

FINAL
CA3
General Authorisation
(subject to finalisation)

The CA covers Art 2(16), 2(23), 12-16, 21, Annex I and related recitals. All relevant AMs, including AMs 4-5, 188-191, 194, 41-44, 47, 333, 417-421, 442-443, 1098-1104 as well as IMCO xx, GULT yy, LIBE zz23, fall.

- (39) The least onerous authorisation system possible should be used to allow the provision of electronic communications networks and services in order to stimulate the development of new communications services and pan-European communications networks and services and to allow service providers and consumers to benefit from the economies of scale of the single market.
- (40) The benefits of the single market to service providers and end-users can be best achieved by general authorisation of electronic communications networks and of electronic communications services ~~other than number-independent interpersonal communications services~~, without requiring any explicit decision or administrative act by the national regulatory authority
- ~~(40a) —and by limiting—~~Any procedural requirements ***should be limited*** to a ***single*** declaratory notification ~~only~~.¹ Where Member States require notification by providers of electronic communications networks or services when they start their activities, that this single² notification should be submitted to BEREC which acts as a single contact point. Such notification should not entail administrative cost for the providers and could be made available via an entry point at the website of ~~the national regulatory authorities~~ **BEREC**.³ BEREC should forward in good time the notifications to the national regulatory authority in all Member States ***requiring notification*** in which the providers of electronic communications networks or services intend to provide electronic communications networks or services. Member States can also require proof that notification was made by means of any legally recognised postal or electronic acknowledgement of receipt of the notification to BEREC. Such acknowledgement should in any case not consist of or require an administrative act by the national regulatory authority, or any other authority.⁴
- (41) The notification to BEREC should entail a mere declaration of the provider's intention to commence the provision of electronic communications networks and services. A provider may only be required to accompany such declaration by the information set out in Article 12 of this Directive, ***being the minimum information needed to facilitate a consistent implementation of this Directive as well as to provide the most***

1 DLA input

2 DLA input

3 AM 188 Kallas

4 DR AM 4 as proposed amended. Proposed to split recital 40 into two to make a clearer distinction between authorisation and notification

*relevant market knowledge to BEREC and national regulatory authorities.*⁵ Member States should not impose additional or separate notification requirements.

- (42) ~~Contrary to the other categories of~~ **A provider of any** electronic communications networks and services as defined in this Directive, number-independent interpersonal communications services ~~do not~~ **should be able to** benefit from the use of public numbering resources and ~~do not participate in a publicly assured interoperable ecosystem. It is therefore not appropriate to subject these types of services to the general authorisation regime.~~⁶
- (43) When granting rights of use for radio spectrum, numbers or rights to install facilities, the competent authorities should inform the undertakings to whom they grant such rights of the relevant conditions.
- (44) General authorisations should only contain conditions which are specific to the electronic communications sector. **They** ~~It~~ should not be made subject to conditions which are already applicable by virtue of other existing national law, **in particular regarding consumer protection**, which is not specific to the communications sector **and should be it is without prejudice to of provisions of to consumer contracts established in accordance with Rregulation (EC) No 593/2008 of the European Parliament and of the Council on the law applicable to contractual obligations.**⁷ For instance, the national regulatory authorities may inform operators about applicable environmental and, town and country planning requirements.
- (45) The conditions that may be attached to **general** authorisations should cover specific conditions governing accessibility for users with disabilities and the need of public authorities and emergency services to communicate between themselves and with the general public before, during and after major disasters.⁸
- (46) It is necessary to include the rights and obligations of undertakings under general authorisations explicitly in such authorisations in order to ensure a level playing field throughout the Union and to facilitate cross-border negotiation of interconnection between public communications networks.
- (47) The general authorisation entitles undertakings providing electronic communications networks and services to the public to negotiate interconnection under the conditions of this Directive. Undertakings providing electronic communications networks and services other than to the public can negotiate interconnection on commercial terms.
- (47a) **Providers of electronic communication services that operate in more than one Member State remain are still subject to different rules, requirements and reporting obligations despite having the freedom to provide electronic communications networks and services anywhere in the UnionEurope, which hinders the development and growth of the internal market for electronic communications. It should therefore be possible for such a provider, where it has a main establishment in the Union, to fall under a single general authorisation by the Member State of its main establishment in the UnionEU.**⁹ **BEREC should facilitate the coordination and exchange of information. Providers of electronic communication services may**

