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BREKO position paper on the European Commission's Proposal for a *Digital Networks Act*

Preliminary remarks

The European Commission's Digital Networks Act (DNA) aims to modernise the EU telecom framework and support gigabit infrastructure deployment across Europe. BREKO, the leading German fibre-optic association representing more than 540 member companies, **welcomes the Commission's objective** to thereby strengthen competitiveness and innovation in the EU and sees the DNA as an important opportunity — particularly regarding copper switch-off.

BREKO's members are strongly committed to future-proof fibre deployment and are responsible for **more than half of the fibre roll-out in Germany**. In 2024 alone, they invested around 5 billion euros, demonstrating the significant contribution that a competitive and diverse market structure can make to technological progress and infrastructure expansion. Against this backdrop, it is crucial that the DNA strikes the right balance: while a certain degree of **harmonisation** can support a functioning single market, an overly centralised approach that would disproportionately strengthen large incumbents must be avoided. Instead, the framework should recognise that **diversity** across national markets is a **key driver of effective competition and innovation**.

To address this, BREKO considers it essential to **reinstate the promotion of competition as a guiding principle** in Article 3 of the DNA. The removal of this principle as a standalone guiding principle is neither understandable nor conducive to achieving the intended objectives.

Key Remarks per topic

Legal Form

From BREKO's perspective, the Digital Networks Act (DNA) has the potential to provide a **significant boost** to the rollout of digital networks and deliver the urgently needed acceleration. Even though, the DNA must reflect on the differing conditions prevailing in national markets, clear guidance and a push for acceleration especially in the area of **copper switch-off** is urgently needed. We therefore support the choice of a **regulation** as the legal instrument instead of a directive.

Copper switch-off (CSO)

BREKO strongly **welcomes the introduction of an objective, rule-based copper switch-off framework**. This is a major and positive step forward. However, several elements require adjustment:

- The proposed deadline to *initiate* the final criteria-based round of copper switch-off by **31 December 2035** is very late. To ensure planning certainty already at the earliest possible stage and to significantly accelerate the process in general, earlier procedural steps – such as defining the respective CSO areas – could be streamlined.
- The proposed threshold of **95 % homes passed** triggers CSO too late. BREKO recommends initiating the process already at **85 % homes passed**. **Nevertheless, homes passed (HP)** must be the decisive metric — **not homes connected (HC)**.
- The draft defines **"premises passed"** as locations where an operator can provide broadband on request and typically connect the end user within four weeks. BREKO recommends aligning this

definition more closely with industry standards. In this context, BREKO considers the four-week period primarily as a **capability** criterion: under normal conditions, the operator should be able to complete the drop connection within that timeframe, provided no further network extension is needed. However, questions remain about how “standard” and “reasonable” conditions are interpreted, particularly regarding in-house installation challenges, capacity constraints, resource efficiency, and coordination of civil works.

- CSO areas should be defined at a **smaller technical level** to allow a gradual and early start in already fibre-served areas.
- The current wording of Articles 71 and 73 regarding measures in the context of copper switch-off leaves **room for interpretation concerning** the obligation to review markets in areas affected by copper switch-off and the pursuant definition of conditions for access obligations, including cost recovery calculations. Carrying out market reviews for every defined CSO area would tie up a lot of the NRA’s capacities, while it is clear, that FTTH network operators will have to grant open access anyways. We therefore suggest refraining from burdening NRAs to conduct market reviews in every CSO area pursuant to the copper switch-off and rather oblige operators to **negotiate access conditions between each other without intervention of the NRA**. NRAs should only be obliged to intervene if no agreement is reached.

SMP-based and symmetric regulation

BREKO supports maintaining the **SMP-based ex-ante regulatory framework**, which remains necessary in current market conditions. At the same time, **symmetric regulation must be applied with great caution**, in particular regarding proposals to introduce symmetric measures in the context of fibre migration. Premature or overly broad symmetric regulation risks undermining investment incentives.

Harmonised access products

The DNA foresees EU-wide harmonised access products to be defined later by implementing acts. BREKO cautions that **different products have proven successful in different Member States**. From the German perspective, a **bitstream layer-2 based product** should be part of the harmonised toolbox. Furthermore, a **standardised access product for mobile networks** should also be considered.

Spectrum and mobile networks

The DNA introduces **far-reaching changes** that risk primarily benefiting incumbent mobile network operators (MNOs), including very long or potentially unlimited licence durations and fee reductions in exchange for commitments. In addition, wholesale access obligations are framed merely as a **“last-resort option”**. Given the lack of effective competition in many mobile markets, it is BREKO’s view that access to wholesale mobile services for resellers and MVNOs must be improved. In that respect, we find the current draft legislation insufficient.To safeguard competition, **access obligations should be mandatory**, especially where licences are granted for very long or unlimited periods.

Consumer protection

BREKO welcomes the **full harmonisation of consumer protection rules**, which can significantly reduce unnecessary bureaucracy. This should be further clarified in certain areas, such as the instructions for downloading contract documents. Furthermore, in order to achieve the highest possible degree of harmonisation, we propose introducing a **separate Article** that clarifies, for the entire chapter, that Member States are prohibited from derogating from the DNA requirements, rather than including this provision in individual Articles.

Universal service

The current wording leaves it unclear whether **mobile or satellite services** qualify as adequate solutions for universal service. BREKO calls for **clear confirmation that both technologies remain valid options**.

Resilience

The DNA proposes a BEREC data collection under the Union Preparedness Plan. Telecom operators already comply with extensive reporting and information requirements under **European resilience frameworks such as NIS2 and the CER Directive**, as well as the corresponding national implementations (for example, Sections 166 et seq. TKG in Germany). To avoid duplication, BREKO recommends **aligning the DNA reporting requirements with existing Resilience frameworks**.

General authorisation and single passport

While harmonisation is welcome, the **actual administrative burden reduction remains uncertain**, as operators will likely still need local subsidiaries for authority interaction.

Fair share

The DNA reopens the **fair-share debate** by introducing **bilateral dispute mechanisms** between network operators and content application providers. From BREKO's perspective these articles would unnecessarily institutionalise commercial negotiations between CAPs and large network operators within a formalised EU legal framework with the additional risk of benefiting only those larger network operators instead of all fibre-deploying operators equally. In order to avoid any kind of **market distortion**, we suggest **removing Articles 191-193 entirely**.

Detailed positions

PART I: SCOPE, OBJECTIVES AND DEFINITIONS

The European Commission's Digital Networks Act (DNA) aims to modernise the EU telecom framework and support gigabit infrastructure deployment across Europe. BREKO welcomes the Commission's objective to thereby strengthen competitiveness and innovation in the EU and sees the DNA as an important opportunity — particularly regarding copper switch off. At the same time, the very strong **harmonisation** approach should not result merely in strengthening large incumbents. It should also recognise that **diversity** across national markets is a **key driver of effective competition**.

To address this, BREKO considers it essential to **reinstate the promotion of competition as a guiding principle in Article 3** of the DNA. The removal of this principle as a standalone guiding principle is neither understandable nor conducive to achieving the intended objectives.

