, ***such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;***

developments which may increase the likelihood of the relevant market tending towards effective competition;

Or. en

*Justification*

*The assessment of market developments should not be restricted to some specific types of commercial agreements In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text*

**Amendment 825**

**Anna Záborská, Ivan Štefanec**

**Proposal for a directive**

**Article 65 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) ***the existence*** of market developments which ***may increase*** the likelihood of the relevant market tending towards effective competition, such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;

*Amendment*

(a) ***absence*** of market developments which ***create*** the likelihood of the relevant market tending towards effective competition, such as those commercial co-investment or access agreements between operators which benefit competitive dynamics sustainably;

Or. en

**Amendment 826**

**Patrizia Toia**

**Proposal for a directive**

**Article 65 – paragraph 2 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(a a) a market structure which does not tend towards effective competition within the relevant time horizon***

Or. en

**Amendment 827**

**Patrizia Toia**

**Proposal for a directive**

**Article 65 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) all relevant competitive constraints, ***including at retail level***, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user, ***and irrespective of whether such constraints are part of the relevant market;***

*Amendment*

(b) all relevant competitive constraints irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user,

Or. en

*Justification*

*The amendment aims at removing the reference to retail markets, given the fact that competition is strictly linked to wholesale access conditions*

**Amendment 828**

**Fulvio Martusciello**

**Proposal for a directive**

**Article 65 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) all relevant competitive constraints, ***including at retail level***, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user, ***and irrespective of whether such constraints are part of the relevant market;***

*Amendment*

(b) all relevant competitive constraints, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user;

Or. en

**Amendment 829**  
**David Borrelli, Dario Tamburrano**

**Proposal for a directive**  
**Article 65 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) all relevant competitive constraints, ***including at retail level***, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user, ***and irrespective of whether such constraints are part of the relevant market***;

*Amendment*

(b) all relevant competitive constraints, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user;

Or. en

*Justification*

*The amendment aims to avoid the focus on retail market, as narrowing the scope of competition to the retail level could lead to great uncertainty.*

**Amendment 830**  
**Pavel Telička**

**Proposal for a directive**  
**Article 65 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) all relevant competitive constraints, ***including at retail level***, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user, ***and irrespective of whether such constraints are part of the relevant market***;

*Amendment*

(b) all relevant competitive constraints, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user;

Or. en

**Amendment 831**

**Michel Reimon**

on behalf of the Verts/ALE Group

**Julia Reda, Cornelia Ernst**

**Proposal for a directive**

**Article 65 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) all relevant competitive constraints, ***including at retail*** level, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user, ***and irrespective of whether such constraints are part of the relevant market;***

*Amendment*

(b) all relevant competitive constraints, ***especially at wholesale*** level, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user;

Or. en

**Amendment 832**

**Miapetra Kumpula-Natri, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Dan Nica, Jeppe Kofod, Flavio Zanonato**

**Proposal for a directive**

**Article 65 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) all relevant competitive constraints, ***including at retail*** level, irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user, ***and irrespective of whether such constraints are part of the relevant market;***

*Amendment*

(b) all relevant competitive constraints, ***on wholesale and retail level level,*** irrespective of whether the sources of such constraints are deemed to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user;

Or. en



### *Justification*

*Avoiding the possibility to deregulate on the sole basis of the existence of commercial access agreements is necessary. Putting the focus on commercial agreements for deregulating would weaken and undermine the SMP regime already in place. At the same time, we should avoid the focus on only retail market, as narrowing the scope of competition to the retail level introduces great uncertainty as regards one of the cornerstones of the regulatory framework. Effective access wholesale regulation to the SMP operator's network is pivotal to establish and maintain an intensive and sustainable retail competition. Sufficient competition on the retail market results from functioning wholesale markets and should hence by no means be taken as a criterion to deregulate wholesale access. Consequently the mere prospect of removing access regulation undermines investments of alternative network operators, which are sensitive to expectations on the (un)reliability of wholesale access products. Therefore, deregulation subject to weak safeguards has to be prevented.*