5 AM 189 Kumpula-Natri (as amended)

6 DR AM 5

7 [DLA input](#)

8 Possible clarification

9 [DLA input](#)

*still need to obtain specific authorisations for the rights of use for numbers, radio spectrum and for rights to install facilities.*¹⁰

- (47b) *It is necessary for the proper functioning of the internal market to avoid incentives for providers to seek to obtain a more favourable legal position to the detriment of end-users (fraudulent or abusive forum shopping). Therefore, the place of main establishment in the Union should reflect the central location where the provider has an effective establishment, adopts its strategic business decisions and performs substantial activities **necessary to be able to provide directly related to the provision of electronic communication services in the Union.***¹¹
- (48) In the case of electronic communications networks and services not provided to the public it is appropriate to impose fewer and lighter conditions than are justified for electronic communications networks and services provided to the public.
- (49) Specific obligations which may be imposed on providers of electronic communications networks and electronic communications services ~~other than number-independent interpersonal communications services~~¹² in accordance with Union law by virtue of their significant market power as defined in this Directive should be imposed separately from the general rights and obligations under the general authorisation.
- (50) Providers of electronic communications networks and services may need a confirmation of their rights under the general authorisation with respect to interconnection and rights of way, in particular to facilitate negotiations with other, regional or local, levels of government or with service providers in other Member States. For this purpose BEREC, which receives the notification to provide public or private communications networks or services, should provide declarations to undertakings ~~either upon request or alternatively~~¹³ as an automatic response to a notification under the general authorisation. Such declarations should not by themselves constitute entitlements to rights nor should any rights under the general authorisation or rights of use or the exercise of such rights depend upon a declaration.
- (51) Administrative charges may be imposed on providers of electronic communications services in order to finance the activities of the national regulatory authority or other competent authority in managing the authorisation system and for the granting of rights of use. Such charges should be limited to cover the actual administrative costs for those activities. For this purpose transparency should be created in the income and expenditure of national regulatory authorities and of other competent authorities by means of annual reporting about the total sum of charges collected and the administrative costs incurred. This will allow undertakings to verify that administrative costs and charges are in balance.
- (52) Systems for administrative charges should not distort competition or create barriers for entry into the market. With a general authorisation system it will no longer be possible to attribute administrative costs and hence charges to individual undertakings except for the granting of rights of use for numbers, radio spectrum and for rights to install facilities. Any applicable administrative charges should be in line with the principles of a general authorisation system. An example of a fair, simple and transparent

10 AM 191 Kallas (as amended to refer to the case where a provider has a main establishment and to remove the reference to notification)

11 To address concerns raised 7/7. Linked to definition of main establishment. [DLA input](#).

12 Consequence of AM 4

13 Suggestion to further simplify. Flows from the fact that the GA does not consist of or require any explicit decision or administrative act (rec 40 and Art 12(3)).

alternative for these charge attribution criteria could be a turnover related distribution key. Where administrative charges are very low, flat rate charges, or charges combining a flat rate basis with a turnover related element could also be appropriate. To the extent that the general authorisation system extends to undertakings with very small market shares, such as community-based network providers, or to service providers whose business model generates very limited revenues even in case of significant market penetration in terms of volumes, Member States should assess the possibility to establish an appropriate de minimis threshold for the imposition of administrative charges.

- (57) To alleviate reporting and information obligations for network and service providers and the competent authority concerned, such obligations should be proportionate, objectively justified and limited to what is strictly necessary. In particular, duplication of requests for information by the competent authority, and by BEREC and the systematic and regular proof of compliance with all conditions under a general authorisation or a right of use should be avoided. ***Reporting and information obligations for electronic communication services providers operating in several Member States should, where the provider has a main establishment in the Union and falls under the general authorisation of the Member State of its main establishment, be coordinated through that Member State, without prejudice to information request related to the granting of rights of use for numbers, radio spectrum and for rights to install facilities. BEREC should facilitate the free flow of information between the ~~concerned~~ Member States concerned.***¹⁴ ***Such information should be requested in a common and standardised format provided by BEREC.***¹⁵ Undertakings should know the intended use of the information sought. Provision of information should not be a condition for market access. For statistical purposes a notification may be required from providers of electronic communications networks or services when they cease activities.

