

**FINAL
CA2**

Information request to undertakings

The CA covers Art 2(10), 2(11), 20 and related recitals. All relevant AMs, including AMs 326, 429-441, as well as IMCO xx, CULT yy, LIBE zz, fall.

Recitals

- (55) National regulatory and other competent authorities need to gather information from market players in order to carry out their tasks effectively. It might also be necessary to gather such information on behalf of the Commission or BEREC, to allow them to fulfil their respective obligations under Union law. Requests for information should be proportionate and not impose an undue burden on undertakings. Information gathered by national regulatory and other competent authorities should be publicly available, except in so far as it is confidential in accordance with national rules on public access to information and subject to Union and national law on business confidentiality.
- (56) In order to ensure that national regulatory authorities carry out their regulatory tasks in an effective manner, the data which they gather should include accounting data on the retail markets that are associated with wholesale markets where an operator has significant market power and as such are regulated by the national regulatory authority. The data should also include data which enables the national regulatory authority to assess compliance with conditions attached to rights of use, the possible impact of planned upgrades or changes to network topology on the development of competition or on wholesale products made available to other parties. Information regarding compliance with coverage obligations attached to rights of use for radio spectrum is key to ensure completeness of the geographic surveys of network deployments undertaken by national regulatory authorities. In that respect, they should be able to require that information is provided at disaggregated local level with a granularity adequate to conduct a geographical survey of networks.
- (58) Member States' obligations to provide information for the defence of Union interests under international agreements as well as reporting obligations under legislation which is not specific to the electronic communications sector such as competition law should not be affected.
- (59) Information that is considered confidential by a competent authority, in accordance with Union and national rules on business confidentiality and protection of personal data, may be exchanged with the Commission and other national regulatory authorities and BEREC where such exchange is necessary for the application of the provisions of this Directive. The information exchanged should be limited to that which is relevant and proportionate to the purpose of such an exchange.

Articles

Art 2(10)-(11) (Definitions)

(10) ‘associated facilities’ means those associated services, physical infrastructures and other facilities or elements associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service or have the potential to do so, and include, inter alia, buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets;

(11) ‘associated services’ means those services associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services, ~~self-provision or automated-provision~~ via that network and/or service or have the potential to do so and include, inter alia, number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, ~~voice command, multi-language or language translation~~ as well as other services such as identity, location and presence service;¹

Article 20

Information request to undertakings

1. Member States shall ensure that undertakings providing electronic communications networks and services, associated facilities, or associated services provide all the information, including financial information, necessary for national regulatory authorities, other competent authorities and BEREC to ensure conformity with the provisions of, or decisions made in accordance with, this Directive. In particular, national regulatory authorities shall have the power to require those undertakings to submit information concerning future network or service developments that could have an impact on the wholesale services that they make available to competitors. They may also require information on electronic communications networks and associated facilities which is disaggregated at local level and sufficiently detailed for the national regulatory authority to be able to conduct the geographical survey and to designate digital exclusion areas in accordance with Article 22. ~~In accordance with Article 29, national regulatory authorities may sanction undertakings deliberately providing misleading, erroneous or incomplete information.~~²

Undertakings with significant market power on wholesale markets may also be required to submit accounting data on the retail markets that are associated with those wholesale markets.

National regulatory authorities and other competent authorities may request information from the single information points established pursuant to Directive 2014/61/EU on measures to reduce the cost of high-speed electronic communications networks.

Undertakings shall provide such information promptly upon request and in conformity with the timescales and level of detail required. The information requested shall be proportionate to the performance of that task. The competent authority shall give the reasons justifying its request for information and shall treat the information in accordance with paragraph 3.

2. Member States shall ensure that national regulatory authorities and other competent authorities provide the Commission, after a reasoned request, with the information necessary for it to carry out its tasks under the Treaty. The information requested by the Commission

1 326 Tosenovsky.

2 443 Kumpula-Natri; covers 434 Kallas

shall be proportionate to the performance of those tasks. Where the information provided refers to information previously provided by undertakings at the request of the authority, such undertakings shall be informed thereof. To the extent necessary, and unless the authority that provides the information has made an explicit and reasoned request to the contrary, the Commission shall make the information provided available to another such authority in another Member State.

Subject to the requirements of paragraph 3, Member States shall ensure that the information submitted to one authority can be made available to another such authority in the same or different Member State and to BEREC, after a substantiated request, where necessary to allow either authority, or BEREC, to fulfil its responsibilities under Union law.

3. Where information is considered confidential by a national regulatory or other competent authority in accordance with Union and national rules on business confidentiality, ***national security***,³ or the protection of personal data, the Commission, BEREC and the authorities concerned shall ensure such confidentiality. In accordance with the principle of sincere cooperation, national regulatory authorities and other competent authorities shall not deny the provision of the requested information to the Commission, to BEREC or to another authority on the grounds of confidentiality or the need to consult with the parties which provided the information. When the Commission, BEREC or a competent authority undertake to respect the confidentiality of information identified as such by the authority holding it, the latter shall share the information on request for the identified purpose without having to further consult the parties who provided the information.

4. Member States shall ensure that, acting in accordance with national rules on public access to information and subject to Union and national rules on business confidentiality and protection of personal data, national regulatory and other competent authorities publish such information as would contribute to an open and competitive market.

5. National regulatory and other competent authorities shall publish the terms of public access to information as referred to in paragraph 4, including procedures for obtaining such access.