Regulation (EU) 2017/1953 of the European Parliament and of the Council of 25 October 2017 amending Regulations (EU) No 1316/2013 and (EU) No 283/2014 as regards the promotion of internet connectivity in local communities (Text with EEA relevance)

REGULATION (EU) 2017/1953 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 October 2017

amending Regulations (EU) No 1316/2013 and (EU) No 283/2014 as regards the promotion of internet connectivity in local communities

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) The Commission communication of 14 September 2016 entitled ‘Connectivity for a Competitive Digital Single Market — Towards a European Gigabit Society’, sets out a European vision of internet connectivity for citizens and business in the digital single market and describes a number of possible measures capable of enhancing connectivity in the Union.

(2) In its communication of 26 August 2010 entitled ‘A Digital Agenda for Europe’, the Commission recalls that the Europe 2020 Strategy underlined the importance of broadband deployment to promote social inclusion and competitiveness in the Union and reaffirmed the goal of ensuring that, by 2020, all Europeans have access to internet speeds of above 30 Mbps and 50 % or more of European households subscribe to internet connections above 100 Mbps.

(3) Among measures to support the vision of internet connectivity across the Union, the Commission promotes, in its communication of 14 September 2016, the deployment of local wireless access points through simplified planning procedures and reduced regulatory obstacles. Such access points, including those that are ancillary to the provision of other public services or non-commercial in character, can make an important contribution to the improvement of current wireless communication networks

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and to the deployment of future generations of such networks by facilitating more granular coverage in line with evolving needs. Those access points should be able to form part of a network with a single authentication system that is valid across the whole Union and otherfree local wireless connectivity networks should be able to join the system. That system should comply with Union data protection requirements and with Regulation (EU) 2015/2120 of the European Parliament and of the Council[(4)].

(4) In the context of this Regulation, local wireless connectivity that is free of charge and without discriminatory conditions means, with regard to being free of charge, that it is provided without corresponding remuneration, whether by direct payment or by other types of consideration, such as commercial advertising or the provision of personal data for commercial purposes. With regard to being without discriminatory conditions, it means that it is provided without prejudice to restrictions required under Union law, or under national law that complies with Union law, as well as being subject to the need to ensure a smooth functioning of the network and, in particular, the need to ensure a fair allocation of capacity between users at peak times.

(5) A competitive market, and a legislative framework which can adapt to developments and which encourages competition, investment and the widespread availability and take-up of very-high-capacity connectivity, as well as trans-European networks and new business models, are important drivers for investment in high and very-high-capacity networks that can deliver connectivity to citizens throughout the Union.

(6) In light of the Commission's communication of 14 September 2016 and in order to promote digital inclusion, the Union should support the provision of high-quality local wireless connectivity that is free of charge and without discriminatory conditions in centres of local public life, including outdoor spaces accessible to the general public. Such support is not covered by Regulation (EU) No 1316/2013[(5)] or (EU) No 283/2014[(6)] of the European Parliament and of the Council.

(7) Such support should encourage public sector bodies, as defined in Directive (EU) 2016/2102 of the European Parliament and of the Council[(7)], to offer local wireless connectivity that is free of charge and without discriminatory conditions as an ancillary service to their public mission so as to ensure that people in local communities can benefit from high-speed broadband and have the opportunity to improve their digital skills in centres of public life. Such bodies could include municipalities, associations formed by municipalities, other local public authorities and institutions, libraries and hospitals.

(8) Local wireless connectivity that is free of charge and without discriminatory conditions could contribute to bridging the digital divide, especially in communities that lag behind in terms of digital literacy, including in rural areas and remote locations.

(9) Improving access to high-speed and very-high-speed broadband and consequently to online services, especially in rural areas and remote locations, could increase quality of life by facilitating access to services, for example e-Health and e-Government, and could promote the development of local small and medium-sized enterprises.

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(10) To guarantee the success of the support to be provided under this Regulation and to promote Union action in this area, the Commission should ensure that the entities that pursue projects benefitting from Union financial assistance available under this Regulation provide end-users with as much information as possible on availability of the services and should draw attention to the fact that the Union has granted financing. Such information could also provide end-users with easy access to information about the Union.

(11) Considering its specific purpose and that it addresses local needs, the promotion of local wireless connectivity that is free of charge and without discriminatory conditions in centres of public life should be identified as a distinct project of common interest in the telecommunications sector within the meaning of Regulations (EU) No 1316/2013 and (EU) No 283/2014.

(12) To provide appropriate financing for the promotion of internet connectivity in local communities and to ensure its successful implementation, the financial envelope for the implementation of the Connecting Europe Facility in the telecommunications sector should be increased by EUR 25 000 000, and may be increased to EUR 50 000 000.

