

## INPUT

### Art 59(1)(d)/audiovisual

Extending the scope of existing EPG access obligations was not considered proportionate in the impact assessment given the alternatives available to public service broadcasters to provide access to their content (e.g. app stores, social media, end-user equipment) and including all AVMS as depending on the functionalities of the EPG and whether the TV set is connected to the Internet or not, it may not be technically possible to include in existing EPGs AVMS such as catch up TV or video on demand services as these are provided over the internet. Member states have the possibility under national legislation to introduce obligations on online service providers ensuring availability of specific content.

However, 'complementary services' are not currently in scope. They are explained in art 106 as: "particularly accessibility services to enable appropriate access for disabled end-users and data supporting connected TV services and electronic programme guides":

59(1)(d) "to the extent that is necessary to ensure accessibility for end-users to digital radio and television broadcasting 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."

### Art 73/termination rates

Termination rates are under SMP since everybody who terminates a call has 100% market share in their network, hence dominant. The market analysis in a market with 100% market share is not complicated.

### Art 70-71, 59(2) relationship; aims of asymmetric v symmetric regulation

Article 70 addresses a particular part of the network: civil engineering. Access to that is highlighted separately because of the positive impact it can have on infrastructure competition, as access seekers can use the civil engineering (typically the most expensive part of the network) to deploy their own infrastructure. Article 71 addresses access in general and foresees both physical and virtual access. While civil engineering access can be considered a form of physical access, the elements in Article 70 constitute a specific subcategory highlighted because of its positive effect on the deployment of alternative infrastructures. This is also demonstrated by the fact that typically national regulators impose civil engineering access as an ancillary remedy to general access provisions, i.e. they view access to the cable and access to civil engineering as a separate category. By having a stand alone remedy in Article 70, we are highlighting the importance of this type of access wherever it is feasible.

As long as 59(2) focusses on limited and true bottlenecks in the market, such as in house wiring, which are very difficult to replicate, it promotes better allocation of economic resources as well as infrastructure competition, particularly if coupled with civil engineering access. The provision is not dependent on the presence of a particular market structure or market power. Its main focus is allowing infrastructure deployment, but it can have a pro-

competitive effect and it is seen by some Member States as a type of obligation that can partially contribute to alleviate also problems related to specific market structure.