Additionally, BREKO recommends refining the draft **definition of "premises passed"** to align with FTTH Council standards, interpreting the four-week connection capability as a general benchmark while recognising practical constraints such as in-house installation hurdles, resource availability, and coordination of civil works.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 3 **Definitions**	

1. In the context of this Regulation, Member States, national regulatory and other competent authorities, as well as BEREC, the RSPB, the ODN and the Commission, shall, in accordance with their respective competences, pursue the following general objectives which are not listed in order of priority: […]	2. In the context of this Regulation, Member States, national regulatory and other competent authorities, as well as BEREC, the RSPB, the ODN and the Commission, shall, in accordance with their respective competences, pursue the following general objectives which are not listed in order of priority: […] **(i) promote competition in the provision of electronic communications networks and associated facilities, including efficient infrastructure-based competition, and in the provision of electronic communications services and associated services;**
Justification Competition is a key driver of the EU's competitiveness, while also ensuring fair prices and a wide range of service offerings for end users. Therefore, the promotion of competition should remain one of the DNA's general objecitves.	

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 4 **Definitions**	
(2) 'premises passed' means end users' premises for which an operator has deployed its access network up to serving point (i.e. the first concentration or distribution point intended to serve that premises), such that, from receipt of the request, the operator can make the access service available within four weeks with reasonable additional built out (i.e. by carrying out only the standard premises-specific final drop connection and activation, without extending the access network beyond the serving point;	~~(2) 'premises passed' means end users' premises for which an operator has deployed its access network up to serving point (i.e. the first concentration or distribution point intended to serve that premises), such that, from receipt of the request, the operator can make the access service available within four weeks with reasonable additional built out (i.e. by carrying out only the standard premises-specific final drop connection and activation, without extending the access network beyond the serving point;~~ **'premises passed' is the number of premises which an operator has capability to connect to an FTTH/FTTB network in a service area, which includes all premises already**

	connected to that network. In typical cases, capability to connect means that the activation of services on premises passed will require the installation of a drop connection and cables from the homes passed point (e.g. fiber pedestal, manhole, chamber, utility pole) to the premises, and deployment of adequate subscriber equipment on the premises. **This definition excludes premises that cannot be connected without further installation of substantial fiber plant such as feeder and distribution cables (fiber) to reach the property on which a potential new subscriber is located.**

Justification

The Commission currently defines "premises passed" by reference to a four-week interval within which users can normally be connected to an FTTH network. Undoubtedly, this expectation is justified in many cases. However, there are also numerous situations where, despite all reasonable efforts of operators, a connection to the user's premises cannot be built within that timeframe.

The four-week interval is prone to misunderstandings, in particular regarding how "standard" and "reasonable" conditions are to be interpreted in practice – especially in relation to in-house installation hurdles, capacity constraints, the efficient allocation of resources, or the coordination of civil works.

BREKO understands this four-week component as a statement about expected performance under normal conditions (capability criterion). It implies that the operator is generally able to complete the drop access within that timeframe, provided that no additional network extension is required. It does not give rise to a legal obligation of the FTTH network operator to convert each of its Homes Passed in a given CSO area into Homes Connected within four weeks.

In order to ensure clarity and to better reflect industry standards, BREKO recommends adjusting its definition and omitting the reference to expected completion of a drop connection within four weeks altogether.

PART II: RESILIENCE

BREKO welcomes the fact that the Commission is responding to the increasing need for resilience requirements and addressing this issue in the draft DNA. At the same time, we would like to stress that the provisions under the EU resilience frameworks such as NIS2 and the CER Directive and those under the DNA should go hand in hand, avoiding both contradictory and duplicative requirements for operators.

BREKO considers the provision of a Union Preparedness Plan for Digital Infrastructure reasonable and appropriate. In this context we'd like to draw attention to that the fact that the German Telecommunications Act already established a statutory obligation for telecommunications network operators to prepare a security concept pursuant to § 166 TKG, which must be submitted to the national regulatory authority (BNetzA) and reviewed by way of regular audits.

It should be ensured that the information to be provided by telecommunications network operators to BNetzA and respectively to BEREC for the purposes of the Union Preparedness Plan is aligned, so that no additional administrative burden arises and, in particular, no duplicate reporting obligations are created.

We welcome the fact that Article 7(3) stipulates that information requests by national regulatory authorities must be justified, proportionate, and limited to what is strictly necessary for carrying out tasks related to resilience and preparedness. The planned aggregated presentation of data in the plan under Article 6(2) is also appropriate. In addition, we would like to stress that, given the high sensitivity of the data, the highest security standards must apply during processing by the national regulatory authorities, BEREC, and the ODN.

In addition, we would like to draw attention to the use of a non-legally defined term, which should be corrected throughout the entire chapter. Instead of referring to "providers of electronic communication networks", the DNA should use the well-established and legally defined term "operators of electronic communication networks".

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 5 **Availability and capabilities of electronic communications networks and services**	
4. Where the migration to other network technologies may result in the discontinuation of services on currently used end-user devices, providers of public electronic communications networks and of publicly available electronic communications services shall inform national competent authorities and end-users at least 2 years in advance, by providing a roadmap reflecting the migration process.	4. Where the migration to other network technologies may result in the discontinuation of services on currently used end-user devices, providers of public electronic communications networks and of publicly available electronic communications services shall **in coordination with the operator of public electronic communications networks of the other network technology** inform national competent authorities and end-users at least 2 years in advance, by providing a roadmap reflecting the migration process.
Justification The provisions in Article 5 to ensure the continuous availability of emergency and public warning communications are appropriate and important. The requirement in paragraph 4 to submit a roadmap for the migration process when transitioning to other network technologies should take into account that this roadmap must also be coordinated with the provider of the new network technology. In the case of a migration from copper to fibre networks, this may be a different provider than the operator of the original copper network and therefore needs to be aligned with the new network operator.	

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 6 **Union Preparedness Plan for Digital Infrastructures**	
2. […] The assessment referred to in the first sub-paragraph, point (a), shall, among other, provide an overview of network topology at Union level, identify route diversification, potential bottlenecks or points of failure and areas where resilience-related measures, such as strategic investments to support redundancy, in particular for trans-European digital networks, are needed. The assessment shall be handled in accordance with applicable Union and national rules on the protection of classified information. The information contained therein shall be presented in aggregated form, to prevent exact geolocation of sensitive assets.	2. […] The assessment referred to in the first sub-paragraph, point (a), shall, among other, provide an overview of network topology at Union level, identify route diversification, potential bottlenecks or points of failure and areas where resilience-related measures, such as strategic investments to support redundancy, in particular for trans-European digital networks, are needed. **Regarding the assessment of necessary redundancy, behavior of strategic duplication of fibre networks not based on justified security grounds, should be regarded as inadmissible.** The assessment shall be handled in accordance with applicable Union and national rules on the protection of classified information. The information contained therein shall be presented in aggregated form, to prevent exact geolocation of sensitive assets.
Justification Article 6(2) specifies that the Union Preparedness Plan shall also identify areas where resilience-related measures, such as strategic investments to support redundancy, are needed. This paragraph should be supplemented by clarifying that strategic duplication of fibre networks that is not based on security considerations, but instead driven by commercial motives, should not qualify as a resilience-justified measure. It must be ensured that the overall connectivity targets are not undermined by allowing business-driven fibre network duplication to be justified on the grounds of resilience.	

