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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Telecommunications And Information Society (Attachés) Working Party on Telecommunications and Information Society
Subject:	Digital Networks Act - CWP Access presentation

Delegations will find the presentation by the Commission on Digital Networks Act - CWP Access

European Commission

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DIGITAL NETWORKS ACT

Council WP on Telecommunications and Information Society
10 September 2026

European Commission

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DIGITAL NETWORKS ACT

Title II: Access to Land

- Article 62 – Fees for access to land (Recital 161)
- Article 63 – Rights of way (Recitals 161, 162)
- Article 64 – Co-location and sharing of network elements… (Recitals 162, 163)

Title III: Interconnection

- Article 65 – General framework for access and interconnection (Recitals 164 to 167)
- Article 66 – Rights and obligations of undertakings (Recitals 164, 166, 167)
- Article 67 – Conditional access systems and other facilities (Recitals 175, 186, 187)
- Article 68 – Powers and responsibilities of the NRAs / OCAs … (Recitals 166 to 173, 175, 186, 187)

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DIGITAL NETWORKS ACT

Titles III and IV: Interconnection and Markets and Competition

- **Symmetric regulation**
  - Articles 69 - 71 (Recitals 174, 176 to 185)
- **Market analysis and SMP**
  - Articles 72 - 76 (Recitals 188 to 202)
- **Access remedies imposed on SMP**
  - Articles 77 - 84 (Recitals 196 to 198, 202 to 216)
- **Internal market procedures for market regulation**
  - Articles 85 – 86 (Recitals 217 to 227)
- **Other**
  - **Article 183** (Recitals 380 to 391)

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Title II – Access to Land

Article 62 – **Fees for rights to install facilities**

(Recital 161)

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- Article 62 reiterates the content of Article 42(1) EECC
- Competent authorities may impose fees for the rights to install facilities on, over or under public or private property that are used for the provision of electronic communications networks or services and associated facilities
- Such fees are objectively justified, transparent, non-discriminatory and proportionate

Article 63 – **Rights of way**

(Recitals 161, 162)

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- Article 63 reiterates the content of Article 43 EECC
- Competent authority may grant:
  - the right to install facilities on, over, or under public or private property to an undertaking authorised to provide public electronic communications networks;
  - the right to install facilities on, over, or under public property to an undertaking authorised to provide electronic communications networks other than to the public.
- When granting such rights the competent authority shall:
  - act on the basis of simple, efficient, transparent and publicly available procedures, applied without discrimination and without delay, and in any event make its decision within six months of the application, except in the case of expropriation;
  - follow the principles of transparency and non-discrimination in attaching conditions to any such rights.

Article 64 – Co-location and sharing of network elements and associated facilities for providers of electronic communications networks

(Recitals 162, 163)

- Article 64 largely reiterates the content of Article 44 EECC
- "Where an operator has exercised the right under national law to install facilities on, over or under public or private property, or has taken advantage of a procedure for the expropriation or use of property, competent authorities may impose co-location and sharing of the network elements and associated facilities installed on that basis, in order to foster environmental sustainability of electronic communications networks, to protect public health and public security or to meet town- and country-planning objectives."

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Title III – Interconnection

Articles 65-67 – Interconnection - General provisions and principles

(Recitals 164, 165, 166, 167, 175, 186, 187)

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- Those Articles largely reiterate the provisions of EECC:

Article 65 DNA	⇒	Article 59 EECC
Article 66 DNA	⇒	Article 60 EECC
Article 67 DNA	⇒	Article 62 EECC

- Article 2(29) DNA definition of interconnection – a specific type of access implemented between providers of ECNs (**both public and 'non-public**') – reflects the technological and market developments; however, does not create obligations
- Undertakings to have the right to negotiate between themselves agreements on technical and commercial arrangements for access or interconnection
- Operators' obligation to negotiate with each other interconnection for the purpose of providing publicly available electronic communications services, in order to ensure provision and interoperability of services throughout the Union.
- Obligation to negotiate interconnection applies only to operators of **public** ECNs (= status quo, see also **Rec. 164**)

Article 68 – **Powers and responsibilities of the national regulatory and other competent authorities with regard to access and interconnection**

(Recitals 166,167,168, 169, 170, 171, 172, 173, 175, 186, 187)

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- As in EECC, national regulatory (or competent) authorities to encourage and, where appropriate, ensure adequate access and interconnection, as well as the interoperability of services
- In particular:

(a) to the extent necessary to ensure end-to-end connectivity, obligations on undertakings subject to general authorisation that control access to end-users, including, in justified cases, the obligation to interconnect their networks where this is not already the case;

(b) obligations on undertakings subject to general authorisation that control access to end-users to make their services interoperable

(c) in justified cases, where end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services, and to the extent necessary to ensure end-to-end connectivity between end-users, obligations on relevant providers of number-independent interpersonal communications services which reach a significant level of coverage and user uptake, to make their services interoperable;

(d) to ensure accessibility for end-users to digital radio and television broadcasting services and related complementary services

Article 69 – Symmetric measures

(174, 176, 177, 178, 180)

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- Article 69 largely reiterates the text of Article 61(3) to Article (7) EECC with some important differences.
- Without prejudice to SMP measures, competent authorities may impose on all operators and other owners of relevant wiring and associated facilities to grant access on FRAND conditions 1) inside buildings; 2) up to the first concentration or distribution point outside the building; 3)and, where justified, beyond such point.
- Unlike what is provided for in Article 61 (3) EECC, competent authorities may do so also *ex officio* and not just upon reasonable request, where justified in order to secure the DNA's policy objectives.
- The Commission maintains a veto power on national competent authorities' decisions. Unlike the EECC, there is no longer a 'double-lock veto' procedure, as BEREC's agreement is no longer needed.

Article 70 – Localised roaming

(Recitals 179, 185)

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- The provision fully reiterates Article 61(4) EECC.
- Article 70 empowers the regulators to:
  - Impose obligations in relation to the **sharing of passive infrastructure** or **obligations to conclude localised roaming access agreements**, in both cases if directly necessary for the local provision of services which rely on the use of radio spectrum
  - In those circumstances where access and sharing of passive infrastructure alone does not suffice to address the situation, national regulatory authorities **may impose obligations on sharing of active infrastructure.**

Article 71 – Symmetric measures for transition to fibre (1/2)

(Recitals 181, 182, 183, 184)

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- Article 71 is a new provision intended to ensure that end users in a copper switch-off area will effectively be connected to fibre with fair and reasonable conditions.
- Competent national authorities will indeed oblige providers deploying fibre networks (and can select one, if there are multiple operators, based on transparent, proportionate and non-discriminatory criteria) in such areas to connect users upon their request.
- They will define the access conditions via the market analysis carried out in the context of copper switch-off.

Article 71 – Symmetric measures for transition to fibre 2/2

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- Additional fees compared to the normally applicable ones may be charged to the users by operators, provided they are fair and reasonable.
- Competent national authorities will ensure this and may also decide to set a maximum level of connection fees at retail level.
- In order to facilitate operators' rollout, in these circumstances building owners/administrators will be obliged to grant access in-building to the first coming operator.
- In areas not concerned by copper switch-off, Article 69 will apply.

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Title IV – Markets and Competition

Article 72 – **Market Definition**

(Recitals 190, 191, 195, 200, 201, 202)

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Relevant markets (defined appropriate to national circumstances):

- product market definition
- geographic market definition (national, local)

Optionality to adopt a Recommendation on relevant markets:

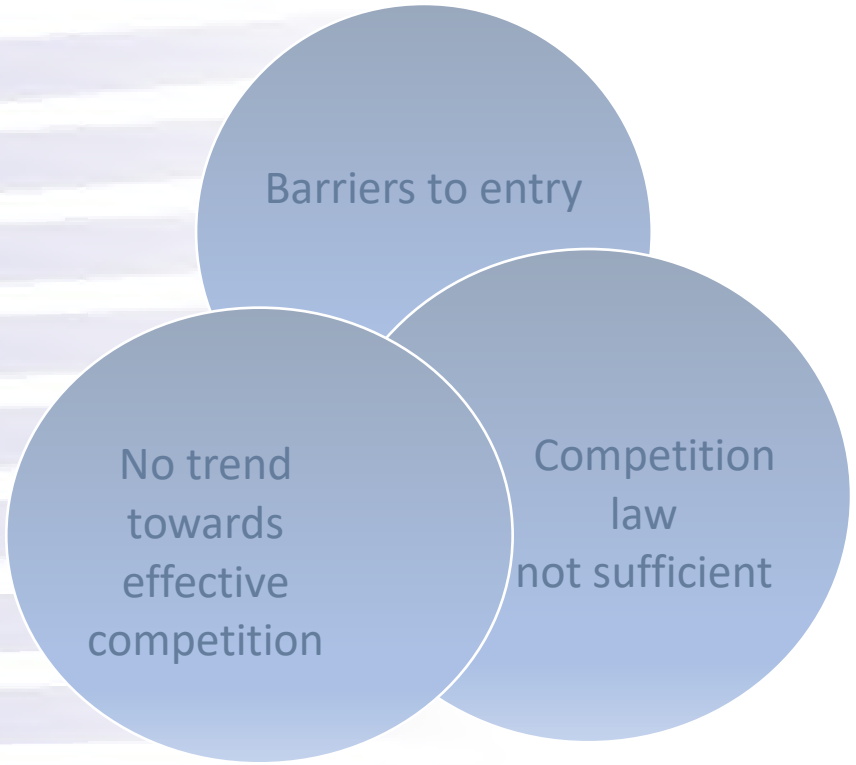
- The Commission shall regularly analyse the overall trends in the Union, based on the results of stakeholders' consultation, and assess, by reference to Article 73(1)(a), (b) and (c), whether the adoption of a recommendation on relevant product and service markets ('the markets Recommendation') is required. The Commission may adopt the markets Recommendation, after public consultation, including with national regulatory authorities, and taking account of the opinion of BEREC.
- Recital 190: In its regular assessment of the market trends in the Union, the Commission should take into account the feedback of stakeholders. The results of the stakeholders' consultation should be made publicly available in a report.

Article 73 – **Market analysis procedure**

(Recitals 188, 189, 191, 194, 195, 198, 199, 200, 201)

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Three criteria test: to be cumulatively met



National Regulatory Authorities to determine if the market should be regulated

- Where appropriate in collaboration with the competition authorities

Prior to the copper switch-off, the national regulatory authorities shall conduct reviews of relevant markets covering at least the areas affected by the copper switch-off.

- To mitigate any risk of monopolisation, once copper is switched-off

NRAs to consider, how the markets would develop in the absence of regulation imposed. The national regulatory authority shall take into account all of the following in its analysis:

- market developments affecting the likelihood of the relevant market tending towards effective competition;
- all relevant competitive constraints, at the wholesale and retail levels
- other types of regulation or measures already imposed

Forward looking analysis

Article 74 – Transnational markets
Article 75 – Transnational end-user demand
(Recitals 189, 192)

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- We did not change the texts of Articles 64 and 65 EECC
- The system remains the same as in EECC. Article 74 DNA covers the procedure for the identification of transnational markets i.e.:
  - To be done by the Commission's or at least two NRAs' reasoned request
  - BEREC to conduct an analysis of such a market and EC to adopt a decision identifying it
  - NRAs concerned may jointly conduct a market analysis and decide on imposing obligations
- Article 123 DNA states that "BEREC shall analyse potential transnational markets as referred to in Article 74 and transnational end-user demand as referred to in Article 75."

Article 76 – Undertakings with significant market power

(Recitals 188, 189, 193)

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- An undertaking shall be deemed to have significant market power if, either **individually or jointly** with others, it enjoys a **position equivalent to dominance**, namely a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.
- Where an undertaking has significant market power on a specific market, it may also be designated as having significant market power on a closely related market, where the links between the two markets allow the market power held on the specific market to be leveraged into the closely related market, thereby strengthening the market power of the undertaking. Consequently, remedies aiming to prevent such leverage may be applied in the closely related market
- After consulting BEREC, the Commission shall publish guidelines for market analysis and the assessment of significant market power ('the **SMP guidelines**') which shall be in accordance with the relevant principles of competition law