

The new European Electronic Communications Code

DEEP-IN Project Inaugural Conference 24 June 2019

Carlota Reyners Fontana, Head of Unit B5
European Commission, DG CONNECT

Disclaimer: The views expressed in this presentation are those of the author and do not necessarily reflect the opinion of the European Commission



The Code helps shaping the right environment for digital networks and services to flourish as part of the Digital Single Market



The Code modernises the current EU telecoms rules to:

- √ drive investments in VHC networks
- ✓ stimulate sustainable competition
- ✓ reinforce the internal market
- ✓ strengthen consumer rights



Entered into force on 20 December 2018, Member States to transpose into national law by 20 December 2020



Access Regulation (1/5)

Facilitate the roll-out of very high capacity networks through increased competition and predictability for investment

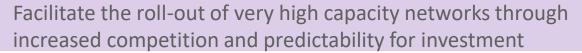


Emphasis on *access to civil engineering* (Art. 72), such as masts, ducts and cabinets, to lower deployment costs and stimulate **infrastructure based competition**:

- The Code provides possibility for NRAs to impose access to civil engineering assets, such as ducts and poles, as a stand-alone remedy (when it is owned by SMP operators)
- Access to civil engineering should be considered by regulators as the first,
 potentially sufficient option before any other access obligations



Access Regulation (2/5)



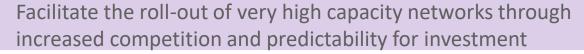


Treatment of *co-investments* in very high capacity networks (Art. 76)

- Incentivising deployment of VHC by allowing rival operators to share risk and deregulating under strict conditions
- SMP operators **commit on open offers for co-investment** with other operators:
 - On fair, reasonable and non-discriminatory terms to co-investors, allowing effective and sustainable competition
 - Allowing access to non co-investors, initially to legacy capacity and over time to more advanced capabilities of the network
- Process managed by the NRAs (Art. 79), assessing the commitments (also by means of a **market test**) and making them **binding** if they decide to deregulate
- Subject to 'double-lock' veto mechanism (Commission and BEREC)



Access Regulation (3/5)





New rules on *symmetric obligations* (Art 61(3)), which tackle network **replicability issues**, without compromising the SMP regime:

- Access obligations with focus on the network up to the first concentration or distribution point, i.e. mainly in-house wiring
- Obligations can be extended beyond this point only under very strict conditions, including the presence of "high and non-transitory barriers"
- Such extension of obligations is also subject to 'double-lock' veto mechanism



Access Regulation (4/5)

Facilitate the roll-out of very high capacity networks through increased competition and predictability for investment



- Lighter regulatory treatment for wholesale-only operators (Art. 80), even when they hold SMP:
 - ➤ Rationale: Business model that runs a **reduced risk** of certain anti-competitive behaviours
 - Condition: **undertaking** (in the meaning of EU competition law) cannot have activities in the relevant retail market
 - > Treatment:
 - Only access to specific networks elements, non-discrimination or fair & reasonable pricing obligations can be imposed
 - Can be exempted from extended symmetric obligations



Access Regulation (5/5)

Facilitate the roll-out of very high capacity networks through increased competition and predictability for investment



Geographical *surveys* and *forecasts* of network deployment (Art. 22)

- Purpose: Empower national regulators with tools to provide investment certainty in less attractive areas by mapping network investment intentions
- Result of surveys and forecasts is the designation of areas where no operator
 has planned to deploy very high capacity networks (or upgrade existing
 networks to at least 100 Mbps)
- Operators can be invited to deploy in these areas, having a better understanding of the competition that they are likely to face



Spectrum Management





Assignment deadlines for 5G Pioneer Bands (Art. 54)

• **31 December 2020 deadline** for 5G pioneer bands (3,6 GHz and at least 1 GHZ in 26 GHz band)

Duration / renewal of rights (Art. 49-50):

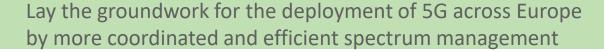
- Ensure investment predictability and stability, support trading and leasing
- At least 20 (15+5) year duration for WBB harmonised spectrum
- Renewals to be decided well on time before expiry;

Peer Review (Art. 35)

- For consistency and predictability in authorisations; exchange of experience and best practices
- Voluntary on request by national authority or exceptionally by RSPG if risk for objectives and principles of the Code



Spectrum management





Small-area wireless access points (Small Cells) (Art. 57):

- Dense 5G networks will massively use and need rapid deployment of small-area wireless access points
- No individual town planning permit or other individual prior permit for Small Cells to be defined by Commission Implementing Act by 30 June of 2020
- Exceptions for protection of sites of architectural, historical or natural value or public safety



State of Play

- Member States are working on the transposition of the Code into national law, to be completed by 21 Dec 2020
- **BEREC** is developing guidelines to foster the consistent application of the Code, in particular of novel provisions, including:
 - Co-investments (Art. 76)
 - Performance criteria for Very High Capacity Networks (Art. 82)
 - Symmetric obligations (Art. 61(3))
 - Geographic surveys and forecasts (Art. 22)
- The Commission is providing assistance with the above tasks, in addition to working on a number of delegated and implementing acts



Thank you for your attention