Article 2

Definitions

For the purposes of this Directive:

(16) ‘provision of an electronic communications network’ means the establishment, operation, control or making available of such a network;

(23) ‘general authorisation’ means a legal framework established by the Member State ensuring rights for the provision of electronic communications networks or services and laying down sector-specific obligations that may apply to all or to specific types of electronic communications networks and services, in accordance with this Directive.

¹⁴ [DLA input.](#)

¹⁵ AM 194 Kallas (as amended)

CHAPTER II

GENERAL AUTHORISATION AND RIGHTS OF USE¹⁶

SECTION 1 GENERAL PART

Article 12

General authorisation of electronic communications networks and services

1. Member States shall ensure the freedom to provide electronic communications networks and services, subject to the conditions set out in this Directive. To this end, Member States shall not prevent an undertaking from providing electronic communications networks or services, except where this is necessary for the reasons set out in Article 52 (1) of the Treaty.¹⁷ Any such limitation to the freedom to provide electronic communications networks and services shall be duly reasoned, **shall be in compliance with the Charter of Fundamental Rights of the European Union provided for by law, respect the essence of the rights and freedoms recognised by the Charter and be subject to the principle of proportionality, in accordance with Article 52 (1) of the Charter**¹⁸ and shall be notified to the Commission. ~~Member States shall provide the Commission and the other Member States with a reasoned notification within 12 months following the [transposition date] if they deem that a notification requirement is justified. The Commission shall examine the notification and, where appropriate, adopt a decision within a period of three months from the date of notification requesting the Member State in question to abolish the notification requirement.~~¹⁹

2. The provision of electronic communications networks or the provision of electronic communications services ~~other than number-independent interpersonal communications services~~²⁰ may, without prejudice to the specific obligations referred to in Article 13(2) or rights of use referred to in Articles 46 and 88, only be subject to a general authorisation. **The undertaking shall may not be subject to prior authorisation or any other administrative act.**²¹

2a.²² *Where an undertaking providing electronic communication services in more than one Member State has a main establishment in the Union, it shall be subject to the general authorisation of that Member State and has the right to provide electronic communications services in all Member States.*

16 DR AM 40. Justif: *The provisions of this chapter refer to both general authorisation and rights of use - internal logic of the text.*

17 TFEU 52(1): "The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health."

18 AM 417 Helveg Petersen. 52(1) of the Charter: "Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others." Clarificatory suggestion from LS. [DLA input](#).

19 DR AM 41. Justif: *Reinstating an AM aimed at regulatory simplification adopted by the Parliament in its first reading of the TSM Regulation. Subject to final placing. Proposed moved to 12(3)*

20 DR AM 42. Justif: *All ECS should benefit from the general authorisation.*

21 AM 418 Kallas (as amended). As discussed 7/7, aligned to recital 40. [DLA input](#).

22 Highlighted aspects in par 2a reflect ALDE input

~~[When a provider is established in several Member States,] For the purposes of this Directive, **the** main establishment corresponds to the place where the undertaking meets all of the following criteria:~~

a) ~~it performs its substantial activities other than purely administrative such as business development, accounting and personnel departments;~~

b) ~~it takes its strategic business decisions as to provide electronic communications services in the Union]; and²³~~

c) ~~it produces a significant part of its turnover.~~

d) ~~employs most of its staff [or] is the country where it has most of its costumers~~

~~2e(b) The competent authority of the Member State of main the establishment, **and also at also acting on** the request of the competent authorities of another Member State, shall undertake measures necessary to monitor and supervise compliance with the conditions of the general authorisation and provide information under **A**article 21. Where necessary, BEREC shall facilitate and coordinate **that**is exchange of information.~~