PART III: SINGLE MARKET AUTHORISATION AND PASSPORTING

To facilitate the cross-border provision of electronic communications networks and services, the Commission proposes the introduction of a general authorisation as well as a single passport procedure. We welcome the approach to simplify cross-border activities and thus enable cross-border competition. This can have a positive impact, particularly in border regions.

In practice, however, the question arises as to the actual reduction in effort for companies, since the provision of telecommunications networks and services would still require the establishment of foreign subsidiaries – not only due to market presence and access to local customers, but also because of legal uncertainties relating to warranties and liability, as well as contractual arrangements. A real reduction in burden will only be achieved when offering telecommunications services in the internal market – analogous to a country-of-origin principle – means that all regulatory evidence and reporting are recognized EU-wide under a “once-only” principle, and that harmonized areas (e.g. cybersecurity) are mutually recognized. Currently, telecommunication operators not only have to register with every national regulatory authority, but also have to submit separate security concepts etc. This kind of duplication of bureaucratic effort should be avoided. Furthermore, it should remain clear that foreign providers, both in network deployment and in the offering of services, are to be treated equally to national providers and are not to be exempted from requirements that apply to domestic operators.

Additionally, we would like to point out in this section that a reference is being made to a legislative initiative that has not yet been formally implemented (see text below).

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 9 General authorisation	
4. Under the general authorisation regime, the right to provide electronic communications networks and services shall be subject only to the following conditions: […] d) compliance, as applicable to the provider, with cybersecurity rules, including ICT supply chain security requirements imposed in accordance with the Cybersecurity Act which is to replace Regulation (EU) 2019/881 of the European Parliament and of the Council80;	4. Under the general authorisation regime, the right to provide electronic communications networks and services shall be subject only to the following conditions: […] d) compliance, as applicable to the provider, with cybersecurity rules **in accordance with existing national and European regulations** ~~, including ICT supply chain security requirements imposed in accordance with the Cybersecurity Act which is to replace Regulation (EU) 2019/881 of the European Parliament and of the Council80~~;
Justification	
The current draft of the DNA refers in several places to the Cybersecurity Act (CSA) – which is expected to be replaced by the Cybersecurity Act 2 (CSA 2) – as well as to specific ICT supply chain security requirements. Since both reference frameworks have not yet been formally implemented, a regulatory dependency is created. The ratification of the DNA is already a highly complex challenge given the heterogeneous conditions across Member States; linking it to regulatory instruments that are not yet finalized, jeopardises the timely completion of the process. We therefore propose removing the specific references to the CSA/CSA 2 and the ICT supply chain security requirements from the DNA and rather refer to the existing national and European regulations. This would allow for swift implementation of the DNA, independent of the progress made on other regulatory initiatives.	

PART IV: RESOURCES (RADIO SPECTRUM & NUMBERING)

TITLE I – RADIO SPECTRUM

The DNA introduces far-reaching changes that risk primarily benefiting incumbent mobile network operators (MNOs), including very long or potentially unlimited licence durations and fee reductions in exchange for commitments. In addition, wholesale access obligations are framed merely as a "last-resort option". Given the lack of effective competition in many mobile markets, BREKO does not see improved access for service providers under the current proposal. To safeguard competition, access obligations should be mandatory, especially where licences are granted for very long or unlimited periods.

In general, we nevertheless highly welcome the approach of streamlining and accelerating the tendering process such as the provision in Article 30 (8) for national competent authorities to communicate decisions of the granting of individual right of use for radio spectrum as soon as possible after the receipt of the complete application and within six weeks in the case of radio spectrum declared available for electronic communications services in National Frequency Allocation Plans. We also welcome that the possible extension period of up to eight months cannot be extended any further unlike what the current rules state. This will ensure that clarity is achieved for all parties as early as possible.

Furthermore, we'd like to highlight that the current draft of the DNA fails to address a key structural barrier for full MVNOs: discriminatory device-level restrictions imposed by manufacturers through firmware configurations (e.g. IMSI/ICCID whitelisting), which delay or prevent access to new technologies such as VoLTE, 5G or eSIM. This creates significant competitive disadvantages, particularly in the context of 2G/3G switch-offs. To remedy this market failure, the regulatory framework should be **extended** to include end devices by introducing an "**operator-neutrality" principle**, obliging manufacturers to enable new technologies for all authorized operators in a timely and non-discriminatory manner, supported by effective enforcement mechanisms.

Text proposed by the Commission	*BREKO proposal for Amendment*
New Article: Operator-neutral interoperability of terminal equipment	

	1. Manufacturers of terminal equipment placed on the Union market and capable of connecting to public electronic communications networks shall ensure that such equipment supports, in an objective and non-discriminatory manner, the use of standardised network functionalities and technologies by end-users of all operators authorised within the Union. **2. For the purposes of this Article, "standardised network functionalities and technologies" shall mean any current or future functionality, technology, service capability, access method, authentication method or network feature used for the provision or use of electronic communications networks or services, where such functionality, technology, capability, method or feature is based on technical standards, specifications or commonly deployed industry practices and is supported by the hardware, software and radio capabilities of the terminal equipment concerned.** **3. Where the functioning of a standardised network functionality or technology on terminal equipment requires the assignment of a SIM, eSIM or network identifier to a carrier profile, carrier bundle, IMS profile, APN profile or any other configuration file, manufacturers shall integrate and maintain the relevant IMSI ranges, ICCID ranges, MCC-MNC codes and equivalent identifiers of all requesting operators authorised in a Member State on fair, reasonable, transparent and nondiscriminatory terms.** **4. Manufacturers shall make available to operators a clear and accessible procedure for the submission, verification, testing and implementation of the identifiers and configuration data referred to in paragraph 3 of this Article.** **5. Manufacturers shall implement the configurations referred to in paragraph 3 no later than the date on which the relevant functionality or technology is made available for comparable operators in the same**

	Member State or, where a mobile operator submits a complete request after that date, within 60 days from receipt of the complete technical information. **6. Manufacturers shall ensure that configurations implemented pursuant to this Article are made available not only for terminal equipment newly placed on the Union market but also for terminal equipment already placed on the Union market and still receiving software, firmware, security or carrier configuration updates from the manufacturer.** **7. Operators shall provide manufacturers with the technical information reasonably necessary for the implementation, testing and maintenance of the configurations referred to in this Article. Manufacturers and operators shall cooperate in good faith and shall protect confidential information and trade secrets exchanged for that purpose.** **8. National regulatory authorities shall monitor compliance with this Article. They may require manufacturers and operators to provide information necessary to assess compliance, including information on procedures, timelines, refusals, technical criteria and the deployment status of carrier configurations.** **9. In the event of a dispute between a manufacturer and an operator concerning the application of this Article, either party may refer the dispute to the national regulatory authority of the Member State in which the operator is authorised or in which the terminal equipment is made available. The national regulatory authority shall issue a binding decision within four months. Where the dispute affects more than one Member State, the national regulatory authorities concerned shall notify BEREC and shall take utmost account of its opinion.** **10. Member States shall lay down rules on penalties applicable to infringements of this Article and shall ensure that such penalties are effective, proportionate and dissuasive. Penalties may include orders to implement or**

	amend carrier configurations within a specified period, periodic penalty payments and administrative fines. **11. By [12 months after the entry into force of this Regulation], BEREC shall, in close cooperation with the Commission and after consulting stakeholders, issue guidelines on the consistent application of this Article, including common technical and procedural requirements for carrier configuration requests, testing, implementation timelines, transparency, confidentiality and dispute resolution.**
Justification The current DNA draft overlooks a key barrier for full MVNOs: discriminatory device-level restrictions that limit access to technologies such as VoLTE, 5G, and eSIM, creating competitive disadvantages. The framework should therefore include end devices and introduce operator-neutrality to ensure timely, non-discriminatory access.	

Text proposed by the Commission	*BREKO proposal for Amendment*
Recital 91	
Given the importance for EU competitiveness of the timely introduction of the next-generation (6G) wireless broadband communications, including its non-terrestrial elements, this should be the focus of the first Union radio spectrum strategy and roadmap. Nevertheless, the strategy should also include radio spectrum needs of other Union policies, as they arise, and should be holistic cater for the use not only of licenses, but also of unlicensed use, such as for instance for Radio Local Area Networks ('RLAN')	~~Given the importance for EU competitiveness of the timely introduction of the next-generation (6G) wireless broadband communications, including its non-terrestrial elements, this should be the focus of the first Union radio spectrum strategy and roadmap. Nevertheless, the strategy should also include radio spectrum needs of other Union policies, as they arise, and should be holistic cater for the use not only of licenses, but also of unlicensed use, such as for instance for Radio Local Area Networks ('RLAN')~~ **Given the objective of the transition to a full-fiber environment and the importance of Wi-Fi for the data traffic as well as for potential innovative services, the first Union radio spectrum strategy and roadmap should assess the radio spectrum needs, in particular regarding the attribution of 6 GHz frequencies to develop such technology.**

Justification
About 98% of data traffic is carried over Wi-Fi, including traffic originating from mobile networks. As the shift toward FTTH accelerates, demand for this technology is expected to rise further. In addition, Wi-Fi supports the development of advanced applications such as smart transportation and smart tourism, creating new business opportunities for EU companies. In particular, access to the 6 GHz spectrum is crucial to enable these technological innovations.

Chapter I –Principles & objectives

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 13 **Strategic planning and management of radio spectrum**	
1. Member States and the Commission shall manage radio spectrum in the internal market in a coordinated way, taking into account its value as a common European resource, under shared competence with a view to fostering economic growth, protecting Union values and security, in pursuit of the objectives laid down in Article 3, in particular single market for electronic communications as well as in pursuit of security, and digital sovereignty.	1. Member States and the Commission shall manage radio spectrum in the internal market in a coordinated way, taking into account its value as a common European resource, under shared competence with a view to fostering economic growth, protecting Union values and security, in pursuit of the objectives laid down in Article 3, in particular single market for electronic communications as well as in pursuit of security, and digital sovereignty. **In doing so, the Member States and the Commission shall ensure that the principle of fair competition is upheald**.
Justification From BREKO's perspective, the principle of ensuring fair competition within the European Union must not be lost from sight and should therefore be explicitly added to Article 9.	

Chapter III – Assignment (Articles 20-35)

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 20 **General authorisation of the use of radio spectrum**	
2. Undertakings authorised to use radio spectrum based on general authorisation shall only be subject to the following conditions: (d) to comply with cybersecurity rules, including ICT supply chain requirements pursuant to Cybersecurity Act which is to replace Regulation (EU) 2019/881.	2. Undertakings authorised to use radio spectrum based on general authorisation shall only be subject to the following conditions: (d) to comply with cybersecurity rules~~, including ICT supply chain requirements pursuant to Cybersecurity Act which is to replace Regulation (EU) 2019/881. rules~~ **in**

	accordance with existing national and European regulations.
Justification The current draft of the DNA refers in several places to the Cybersecurity Act (CSA) – which is expected to be replaced by the Cybersecurity Act 2 (CSA 2) – as well as to specific ICT supply chain security requirements. Since both reference frameworks have not yet been formally implemented, a regulatory dependency is created. The ratification of the DNA is already a highly complex challenge given the heterogeneous conditions across Member States; linking it to regulatory instruments that are not yet finalized, jeopardises the timely completion of the process. We therefore propose removing the specific references to the CSA/CSA 2 and the ICT supply chain security requirements from the DNA and rather refer to the existing national and European regulations. This would allow for swift implementation of the DNA, independent of the progress made on other regulatory initiatives.	

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 23 Harmonised assignment of radio spectrum	
National competent authorities shall not impose any further conditions, additional criteria or procedures where holders of rights of use for harmonised radio spectrum have been selected under a common selection procedure at Union level or where Union harmonised authorisation conditions apply.	National competent authorities shall not impose any further conditions, additional criteria or procedures where holders of rights of use for harmonised radio spectrum have been selected under a common selection procedure at Union level or where Union harmonised authorisation conditions apply**, unless they observe a lack of competition in the market. In that case, national competent authorities are permitted to introduce competition safeguards.**
Justification Safeguarding competition is of utmost importance also for ensuring the development of highest possible connectivity standards and fair prices for end-users. This is of even greater importance in light of the consideration of very long to unlimited license durations. Therefore, we call for an extension of rights for national competent authorities to introduce competition safeguards in case of noticeable distortions of competition.	

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 24 Duration of rights	
1. Rights of use for radio spectrum shall be in principle granted for an unlimited duration.	1. Rights of use for radio spectrum shall be in principle granted for an unlimited

Individual rights of use granted for an unlimited period of time for radio spectrum used for wireless broadband networks and services shall be subject to regular reviews by the national competent authorities, including coverage and quality of service obligations. Such reviews shall not be carried out earlier than every 20 years after such individual right of use for radio spectrum was granted. Periodic reviews shall be notified under the procedure of Article 31. 2. Individual rights of use for radio spectrum which are granted for an unlimited period of time may be revoked at any time for any of the reasons provided for in Article 25(2), and with a 5-year notice in all other cases. By exception, where individual rights of use for harmonised radio spectrum for wireless broadband services which have been granted for an unlimited duration are revoked within the first 40 years from their issuing, Article 195 shall apply. […] 4. Where competent authorities subject individual rights of use for harmonised radio spectrum measures in order to enable its use for wireless broadband services to a limited duration, holders of those rights of use shall have the right to use radio spectrum for a period of at least 40 years.	duration. Individual rights of use granted for **not more than 20 years** ~~an unlimited~~ period of time for radio spectrum used for wireless broadband networks and services shall be subject to regular reviews by the national competent authorities, including coverage and quality of service obligations. Such reviews shall not be carried out earlier than every ~~20~~ **5** years after such individual right of use for radio spectrum was granted. Periodic reviews shall be notified under the procedure of Article 31. 2. Individual rights of use for radio spectrum ~~which are granted for an unlimited period of time~~ may be revoked at any time for any of the reasons provided for in Article 25(2), and with a 5-year notice in all other cases. ~~By exception, where individual rights of use for harmonised radio spectrum for wireless broadband services which have been granted for an unlimited duration are revoked within the first 40 years from their issuing, Article 195 shall apply.~~ […] 4. Where competent authorities subject individual rights of use for harmonised radio spectrum measures in order to enable its use for wireless broadband services to a limited duration, holders of those rights of use shall have the right to use radio spectrum for a period of **max. 20** ~~at least 40~~ years.

Justification

The current draft of the DNA proposes an extremely long frequency allocation period of 40 years, or even indefinite allocation, allegedly to attract sufficient investments and to allow for business continuity and amortisation of mobile ventures.

While such a proposal on the one hand benefits established mobile network operators, it directly harms competition on the other hand, as no adequate compensation mechanisms have yet been included as an allocation provision. This is all the more true given that the decision is only to be reviewed for the first time after 20 years. Access obligations should necessarily be included as an allocation provision when considering such long-term durations of rights. This is necessary to ensure a level-playing field between MNOs and mobile virtual network operators (MVNOs) and to ensure consumer welfare in the EU.

Concerning Article 24, BREKO is in favor of refraining from granting unlimited rights of spectrum use. Even an allocation period of 40 years would already result in massive negative implications for MVNOs, and consequently negatively impact consumer welfare. This ranges from the growing bargaining power of MNOs and increasingly entrenched barriers to market entry – limiting innovation opportunities for MVNOs and newcomers – to the erosion of technological neutrality and rising end-customer prices driven by further consolidation of the oligopoly. We'd thus call for reducing the included duration rights to a reasonable period of time to a reasonable period.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 25 **Renewal of individual rights of use for harmonised radio spectrum**	
1. Any right of use of harmonised radio spectrum subject to limited duration shall be automatically renewed for a similar duration and with similar conditions upon request by its holder.	~~1. Any right of use of harmonised radio spectrum subject to limited duration shall be automatically renewed for a similar duration and with similar conditions upon request by its holder.~~
Justification The automatic prolongation of rights of use simply upon request by the spectrum license holder itself without any consultation mechanism or the possibility of third parties to express their views, effectively constitutes a major limitation on competition. Therefore, we'd highly recommend deleting Article 25 (1).	

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 29 **Contributions for rights of use for radio spectrum**	
6. Annual or one-off fees shall, upon request, be reimbursed against the fulfilment of pre-determined commitments by the holder of a right of use for radio spectrum. The possibility and the rate for such reimbursement shall be transparent, fair and non-discriminatory and announced in advance of any selection procedure or assignment, or renewal or review process.	~~6. Annual or one-off fees shall, upon request, be reimbursed against the fulfilment of pre-determined commitments by the holder of a right of use for radio spectrum. The possibility and the rate for such reimbursement shall be transparent, fair and non-discriminatory and announced in advance of any selection procedure or assignment, or renewal or review process.~~
Justification In recital 109, the Commission argues that the reliance on auction mechanisms has originated in a high level of cost. It is also stated that priority should be given to commitments over fees. In contrary to the Commission's criticism concerning auctions, we'd like to point out that auctions do not drain investment funds but rather make investment expectations visible. The	

Commission's draft proposal repeats, without scrutiny, the claim by MNOs that high spectrum costs automatically lead to lower investment incentives in mobile communications. As a consequence, with the current draft, mobile network operators receive additional regulatory support by being kept at bay by investment-friendly framework conditions.

However, the assertion that auctions or spectrum costs drain investment funds is unfounded from both an economic and a competition policy perspective.

On the contrary: Empirical studies[12] (EU Commission, 2023 and Monopolkommission, 2021) do not find a robust negative correlation between auction prices and network investment. Countries with high auction revenues, such as South Korea and the United Kingdom in certain periods, have continued to exhibit high levels of investment.

The possibility of reimbursement in Article 29 (6) of costs should thus be deleted.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 31 **Union radio spectrum single market procedure**	
1. Where the national competent authority intends to undertake a selection procedure in accordance with Article 30(6), or to amend or renew under different conditions, including as regards the duration, rights of use for harmonised radio spectrum for wireless broadband networks and services, it shall publish its draft final measure and communicate it to the Commission, the RSPB, BEREC and to the competent authorities of other Member States, at the same time, stating the reasons for the measure and explaining how the measure: a. promotes the development of the internal market, the cross-border provision of services, as well as competition, and maximises the benefits for the consumer, and overall achieves the objectives set in Articles 3 and 13, as well as in Decision No 676/2002/EC; b. ensures effective and efficient use of radio spectrum; c. ensures stable and predictable investment conditions for existing and prospective radio spectrum users when deploying networks for the provision of	1. Where the national competent authority intends to undertake a selection procedure in accordance with Article 30(6), or to amend or renew under different conditions, including as regards the duration, rights of use for harmonised radio spectrum for wireless broadband networks and services, it shall publish its draft final measure and communicate it to the Commission, the RSPB, BEREC and to the competent authorities of other Member States, at the same time, stating the reasons for the measure and explaining how the measure: a. promotes the development of the internal market, the cross-border provision of services, as well as competition, and maximises the benefits for the consumer, and overall achieves the objectives set in Articles 3 and 13, as well as in Decision No 676/2002/EC; b. ensures effective and efficient use of radio spectrum **with special consideration for the promotion of competition**; c. ensures stable and predictable investment conditions for existing and prospective radio spectrum users when deploying networks for the provision of

[1] EU Commission, 25 January 2023, Project number: 2022.5904: „Study on assessing the efficiency of radio spectrum award processes in the Member States, including the effects of applying the EECC"
[2] Monopolkommission 2021, 12. Sektorgutachten – Telekommunikation 2021: Wettbewerb im Umbruch, available at: https://monopolkommission.de/images/PDF/SG/12sg_telekommunikation_volltext.pdf

electronic communications services which rely on radio spectrum.	electronic communications services which rely on radio spectrum **with special consideration for the promotion of competition**.
Where applicable, the competent authority shall also explain the reasons for proposing: a. any market shaping measure under Article 32(2), and include the outcome of the analysis carried out; b. a limited duration of the right of use for radio spectrum in accordance with Article 24(3).	~~Where applicable, the competent authority shall also explain the reasons for proposing:~~ ~~a. any market shaping measure under Article 32(2), and include the outcome of the analysis carried out;~~ ~~b. a limited duration of the right of use for radio spectrum in accordance with Arti-cle 24(3).~~ […]
6. Within 60 working days from the notification of its reservations, the Commission may take one of the following decisions: (a) a decision requiring the notifying competent authority to amend or withdraw the draft measure; (b) a decision lifting its reservations referred to in paragraph 3 of this Article. The Commission shall take account of the opinions of the RSPB of BEREC and of other national competent authorities before taking a decision under this paragraph. The Commission decision referred to in the first subparagraph, point (a), shall be accompanied by a detailed and objective analysis of the reasons why the draft market shaping measure or the limited duration should not be adopted or explaining how they should be amended.	~~6. Within 60 working days from the notification of its reservations, the Commission may take one of the following decisions:~~ ~~(a) a decision requiring the notifying competent authority to amend or withdraw the draft measure;~~ ~~(b) a decision lifting its reservations referred to in paragraph 3 of this Article.~~ ~~The Commission shall take account of the opinions of the RSPB of BEREC and of other national competent authorities before taking a decision under this paragraph.~~ ~~The Commission decision referred to in the first subparagraph, point (a), shall be accompanied by a detailed and objective analysis of the reasons why the draft market shaping measure or the limited duration should not be adopted or explaining how they should be amended.~~
7. Where the Commission has adopted a decision requiring the notifying authority to withdraw the draft measure, the authority concerned shall not adopt such a measure. After having undertaken a public consultation, in accordance with Article 184, the national competent authority shall notify within six months of the date of the Commission's decision a new draft measure to the RSPB, BEREC, other national competent authorities and the Commission.	~~7. Where the Commission has adopted a decision requiring the notifying authority to withdraw the draft measure, the authority concerned shall not adopt such a measure.~~ ~~After having undertaken a public consultation, in accordance with Article 184, the national competent authority shall notify within six months of the date of the Commission's decision a new draft measure to the RSPB, BEREC, other national competent authorities and the Commission.~~

Justification
Article 31(1)(a), first subparagraph, second sentence (a), refers to the reporting obligation of the NRAs that intend to adopt measures to safeguard competition in the market. At the same time, under Article 31(6)(a), the Commission reserves the right to amend or even withdraw the measures proposed by the NRAs. An equivalent allocation of rights to the European Commission is set out in Article 31 (7). We consider this to be highly problematic, as it assigns the Commission a role in competition regulation without subjecting it to the corresponding oversight mechanisms. The Commission's veto right **deprives national regulatory authorities of the ability to introduce competition regulation in oligopolistic markets.** The Commission would have the final say on the implementation of fair and non-discriminatory measures tailored to a national market, without being required to justify its decision. In order to maintain the important possibility for National Competent Authorities to introduce competition safeguards, we highly advocate for a **removal of the obligations set out in paragraph 6 and 7**, requiring national regulatory authorities to provide justification to the Commission for market-intervening measures. This would be appropriate and reduce bureaucracy, as it is sufficient for the Commission to retain veto powers over the revised market analyses (without SMP) and the guidelines under Article 32. If this requirement is nevertheless retained, DG COMP should be made responsible as the Directorate-General with competence for competition matters. Only oversight by a Directorate-General with competition expertise will lead to the desired harmonisation effects, without reflexively imposing politically motivated conditions. Additionally, a reversal of the burden of proof for "market-shaping measures" would be appropriate – if it must be justified why competition-regulatory measures are adopted, it should likewise be justified why such measures should not be adopted.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 32 Competition	
1. Rights of use for radio spectrum for electronic communications networks and services shall be granted, amended or renewed in such a way as to promote effective competition and avoid distortions of competition in the internal market in accordance with this Regulation. 2. Where national competent authorities responsible for radio spectrum management grant, amend or renew rights of use for radio spectrum in relation to harmonised radio spectrum for wireless broadband networks and services, they shall refer to the national regulatory	1. ~~Rights of use for radio spectrum for electronic communications networks and services shall be granted, amended or renewed in such a way as to promote effective competition and avoid distortions of competition in the internal market in accordance with this Regulation.~~ **National regulatory and other competent authorities shall promote effective competition and avoid distortions of competition in the internal market when deciding to grant, amend or renew rights of use for radio spectrum for electronic**

authority the decision on any measure that could affect competition, such as: a. limiting the amount of radio spectrum bands for which rights of use are granted to any undertaking, or, in justified circumstances, attaching conditions to such rights of use, such as the provision of wholesale access or national or regional roaming in certain bands or in certain groups of bands with similar characteristics; [...] National regulatory authorities shall only propose such measures on the basis of a market analysis carried out in accordance with Article 73(2), and in particular a forward-looking assessment of the market competitive conditions and an assessment of the likely effects of such measures on maintaining or achieving effective competition as well as on existing and future investments. 3. In selecting the appropriate measures under paragraph 2, national regulatory authorities shall respect proportionality and impose the least intrusive measure capable of ensuring competition at retail level: [...] (b) before imposing any wholesale access obligation, national regulatory authorities shall review the relevant markets, on a forward-looking basis, and assess whether retail markets would be effectively competitive in the absence of wholesale intervention.	**communications networks and services in accordance with this Regulation.** 2. Where national competent authorities responsible for radio spectrum management grant, amend or renew rights of use for radio spectrum in relation to harmonised radio spectrum for wireless broadband networks and services, they shall refer to the national regulatory authority the decision on any measure that could affect competition, such as: a. limiting the amount of radio spectrum bands for which rights of use are granted to any undertaking, or, in justified circumstances, attaching conditions to such rights of use, such as the provision of wholesale access **safeguarding the principle of an access obligation based on internal and external non-discrimination obligation also applying to the frequency owner's retail,** or national or regional roaming in certain bands or in certain groups of bands with similar characteristics; [...] ~~National regulatory authorities shall only propose such measures on the basis of a market analysis carried out in accordance with Article 73(2), and in particular a forward-looking assessment of the market competitive conditions and an assessment of the likely effects of such measures on maintaining or achieving effective competition as well as on existing and future investments.~~ ~~3. In selecting the appropriate measures under paragraph 2, national regulatory authorities shall respect proportionality and impose the least intrusive measure capable of ensuring competition at retail level:~~ ~~[...]~~ ~~(b) before imposing any wholesale access~~

	~~obligation, national regulatory authorities shall review the relevant markets, on a forward-looking basis, and assess whether retail markets would be effectively competitive in the absence of wholesale intervention.~~ 6. **By way of derogation from Article 32(2), in mobile communications markets with vertically integrated network operators, national regulatory authorities must, in order to guarantee effective competition and technology-neutral market participation, impose obligations to grant non-discriminatory wholesale access, without the need to meet the conditions of Article 73.**

Justification

To prevent an imbalance between infrastructure support and the promotion of competition, the DNA must ensure a Union-wide, non-discriminatory right of access to mobile networks.

This could be ensured by implementing a new Article 32(6), as follows:

"(6) Mobile network operators shall be obliged to offer mobile services, in line with demand, to suitable providers of publicly available electronic communications services that do not hold their own mobile spectrum, in such a way that these services may be marketed under the providers' own name and on its own account. In doing so, mobile network operators shall neither apply prices nor technical conditions that are less favourable than those granted to their own retail operations or to affiliated undertakings. Mobile net-work operators shall neither bind providers of publicly available electronic communications services to themselves on an exclusive basis or for a disproportionately long period of time, nor otherwise restrict them with regard to their own pricing and commercial conditions or with regard to other fields of activity."

If this addition is not implemented, we propose to make the changes outlined above and explained below.

Article 32(1)

The question of how to safeguard competition is even more important regarding the far-reaching changes of licence duration and the respectively reduced allocation provisions. Therefore, we welcome that Art. 32 (1) explicitly highlights that the granting, amendment or renewal of rights of radio spectrum use must ensure the promotion of effective competition and further avoid distortions of competition. Nevertheless, in comparison with the former wording in Article 52(1) EECC, it becomes obvious that the wording regarding the safeguarding of competition has been weakened. **Therefore, we call for the use of the former wording.**

Article 32(2)

While Article 32 (2) in principle allows national regulatory authorities to impose obligations concerning the provision of wholesale-access, subparagraph 2 stipulates that national regulatory authorities may only impose wholesale access based on a market analysis pursuant to Article 73 (2) and thus automatically constraints the measure which could safeguard competition drastically. This is a clear change in comparison to the former Article 52(2), second subparagraph,

sentence 2 EECC in which it was originally stipulated that, when taking measures to promote competition, national regulatory authorities should “take into account” the approach to market analysis set out in Article 67(2).
We’d like to draw attention to the **incorrect reference made** since Article 73 (2) refers to Article 73 (1) according to which a market analysis may only be carried out if the so-called three-criteria test has been fulfilled beforehand.
This systematic, erroneous link to the three-criteria test effectively means that regulatory intervention in favor of MVNOs is only possible if:

- high and non-temporary barriers to market entry exist;
- there is no tendency towards effective competition;
- and general competition law is insufficient.