(13) Given the non-commercial nature of the support to be provided under this Regulation and the expected small scale of individual projects, the administrative burden should be limited to a minimum and should be proportionate to the benefits envisaged, taking into account the need for accountability and a proper balance between simplification and control. This Regulation should therefore be implemented by the most appropriate forms of financial assistance, in particular grants, for instance by way of vouchers, available under Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(8)], now or in the future. The support to be provided under this Regulation should not rely on financial instruments. The principle of sound financial management should apply.

(14) Given the limited volume of financial appropriations measured against the potentially high number of applications, administrative procedures should be simplified so that decisions can be taken in a timely manner. Regulation (EU) No 1316/2013 should be amended to allow Member States to agree to categories of proposals in line with the criteria defined in Section 4 of the Annex to Regulation (EU) No 283/2014 in order to avoid the individual approval of applications and ensure that certification of expenditure and annual reporting to the Commission are not obligatory for grants or other forms of financial assistance awarded under this Regulation.

(15) Due to the limited reach of any single local wireless access point and the small value of individual projects covered, access points benefitting from financial assistance under this Regulation are not expected to challenge commercial offers. In order to further ensure that such financial assistance does not unduly distort competition, crowd out private investments or create disincentives for private operators to invest, the support provided for under this Regulation should be limited to projects that do not duplicate already existing free private or public offers of similar characteristics in the same public space. This Regulation should not prevent the setting of limitations in the user's terms

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and conditions, such as limiting connectivity to a period of time or to a reasonable maximum data consumption.

(16) Additional support could contribute to making a more significant impact and should therefore not be excluded. Such additional support could be provided from either public sources of funding, such as Union or national funds, including the European Regional Development Fund, or from private sources of funding.

(17) The available budget should be allocated in a geographically balanced manner across Member States to projects and, in principle, on a 'first come, first served' basis. The mechanism aiming to ensure geographical balance should be included in the relevant work programmes adopted pursuant to Regulation (EU) No 1316/2013, and should be further specified in calls for proposals adopted in accordance with that Regulation, if necessary, by, for example, enabling the enhanced participation of applicants from Member States where the take-up of grants or other forms of financial assistance has been comparatively low.

(18) To ensure that connectivity in accordance with this Regulation is provided quickly, financial assistance should be implemented using to the fullest extent possible online tools that allow for the swift submission and handling of applications and support the implementation, monitoring and auditing of the local wireless access points installed. The Commission and the relevant authorities in the Member States should promote the project of common interest.

(19) This Regulation is without prejudice to national law that complies with Union law, such as national provisions preventing municipalities from providing wireless connectivity that is free of charge directly, while allowing them to provide such connectivity through private entities.

(20) Given the urgent need for internet connectivity within the Union and for promoting access to networks that can deliver, throughout the Union, including in rural areas and remote locations, an internet experience of high quality based at least on high-speed broadband services, and preferably also achieving the objectives of the European Gigabit Society, financial assistance should seek to attain a geographically balanced distribution.

(21) Beneficiary entities should be required to provide the wireless connectivity for not less than three years.

(22) Actions financed pursuant to this Regulation should use the most recent and best available equipment, capable of delivering easy-to-access and appropriately secured high-speed connectivity that is free of charge and without discriminatory conditions to its users.

(23) Since the objective of this Regulation, namely to support the provision of high-quality wireless connectivity in local communities across the Union, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In

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accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(24) Regulations (EU) No 1316/2013 and (EU) No 283/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1316/2013

Regulation (EU) No 1316/2013 is amended as follows:

(1) in Article 2, point (1) is replaced by the following:

(1) "project of common interest" means a project identified in Regulation (EU) No 1315/2013, Regulation (EU) No 347/2013 or Regulation (EU) No 283/2014 of the European Parliament and of the Council[(9)];;

(2) in Article 4, paragraph 4 is replaced by the following:

4. In the telecommunications sector, the CEF shall support actions that pursue the objectives specified in Regulation (EU) No 283/2014.;

(3) in the first subparagraph of Article 5(1), point (b) is replaced by the following:

(b) telecommunications sector: EUR 1 066 602 000;;

(4) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Only actions contributing to projects of common interest in accordance with Regulations (EU) No 1315/2013, (EU) No 347/2013 and (EU) No 283/2014, as well as programme support actions, shall be eligible for support through Union financial assistance, in particular in the form of grants, procurement and financial instruments.;

(b) paragraph 4 is replaced by the following:

4. In the telecommunications sector, all actions implementing the projects of common interest and programme support actions identified in Regulation (EU) No 283/2014 and meeting eligibility criteria and/or conditions laid down in accordance with that Regulation shall be eligible to receive Union financial assistance under this Regulation, as follows:

a generic services, core service platforms and programme support actions shall be financed through grants and/or procurement;

b actions in the field of broadband networks shall be financed through financial instruments;

c actions in the field of providing local wireless connectivity that is free of charge and without discriminatory conditions in local communities shall be financed through grants or other forms of financial assistance, not including financial instruments.;

(5) in Article 9, the following paragraph is inserted: