Regulation (EU) No 283/2014 of the European Parliament and of the Council of 11 March 2014 on guidelines for trans-European networks in the area of telecommunications infrastructure and repealing Decision No 1336/97/EC (Text with EEA relevance)

REGULATION (EU) No 283/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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on guidelines for trans-European networks in the area of telecommunications infrastructure and repealing Decision No 1336/97/EC

(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 opinions of the European Economic and Social Committee[(1)],

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

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

Whereas:

(1) Telecommunications networks and services are increasingly becoming internet-based infrastructures, with broadband networks and digital services closely interrelated. The internet is becoming the dominant platform for communication, services, education, participation in social and political life, cultural content, and business. Therefore, the trans-European availability of widespread, high-speed, secure internet access and digital services in the public interest is essential for social and economic growth, competitiveness, social inclusion and the internal market.

(2) On 17 June 2010, the European Council endorsed the Commission communication of 26 August 2010 on a Digital Agenda for Europe, which aims to chart a course to maximise the social and economic potential of information and communication technologies. It seeks to stimulate supply and demand of competitive high-speed internet infrastructure and internet-based digital services with a view to advancing towards a true Digital Single Market, which is essential for smart, sustainable and inclusive growth.

(3) Regulation (EU) No 1316/2013 of the European Parliament and of the Council[(4)] determines the conditions, methods and procedures for providing Union financial assistance to trans-European networks in the sectors of transport, telecommunications and energy infrastructures. Given that there are similar challenges and opportunities in

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the sectors covered by the Connecting Europe Facility (CEF), there is significant scope for exploiting synergies, including by combining CEF funding with other sources of funding.

(4) A large number of cross-border digital services implementing exchanges between European public administrations in support of Union policies are a reality. When providing new solutions, it is important to capitalise on existing solutions implemented in the context of other European initiatives, avoid duplication of work, and ensure coordination and alignment of approaches and solutions across initiatives and policies, such as for instance the ISA programme established by Decision No 922/2009/EC of the European Parliament and of the Council[(5)], the Fiscalis programme established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council[(6)], and Horizon 2020 established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council[(7)]. Similarly, it is important that solutions comply with agreed international and/or European standards or with open specifications for interoperability, particularly those identified by the Commission in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council[(8)], and other relevant specifications and orientations, such as the European Interoperability Framework for European public services (EIF).

(5) The development of high-speed broadband networks will benefit from European technical standards. Union research and development programmes and increased monitoring of standardisation procedures are needed if the Union is to play a pivotal role in the telecommunications industry.

(6) Large scale pilot projects between Member States and co-financed by the Competitiveness and Innovation Programme[(9)], such as PEPPOL, STORK, epSOS, eCODEX or SPOCS, have validated key cross-border digital services in the internal market, based on common building blocks, which are being consolidated by the project eSENS. Those pilot projects have already reached or will in the near future reach the maturity level required for deployment. Existing projects of common interest have already demonstrated the clear added value of action at European level, such as in the fields of cultural heritage (Europeana), child protection (Safer Internet), social security (EESSI), while others such as in the field of consumer protection (ODR) have been proposed.

(7) With regard to digital service infrastructures, building blocks should take priority over other digital service infrastructures, since the former are a pre-condition for the latter. Digital service infrastructures should, inter alia, create European added value and meet proven needs. They should be sufficiently mature for deployment, technically as well as operationally, as proven in particular through successful piloting. They should be based on a concrete sustainability plan to ensure the medium to long-term operation of core service platforms beyond the CEF. Financial assistance under this Regulation should therefore, wherever possible, be phased out over time and funding from sources other than the CEF should be mobilised, where appropriate.

(8) It is important that digital service infrastructures that are necessary to meet legal obligations under Union law and/or are developing or providing building blocks, with

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a potential high impact on the development of pan-European public services, be funded so as to support multiple digital service infrastructures and, over time, gradually build up a European interoperability ecosystem. In this context, legal obligations mean specific provisions requiring either developing or using digital service infrastructures, or requiring results which can only be achieved through European digital service infrastructures.

(9) As well-established digital service infrastructure, Europeana and Safer Internet for Children should have priority for funding. In particular, the continuity in Union funding from other Union programmes to CEF should be ensured in the first years of the multiannual financial framework for the period 2014-2020 laid down in Council Regulation (EU, Euratom) No 1311/2013[(10)] in order to allow for uninterrupted and successful delivery of service at the same level as provided for under the current funding scheme. On 10 May 2012, the Council underlined the vital importance of ensuring the long-term viability of Europeana, including in terms of governance and funding.[(11)]

(10) A safe, inclusive and positive online environment for children and young people should be ensured. As a crucial measure to protect and promote children's rights in the online environment, the functioning of the Safer Internet Program should be ensured after 2014. By implementing this Regulation, the implementation of the European Strategy for a Better Internet for Children at Union as well as at Member State level should be financially supported, in particular as regards Safer Internet Centres (SICs) in the Member States. Activities of SICs, including awareness nodes and other awareness-raising activities, helplines for children, parents and carers on the best means for children to use the Internet, as well as hotlines for reporting child sexual abuse content on the Internet, are a key element and prerequisite for the success of that strategy.

(11) A future legal act of the Union on electronic identification and trust services for electronic transactions in the internal market is to determine the detailed requirements and conditions for the mutual recognition of key enablers, referred to hereinafter as the building blocks of the digital service infrastructures. That act will cover several of the most important building blocks, for example electronic identification and electronic signature as part of the projects of common interest set out in the Annex to this Regulation.

(12) Digital service infrastructures implemented in accordance with Decision No 922/2009/EC will facilitate the electronic cross-border and cross-sector interaction between European public administrations. This, in turn, will enable the provision of essential services in, inter alia, areas such as electronic identification and authentication and procurement, cross-border interconnection of business registers, interoperable electronic cross-border health services, as well as cross-border cooperation on cyber security, thereby contributing to the Digital Single Market. Such interaction between administrations will be achieved through the creation and/or enhancement of interoperable core service platforms, built on existing common building blocks and/or providing additional building blocks essential for the development of other core service platforms, and related generic services linking national infrastructures to core service platforms to deliver cross-border digital services.

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(13) Member States should encourage local and regional authorities to be fully and effectively involved in the governance of digital service infrastructures, and ensure that projects of common interest relating to cross-border delivery of eGovernment services take into account the EIF recommendations.

(14) In its resolution of 6 July 2011 on European Broadband: investing in digitally driven growth[(12)], the European Parliament emphasised that broadband services are key to the competitiveness of Union industry and greatly contribute to Union economic growth, social cohesion and the creation of quality employment. Investment in state-of-the-art and future-proof technology is crucial if the Union is to be home to innovation, knowledge and services.

(15) A European market with nearly 500 million people connected to high-speed broadband would act as a spearhead for the development of the internal market, creating a globally unique critical mass of users exposing all regions to new opportunities and giving each user increased value, as well as giving the Union the capacity to be a world-leading knowledge-based economy. A rapid deployment of high-speed broadband networks is crucial for the development of Union productivity and for the emergence of new and small enterprises that can be leaders in different sectors such as health care, manufacturing and the service industries.

(16) The combination of new opportunities in infrastructure and new, innovative and interoperable services should set in motion a virtuous circle by stimulating increasing demand for high-speed broadband to which, in commercial terms, it would be advisable to respond.

(17) The Digital Agenda for Europe stipulates that by 2020 all Europeans should have access to internet speeds of above 30 Mbps and 50 % or more of European households should subscribe to internet connections above 100 Mbps.

(18) Given the rapid development of digital services and applications demanding ever faster internet connections and the rapid evolution of state-of-the-art technologies allowing it, it is appropriate in the framework of an evaluation of the Digital Agenda for Europe to consider the revision of broadband targets for 2020 so as to ensure that the Union has competitive broadband speeds when compared to other economies in the world.

(19) Part of the broadband projects should demonstrate higher ambitions, aiming at higher speeds and thus serve as pilot projects for faster connectivity and models with potential for replicability.

(20) In its resolution of 12 September 2013 on the Digital Agenda for Growth, Mobility and Employment, time to move up a gear, the European Parliament emphasised that a revised forward-looking Digital Agenda for Europe target for 2020 is to connect all Union households with broadband connections delivering 100 Mbps, with 50 % of households subscribing to 1 Gbps or more.

(21) The private sector should play the leading role in rolling out and modernising broadband networks, supported by a competitive and investment-friendly regulatory framework. Where private investment falls short, Member States should make the necessary efforts

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to achieve the targets of the Digital Agenda for Europe. Public financial assistance to broadband should be limited to programmes or initiatives targeting projects which cannot be solely financed by the private sector, confirmed by an ex-ante assessment identifying market failures or sub-optimal investment situations, in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(13)].

(22) Financial instruments for broadband networks are not to unduly distort competition, crowd out private investments or create disincentives for private operators to invest. In particular, they are to be in compliance with Articles 101, 102, 106 and 107 of the Treaty on the Functioning of the European Union (TFEU) as well as, if relevant, with the EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks.

(23) Public funding for broadband networks is to be spent solely on infrastructures which comply with the applicable law, in particular with competition law, and with access obligations in accordance with Directive 2002/19/EC of the European Parliament and of the Council[(14)].

(24) Since the financial resources available under CEF are limited, financial assistance should focus on the establishment of financing mechanisms at Union level to attract additional investments, promote a multiplier effect, and so facilitate the efficient use of private and other public funds for investment. This approach allows for contributions from business and institutional players well beyond the funding levels directly eligible through CEF.

(25) In view of limited financial resources under CEF and in order to ensure appropriate funding for digital service infrastructures, the total budgetary allocation to broadband should not exceed the minimum amount necessary to establish a cost-efficient intervention, which should be determined by an ex-ante assessment taking into account, inter alia, the type of envisaged financial instruments, potential leverage effect for the minimum efficient project portfolio, and market conditions.

(26) The CEF support to broadband deployment should complement assistance provided under other Union programmes and initiatives, including the European Structural and Investment Funds (ESI Funds), in cases where an ex-ante assessment identifies market failures or sub-optimal investment situations and where so decided by managing authorities. CEF financial assistance to broadband deployment should contribute to Member States' efforts both directly and by providing an investment vehicle for voluntary, ring-fenced contributions from other sources, including ESI Funds, thus allowing Member States to take advantage of the know-how and scale-effects of Union-managed facilities with a view to increasing the efficiency of public spending.

(27) In order to ensure best value for money and given the limited resources, CEF funding should be available for projects which rely on the technology best suited for the specific project, can help spur innovative business models and show a high potential for replication. Where projects are funded through voluntary contributions under CEF, such as ESI Funds or through national or regional funding, eligibility criteria should be