This erroneous link between Article 32 and Article 73, paragraph 2, represents a significant tightening of regulations compared to the previous legal framework and poses serious risks to competition in mobile communications.
Moreover, there would no longer be any independent scope of application for Article 32, as the relevant measures could in any case already be adopted under Article 73. This demonstrates that such a restrictive interpretation is not appropriate, since— as the Commission itself correctly notes—mobile markets inherently tend towards lower levels of competition due to the scarcity of the resource “spectrum.”
To promote effective competition in mobile communications, a **clear decoupling** in the DNA is required from:

- access obligations under Article 32
- and the market analysis procedure under Article 73

In particular, neither

- a three-criteria test under Article 73(1)
- nor a formal market definition under Article 72

must be a prerequisite for imposing non-discriminatory and technology-neutral wholesale access.
If European legislators wishes to make the imposition of measures to promote competition dependent on the existence of a market analysis in accordance with Article 73(2) of the DNA Draft, caution is advised before tightening the requirements in this way. There is a risk that national regulatory authorities may be discouraged from taking the necessary measures to promote competition due to the increased bureaucratic requirements and the associated legal uncertainty. This is particularly critical in the case of frequency allocation for an unlimited duration and the associated massive restrictions on competition.
In light of this, national regulatory authorities should, on the one hand, be allowed to take measures to promote competition in accordance with Article 32 of the DNA draft on an ongoing basis. On the other hand, Article 32 should stipulate that the imposition of a wholesale access obligation is the norm, at least in the case of frequency allocation with unlimited duration. The only exception to this would be if the market analysis to be carried out clearly shows that the imposition of such an obligation would harm competition at both the infrastructure and service levels.
Furthermore, from BREKOs point of view, it is important to emphasize that simply imposing a wholesale access obligation would not be sufficient. To ensure competition, it is not sufficient for wholesale-consumers to receive any kind of wholesale service. Rather, the wholesale service must ensure effective participation in competition. For this reason, **the wholesale access**

obligation must be linked to a non-discrimination obligation, which must also cover the frequency owner's own retail.

Article 32(3):

Furthermore, the currently existing regulatory constraint to the detriment of competition contained in Article 32(3) DNA, which permits only those regulatory measures that ensure competition at the retail level, but not at the wholesale level, should be removed. It should necessarily also encompass the wholesale layer, in order to prevent the further entrenchment of the existing detriments to effective competition and to consumer welfare.

Article 32(6) new

In recital 101, the European legislator rightly identifies competition risks though in the case of frequency allocations that are not limited in time and instructs national regulatory authorities to address these risks through "strong and credible regulatory safeguards that protect competition and prevent radio spectrum hoarding, such as obligations to provide wholesale access or enable radio spectrum sharing subject to compliance with competition law." This explicitly describes a wholesale access obligation as a "strong and credible safeguard" to be imposed in the case of time-unlimited frequency allocations in order to protect competition.

Against this background, it is to be welcomed that the draft stipulates the imposition of wholesale access obligations, among other measures, in recital 101 in this case. However, the statements in (only) one recital are not sufficient to reliably solve the resulting competition problems, thereby protecting competition and ensuring harmonized frequency usage conditions. We therefore advocate that Article 32 must provide for the imposition of a wholesale access obligation by default, at least in the case of frequency allocation for an unlimited duration.

We therefore suggest the insertion of a new Article 32(6). By way of derogation from Article 32(2), in mobile communications markets with vertically integrated network operators, national regulatory authorities must, in order to guarantee effective competition and technology-neutral market participation, impose obligations to grant non-discriminatory wholesale access, without the need to meet the conditions of Article 73.

PART V: TRANSITION TO FIBRE, MARKET FUNCTIONING & COMPETITION

TITLE I – Transition to Fibre Networks (Art. 53 -60)

1. General Remarks

In Part V.1, the Commission's proposal addresses a key turning point for the digital transformation through the copper-to-fibre migration. This transformation will only succeed if the necessary fibre-optic infrastructure can be rolled out swiftly. The deteriorating investment climate is making it more difficult to secure the necessary equity and debt financing. A key factor in improving investment conditions and thus in speeding up further construction is the establishment of predictable, transparent, non-discriminatory and fair rules for migration to fibre-optic networks and the decommissioning of copper networks. Art. 81 EECC is clearly insufficient in this regard, as it leaves the initiative for the migration process exclusively to the incumbents, thereby providing them with a tool for strategically managing the migration.

It is therefore, in principle, very welcome that the Commission's proposal replaces the provision in Article 34 of the EECC with an objective, rule-based procedure for migration to fibre-optic networks and the decommissioning of copper networks, which shifts the key procedural steps to the national regulatory authorities.

This approach and its implementation as proposed in the DNA is both practical and non-discriminatory, and provides market participants with the necessary legal and planning certainty.

2. *Compliance of the Commission's proposal with primary Community law and European fundamental rights*

This shift in the governance of the migration process—from the incumbent operators' exclusive right of initiative ('de lege lata', Article 34 of the EECC) to a rule-based procedure to be implemented by the national regulatory authorities (Chapter V of the DNA)—naturally raises the question of whether this approach complies with primary Community law and European fundamental rights.

In this context, Article 345 TFEU, as well as Article 17 of the Charter of Fundamental Rights (guarantee of property rights) and Article 16 of the Charter of Fundamental Rights (freedom to conduct a business), are particularly relevant as criteria for assessment.

a) General: The need for intervention

Any imposition of rules regarding the decommissioning of copper networks constitutes an interference with incumbents' legal rights. But incumbents have a strong incentive to leverage their significant market power on copper-based wholesale markets to obtain and secure an equally strong position on fibre-optic markets, even if that includes displacing competitors by unfair means.

In this respect, simply 'letting the migration run its course' would lead to negative competitive outcomes – not just for competitors, but for consumers as well. Overall, the transition to fibre-optic networks – as the key infrastructure prerequisite for digital transformation and a sustainable communications infrastructure – would be slowed down significantly, because some incumbents (not least, in Germany) have a strong interest in operating their copper networks for as long as possible or selectively switching them off in areas where they have own FTTH networks in place.

At the same time, they are attempting to significantly delay the roll-out of fibre-optic networks by their competitors, so as not to be forced to increase the pace of investment as a result of competitive pressure. This delay is achieved, amongst other things, by the incumbents failing to decommission the copper networks in their competitors' roll-out areas. In doing so, they create unequal investment conditions in their own fibre-optic roll-out areas and those of their competitors simply through their strategy regarding the decommissioning of the copper network, thereby impeding and slowing down the roll-out of fibre-optic networks and the transition to fibre-optic networks as a whole. Such an effect cannot be desirable from an economic perspective. Consequently, the governments of the Member States, as well as the EU itself, must take measures to safeguard the public interest in the rapid and competition-compliant roll-out of fibre-optic networks as a prerequisite for digital transformation and sustainability. Fibre-optic networks are already indispensable today for industrial applications, cloud services, the connection and interconnection of data centres, high-quality video-based services, AI applications, the exchange of large volumes of data in professional settings (e.g. telemedicine) and high-quality streaming services.