~~In **the** case of a demonstrated breach **of the relevant rules** in a Member State other than the one of **the main** establishment **of the relevant rules**, the competent authorities of the **Member State of the** main establishment shall decide **on**²⁴ the appropriate measures in accordance with **A**article 30.~~

~~In **the** case ~~the~~ of disagreement with the measures taken by the authorities of the Member State of main establishment or related to conflicting views as it regards the **-main place of** establishment, BEREC may act as mediator and, if necessary **in the case of an unresolved dispute**,- issue a decision **in case of unresolved disputes**.²⁵~~

~~[additional paragraph needed to address cases where a NRA disputes the main establishment of an operator]~~

3. Where a Member State deems that a notification requirement is justified, that Member State may only require undertakings to submit a notification to BEREC but it may not require them to obtain an explicit decision or any other administrative act by the national regulatory authority or by any other authority before exercising the rights stemming from the authorisation. **Member States shall provide the Commission and the other Member States with a reasoned notification within 12 months **after ...following the** [transposition date] if they **consider deem that** a notification requirement **to be is** justified. The Commission shall examine the notification and, where appropriate, adopt a decision within **a period of three months **of from**** the date of notification requesting the Member State in question to **revoke abolish** the notification requirement.²⁶**

23 ALDE input. Cf recital 47b

24 [Suggested technical correction 30/8.](#)

25 AM 419 Kallas (as amended). As discussed 7/7 and as a consequence of new 13(-1). Note ECR suggested alternative drafting (made w/o prejudice to their disagreement with a new decision-making power for BEREC): "In case of disagreement with the measures taken by the ~~authorities~~ of the Member State of main establishment, BEREC may ~~shall make its utmost effort to resolve the dispute~~ as mediator and ~~issue decisions in case of unresolved disputes; only where the mediation was not successful, BEREC may adopt, acting by a two-thirds majority of members of the Board of Regulators, a Decision on the disputed matter.~~" [DLA input.](#)

26 DR AM 41. Proposed moved. [DLA input.](#)

Member States requiring notification shall allow but ~~shall may~~ not require a provider of electronic communications services offered in fewer than [three] Member States and with an aggregate ~~group~~ Union turnover of less than EUR [100] million to submit a notification. Upon notification to BEREC, when required, an undertaking may begin activity, where necessary subject to the provisions on rights of use pursuant to this Directive. *If a notification does not identify one or ~~more several~~ Member States concerned, it shall be deemed to cover all ~~the~~ Member States.* BEREC shall forward by electronic means and without delay each notification to the national regulatory authority in all Member States concerned by the provision of electronic communications networks or the provision of electronic communications services.²⁷

Information in accordance with this paragraph on existing notifications already made to the national regulatory authority on the date of transposition of this Directive shall be provided to BEREC at the latest on [date of transposition].

4. The notification referred to in paragraph 3 shall not entail more than a declaration by a legal or natural person to BEREC of the intention to commence the provision of electronic communications networks or services and the submission of the minimal information which is required to allow BEREC and the national regulatory authority to keep a register or list of providers of electronic communications networks and services. This information must be limited to:

- (1) the name of the provider;
- (2) the provider's legal status, form and registration number, where the provider is registered in a trade or other similar public register in the EU;
- (3) the geographical address of the provider's main establishment ~~in the EU~~ and, where ~~existing~~ **applicable**, any secondary branch in a Member State;²⁸
- (3a) the provider's website, ~~where existing~~, associated with the provision of electronic communications networks and/or services, ~~where existing~~;**²⁹
- (4) a contact person and contact details;
- (5) a short description of the networks or services intended to be provided;
- (6) the Member States concerned, and
- (7) an estimated date for starting the activity.

Member States may not impose any additional or separate notification requirements.

Article 13

Conditions attached to the general authorisation and to the rights of use for radio spectrum and for numbers, and specific obligations

27 DR AM 43. Justif: *This allows providers of ECS to obtain the benefit of the general authorisation if they so desire in Member States that require notification, while excluding an obligation on those providers to file a notification unless they have a community dimension in the form of meeting a test relating to presence in several member States and minimum turnover (from all sources), as inspired by Union competition law (Regulation 139/2004). This is in line with the approach to newly emerging services, as set out in recital 148 and the Recommendation on relevant product and service markets. Also slight simplification allowing in particular providers of ECS to receive the benefit of the general authorisation across the entire Union without having to list all Member States (some of which also do not require notification). Inextricably linked to other admissible AMs.*

[DLA input.](#)

28 BEREC (as amended)

29 BEREC, [DLA input.](#)

*-1 Unless otherwise provided in this Directive, providers of electronic communications services having a main establishment in a Member State and active in more than one Member State shall be subject only to the conditions attached to the general authorisation applicable in the Member State of their main establishment. The national regulatory authority of that Member State shall be responsible for exercising the enforcement powers related to the **g**General authorisation conditions without prejudice to other obligations not covered by this Directive.³⁰ and is ~~without prejudice to the provider's obligation to comply with the laws of the Member State where it the provider offers electronic~~ communication services.³¹*

~~*Providers of electronic communication services active in more than one Member State shall also be subject to the national authorities of all the Member States where they operate for the provisions of this directive other than provisions related to general authorisation and any other obligation under national law.*~~

1. The general authorisation for the provision of electronic communications networks or services and the rights of use for radio spectrum and rights of use for numbers may be subject only to the conditions listed in Annex I. Such conditions shall be non-discriminatory, **adapted to the specifics of the network or service**, proportionate and transparent and, in the case of rights of use for radio spectrum, shall be in accordance with Articles 45 and 51 in the case of rights of use for numbers, shall be in accordance with Article 88.

2. Specific obligations which may be imposed on providers of electronic communications networks and services under Articles ~~13~~,³² 36, 46(1), 48(2), **59(1)**³³ or on those designated to provide universal service under this Directive shall be legally separate from the rights and obligations under the general authorisation. In order to achieve transparency for undertakings, the criteria and procedures for imposing such specific obligations on individual undertakings shall be referred to in the general authorisation.

3. The general authorisation shall only contain conditions which are specific for that sector and are set out in Parts A, B and C of Annex I and shall not duplicate conditions which are applicable to undertakings by virtue of other national legislation.

4. Member States shall not duplicate the conditions of the general authorisation where they grant the right of use for radio frequencies or numbers.

Article 14

Declarations to facilitate the exercise of rights to install facilities and rights of interconnection

~~At the request of an undertaking, BEREC shall, within one week, issue standardised declarations, confirming, where applicable, that the undertaking has submitted a notification under Article 12(32) and detailing under what circumstances any undertaking providing electronic communications networks or services under the general authorisation has the right to apply for rights to install facilities, negotiate interconnection, and/or obtain access or interconnection in order to facilitate the exercise of those rights for instance at other levels of government or in relation to other undertakings. Where appropriate such **Those** declarations may also **shall** be issued as an automatic reply following the notification referred to in Article 12(32).~~³⁴

30 ALDE input (as amended)

31 **DLA input**

32 Appears to be an error

33 BEREC comment

34 See fn to recital 50. LS correction of crossreference

SECTION 2 GENERAL AUTHORISATION RIGHTS AND OBLIGATIONS

Article 15

Minimum list of rights derived from the general authorisation

1. Undertakings authorised pursuant to Article 12, shall have the right to:
 - (a) provide electronic communications networks and services;
 - (b) have their application for the necessary rights to install facilities considered in accordance with Article 43 of this Directive
 - (c) use radio spectrum in relation to electronic communications services and networks subject to Articles 13, 46 and 54.
 - (d) have their application for the necessary rights of use for numbers considered in accordance with Article 88.
2. When such undertakings provide electronic communications networks or services to the public the general authorisation shall also give them the right to:
 - (a) negotiate interconnection with and where applicable obtain access to or interconnection from other providers of publicly available communications networks and services covered by a general authorisation anywhere in the Union under the conditions of and in accordance with this Directive ;
 - (b) be given an opportunity to be designated to provide different elements of a universal service and/or to cover different parts of the national territory in accordance with Article 81 or 82.

Article 16

Administrative charges

1. Any administrative charges imposed on undertakings providing a service or a network under the general authorisation or to whom a right of use has been granted shall:
 - (a) in total, cover only the administrative costs which will be incurred in the management, control and enforcement of the general authorisation scheme and of rights of use and of specific obligations as referred to in Article 13(2), which may include costs for international cooperation, harmonisation and standardisation, market analysis, monitoring compliance and other market control, as well as regulatory work involving preparation and enforcement of secondary legislation and administrative decisions, such as decisions on access and interconnection; and
 - (b) be imposed upon the individual undertakings in an objective, transparent and proportionate manner which minimises additional administrative costs and attendant charges. Member States may choose not to apply administrative charges to undertakings whose turnover is below a certain threshold or whose activities do not reach a minimum market share or have a very limited territorial scope. **Member States may not apply any administrative charges on providers of electronic communications services present in fewer than [three] Member States and with an**

*aggregate Union turnover of less than EUR [100] million over and above a maximum one-off charge not exceeding EUR [10], to cover any administrative costs incurred in the mere registration of any voluntary notification under Article 12.*³⁵

2. Where national regulatory authorities or other competent authorities impose administrative charges, they shall publish a yearly overview of their administrative costs and of the total sum of the charges collected. In the light of the difference between the total sum of the charges and the administrative costs, appropriate adjustments shall be made.

Article 21

Information required under the general authorisation, for rights of use and for the specific obligations

1. Without prejudice to *any information requested pursuant to in conformity with*³⁶ Article 20 and information and reporting obligations under national legislation other than the general authorisation, national regulatory and other competent authorities may ~~only~~ require undertakings to provide information under the general authorisation, for rights of use or the specific obligations referred to in Article 13(2) that is proportionate and objectively justified for *in particular*:

- (a) systematic or case-by-case verification of compliance with condition 1 of Part A, conditions 2 and 6 of Part D and conditions 2 and 7 of Part E of Annex I and of compliance with obligations as referred to in Article 13 (2);
- (b) case-by-case verification of compliance with conditions as set out in Annex I where a complaint has been received or where the competent authority has other reasons to believe that a condition is not complied with or in case of an investigation by the competent authority on its own initiative;
- (c) procedures for and assessment of requests for granting rights of use;
- (d) publication of comparative overviews of quality and price of services for the benefit of consumers;
- (e) clearly defined statistical, *reports or studies* purposes;
- (f) market analysis for the purposes of this Directive *including data on the downstream or retail markets associated with or related to the markets subject to market analysis*;
- (g) safeguarding the efficient use and ensuring the effective management of radio spectrum and of numbering resources;
- (h) evaluating future network or service developments that could have an impact on wholesale services made available to competitors, on *territorial coverage* or on the designation of digital exclusion areas;³⁷

35 DR AM 44. Justif: *Providers of ECS wishing to avail themselves of the benefits of the general authorisation, with respect to Member States requiring notification, even though they have not achieved a community dimension should not be dissuaded by burdensome and unpredictable recurring administrative charges. As proposed amended.*

36 *DLA input*

37 DR AM 47. Justif: *This provision is part of the information national authorities may request from providers. The text therefore needs to be clear. "Connectivity" here clearly means coverage.*

(ha) conducting geographical studies;

(hb) responding to reasoned requests for information by BEREC.³⁸

~~*(hc) responding to requests for information from national regulatory and other competent authorities that are not of the main place of establishment of the operator in compliance with obligation as referred to in article 12 (2).*~~

The information referred to in points (a), (b), (d), (e), (f), (g) and (h) of the first subparagraph may not be required prior to, or as a condition for, market access.

BEREC shall, by [date], develop standardised formats for information requests.³⁹

2. As regards the rights of use for radio spectrum, such information shall refer in particular to the effective and efficient use of radio spectrum as well as to compliance with the coverage and quality of service obligations attached to the rights of use for radio spectrum and their verification.

3. Where national regulatory or other competent authorities require undertakings to provide information as referred to in paragraph 1, they shall inform them of the specific purpose for which this information is to be used.

4. National regulatory or other competent authorities may not duplicate requests of information already made by BEREC pursuant to Article 30 of Regulation [xxxx/xxxx/EC (BEREC Regulation)]⁴⁰.

4a. Without prejudice to information and reporting obligations for rights of use and for specific obligations, where an undertaking provides electronic communication services in more than one Member State, and has a main establishment in the Union, only the national regulatory authority of the Member State of the main establishment may request the information as referred to in paragraph 1. The nNational regulatory authorities of other Member States concerned may request information from the~~at~~ first national regulatory authority or from BEREC. BEREC shall facilitate the coordination and exchange of information between the national regulatory authorities concerned, through the exchange of information established pursuant to Article 30 of Regulation [xxxx/xxxx/EC (BEREC Regulation)].⁴¹

38 BEREC (as amended)

39 AM 442 Kallas (as amended)

40 Regulation (EC) No xxxx/xxxx of the European Parliament and of the Council of [] establishing the Body of European Regulators for Electronic Communications (BEREC) (OJ L. []).

41 AM 443 Kallas (as amended). DLA input.

ANNEX I

LIST OF CONDITIONS WHICH MAY BE ATTACHED TO GENERAL AUTORISATIONS, RIGHTS OF USE OF RADIO SPECTRUM AND RIGHTS TO USE NUMBERS

The conditions listed in this Annex provide the maximum list of conditions which may be attached to general authorisations for electronic communications networks and services; ~~except number-independent interpersonal communications services~~,⁴² (Part A), electronic communications networks (Part B), electronic communications services; ~~except number-independent interpersonal communications services~~,⁴³ (Part C), rights to use radio frequencies (Part D) and rights to use numbers (Part E)

A. GENERAL CONDITIONS WHICH MAY BE ATTACHED TO A GENERAL AUTHORISATION

1. Administrative charges in accordance with Article 16 of this Directive.
2. Personal data and privacy protection specific to the electronic communications sector in conformity with Directive 2002/58/EC of the European Parliament and of the Council (Directive on privacy and electronic communications)⁴⁴
3. Information to be provided under a notification procedure in accordance with Article 12 of this Directive and for other purposes as included in Article 21 of this Directive.
4. Enabling of legal interception by competent national authorities in conformity with Directive 2002/58/EC and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁴⁵.
5. Terms of use for communications from public authorities to the general public for warning the public of imminent threats and for mitigating the consequences of major catastrophes.
6. Terms of use during major disasters or national emergencies to ensure communications between emergency services and authorities.
7. Access obligations other than those provided for in Article 13(2) of this Directive applying to undertakings providing electronic communications networks or services.⁴⁶
8. Measures designed to ensure compliance with the standards and/or specifications referred to in Article 39.
9. Transparency obligations on public communications network providers providing electronic communications services available to the public to ensure end-to-end connectivity, in conformity with the objectives and principles set out in Article 3 and, where necessary and proportionate, access by national regulatory authorities to such information needed to verify the accuracy of such disclosure.

42 Consequence of AM 4

43 id

44 OJ L 201, 31.7.2002, p. 37.

45 OJ L 281, 23.11.1995, p. 31.

46 BEREC comment on 13(2) reference. Otherwise, according to input, "This refers to access obligations other than those included in 13. Article 13 includes symmetric access obligations, conditional access, and access obligations for the universal service provider. Other obligations could regard for instance to access to information or to facilities."

B. SPECIFIC CONDITIONS WHICH MAY BE ATTACHED TO A GENERAL AUTHORISATION FOR THE PROVISION OF ELECTRONIC COMMUNICATIONS NETWORKS

1. Interconnection of networks in conformity with this Directive.
2. ‘Must carry’ obligations in conformity with this Directive.
3. Measures for the protection of public health against electromagnetic fields caused by electronic communications networks in accordance with Union law, taking utmost account of Council Recommendation No 1999/519/EC.
4. Maintenance of the integrity of public communications networks in accordance with this Directive including by conditions to prevent electromagnetic interference between electronic communications networks and/or services in accordance with Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility⁴⁷.
5. Security of public networks against unauthorised access according to Directive 2002/58/EC (Directive on Privacy and electronic communications).
6. Conditions for the use of radio spectrum, in conformity with Article 7⁴⁸ of Directive 2014/53/EU, where such use is not made subject to the granting of individual rights of use in accordance with Articles 46(1) and 48 of this Directive.

C. SPECIFIC CONDITIONS WHICH MAY BE ATTACHED TO A GENERAL AUTHORISATION FOR THE PROVISION OF ELECTRONIC COMMUNICATIONS SERVICES, ~~EXCEPT NUMBER-INDEPENDENT INTERPERSONAL COMMUNICATIONS SERVICES~~⁴⁹

1. Interoperability of services in conformity with this Directive.
2. Accessibility by end users of numbers from the national numbering plan, numbers from the Universal International Freephone Numbers and, where technically and economically feasible, from numbering plans of other Member States, and conditions in conformity with this Directive.
3. Consumer protection rules specific to the electronic communications sector.
4. Restrictions in relation to the transmission of illegal content, in accordance with Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the internal market⁵⁰ and restrictions in relation to the transmission of harmful content in accordance with Directive 2010/13/EU of the European Parliament and of the Council⁵¹.

D. CONDITIONS WHICH MAY BE ATTACHED TO RIGHTS OF USE FOR RADIO SPECTRUM

1. Obligation to provide a service or to use a type of technology within the limits of Article 49 of this Directive including, where appropriate, coverage and quality of service requirements.
2. Effective and efficient use of spectrum in conformity with this Directive.

47 OJ L 139, 23.5.1989, p. 19. Directive as last amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1).

48 Correction confirmed by COM

49 Consequence of AM 4

50 OJ L 178, 17.7.2000, p. 1.

51 OJ L 95, 15.4.2010, p. 1.

3. Technical and operational conditions necessary for the avoidance of harmful interference and for the protection of public health against electromagnetic fields, taking utmost account of Council Recommendation No 1999/519/EC⁵² where such conditions are different from those included in the general authorisation.
4. ~~Maximum~~ **Duration and conditions** in conformity with Article 49 of this Directive; ~~subject to any changes in the national frequency plan.~~⁵³
5. Transfer or leasing of rights at the initiative of the right holder and conditions for such transfer in conformity with this Directive.
6. Usage fees in accordance with Article 42 of this Directive.
7. Any commitments which the undertaking obtaining the usage right has made in the framework of an authorisation or authorisation renewal process prior to the authorisation being granted or, where applicable, to the invitation for application for rights of use.
8. Obligations to pool or share radio spectrum or allow access to radio spectrum for other users in specific regions or at national level.
9. Obligations under relevant international agreements relating to the use of frequencies.
10. Obligations specific to an experimental use of radio frequencies.

E. CONDITIONS WHICH MAY BE ATTACHED TO RIGHTS OF USE FOR NUMBERS

1. Designation of service for which the number shall be used, including any requirements linked to the provision of that service and, for the avoidance of doubt, tariff principles and maximum prices that can apply in the specific number range for the purposes of ensuring consumer protection in accordance with Article 3(2)(d) of this Directive.
2. Effective and efficient use of numbers in conformity with this Directive.
3. Number portability requirements in conformity with this Directive.
4. Obligation to provide public directory end user information for the purposes of Article 104 of this Directive.
5. Maximum duration in conformity with Article 46 of this Directive, subject to any changes in the national numbering plan.
6. Transfer of rights at the initiative of the right holder and conditions for such transfer in conformity with this Directive.
7. Usage fees in accordance with Article 42 of this Directive.
8. Any commitments which the undertaking obtaining the usage right has made in the course of a competitive or comparative selection procedure.
9. Obligations under relevant international agreements relating to the use of numbers.
10. Obligations concerning the extraterritorial use of numbers within the Union to ensure compliance with consumer protection and other number-related rules in Member States other than that of the country code.

⁵² Recommendation 1999/519/EC of the Council of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz) (OJ L 1999, 30.7.1999, p. 59).

⁵³ Proposed alignment to Spectrum CA. According to input, the highlighted part means: "A change in the national frequency plan (corresponding to changing technical conditions) can make any right unusable. It could be e.g. changing a band to military or from terrestrial to satellite. This is unusual but an established spectrum management principle. Note that this possibility has to be stated in the conditions attached to rights of use."