The rapid replacement of copper networks with fibre-optic networks is also necessary for reasons of network reliability. It is becoming increasingly difficult and costly for copper network operators to procure replacement components. This means there is a growing risk that service quality and network reliability can no longer be guaranteed across the board. Furthermore, this is leading to a significant rise in the operating costs of the copper network.

The rule-based procedure enshrined in the DNA is a necessary and proportionate measure to safeguard the public interest. It constitutes a proportionate interference with Articles 16 and 17 of the Charter of Fundamental Rights, as will be demonstrated below. Before that, however, we must consider Article 345 of the TFEU, which stipulates that EU measures must not alter the property regime of the Member States.

b) Compatibility with Article 345 TFEU

The rules-based procedure for copper disconnection described in Articles 53 to 61 of the DNA draft is compatible with Article 345 TFEU. According to Article 345, the European Treaties must be construed so as to not affect the rules on property ownership in the Member States (*"The Treaties shall in no way prejudice the rules in Member States governing the system of property ownership").* However, according to the established case law of the Court of Justice of the European Union (CJEU), Article 345 TFEU merely serves to regulate competences regarding the fundamental allocation of ownership in the Member States, i.e. the question of the *"complete transfer of an undertaking from public to private ownership and vice versa*". [1]

According to the case law of the Court of Justice of the European Union, the function of Article 345 TFEU is limited to the principle of Community law's neutrality with regard to the property regimes of the Member States. Irrespective of the form of ownership (private/public), the substantive arrangements are fully subject to Union law. In particular, the provisions of Community law relating to the internal market and competition law are fully applicable. Interventions – even into the core area of property law – are therefore permissible, provided they otherwise comply with Community law. The main benchmarks for this are Articles 16 and 17 of the Charter of Fundamental Rights of the European Union (CFREU)

Article 345 TFEU therefore does not preclude the introduction of the rules-based procedure for decommissioning copper networks described in Articles 53–61 of the draft DNA.

c) Compatibility with Article 17 of the Charter of Fundamental Rights (guarantee of property rights)

Whilst the introduction of a rules-based regime for copper switch-off does constitute an interference with property rights, this interference is justified on numerous grounds.

The vast majority of assets that constitute today's copper networks have been fully depreciated many years ago. Copper networks were initially financed from public funds and, following market liberalisation, through the wholesale charges paid by wholesale access seekers. In Germany, the so-called "replacement cost approach" which the Bundesnetzagentur has used for decades to determine network access charges, has greatly helped the incumbent to refinance whatever maintenance and modernisation costs it incurred with regard to its copper net Furthermore, the switch-off process set out in the DNA provides for substantial transition periods. Until Dec. 31, 2035, a binding legal act requiring incumbents to switch off a given area of their copper networks depends on whether the sustainability conditions set out in art. 57 DNA are met. Many CSO areas will meet the sustainability criteria only gradually.

It must not be forgotten that a gradual switch-off of the copper networks does not deprive incumbents of the entire value of those networks. Firstly, Incumbents will often be able to reuse passive infrastructure such as cable ducts to subsequently roll out FTTH infrastructure. The extent of this benefit is likely to vary depending on local conditions, but it should not be overlooked. Secondly, many components of the active networks have long reached end of life status and are fully depreciated, so that taking them out of service does not amount to a special burden to be borne by incumbents. The extent of this benefit is likely to vary depending on the network structure, but it should not be overlooked when weighing up the options.

The copper network operator may also switch to its own or third-party fibre-optic infrastructure. Open network access is provided for in Article 71.

Finally, under art. 54.3 of the draft DNA, incumbents shall not be required to switch off their copper networks where the roll-out of fibre-optic infrastructure is not economically viable. This means that copper network operators are not obliged to roll out a fibre-optic network in areas where it is not profitable to do so.

It can therefore be concluded that the way the migration process is structured in the draft DNA significantly mitigates the impact of the switch-off on copper network operators in several respects.

The rules-based approach to copper switch-off across the EU serves the public interest in various ways. It provides the EU's economy and its citizens with robust, highly performant and resilient telecommunications networks. Full fibre networks provide much greater bandwidth at higher speeds, are more stable, require less maintenance and are less costly to operate. By preventing incumbents from unfairly displacing competitors from the market, a rules-based copper switch-off also helps to secure the benefits of competition that has served the EU very well. In the absence of such a rules-based approach, incumbents would have every incentive to delay the migration or to set the terms for a copper-to-fibre migration in a discriminatory manner. Finally, an accelerated copper switch-off holds the potential to substantially reduce CO_2 emissions across the EU because fibre networks require significantly less power. These benefits can only be reaped, however, by ending the inefficient parallel operation of copper and fibre networks.

Since, for the reasons set out above, this is a proportionate measure, there is no need to provide compensation to ensure proportionality. Nor does an obligation to provide compensation arise on the grounds of the protection of legitimate expectations. Neither European nor national law grants unlimited protection for existing business models.

Even from the perspective of EU law, it would not be straightforward to impose a form of compensation that is not required by law, as this would generally constitute State aid within the meaning of Article 107 TFEU.

The measures set out in Articles 53–61 and Article 71 are therefore – particularly when considered as a whole – proportionate and do not infringe Article 17 of the Charter of Fundamental Rights.

d) Compatibility with Article 16 of the Charter of Fundamental Rights (freedom to conduct a business)

The same considerations lead to the same conclusion with regard to the right to freedom to conduct a business under Article 16 of the Charter of Fundamental Rights. In this respect, too, the interference with the scope of protection of the fundamental right is appropriate and proportionate, even without compensation.

3. Harmonisation and the need for greater flexibility

a) Harmonisation of procedural steps and deadlines

A key theme of the Commission's proposal is the harmonisation of the migration and phase-out process across Member States. In addition to defining the individual process steps, this is supported by a clear timeframe stipulating that the phase-out process for the remaining CSO areas must have been initiated by 31 December 2035. In this regard, the Commission rightly emphasises in Recital 153 that Member States should set themselves the target of commencing the phase-out of copper in a large proportion of the CSO areas before 31 December 2035.

BREKO suggests examining whether streamlining individual process steps might enable the deadline for initiating the phase-out process in the remaining CSO areas to be brought forward. Furthermore, efforts should be made to ensure an even distribution of phase-outs across the entire migration period, avoiding particular peaks at the beginning and end.

Amendment proposals

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 54 Mandating copper switch-off	
[…] 4. For the purposes of paragraphs 1 and 2, Member States shall mandate the copper switch-off by adopting a binding legal act. Each such legal act shall set a start date for the copper switch-off, which shall be no later than one year after its adoption and shall require that the copper switch-off be completed within three years from that start date. For mandates pursuant to paragraph 1, the legal act shall be adopted within six months of the publication of a list referred to in Article 58(3). For mandates pursuant to paragraph 2, the legal act shall be adopted by 31 December 2035 at the latest.	
Justification In accordance with paragraph 4, Member States shall adopt a binding legal act for each designated CSO area, setting out, amongst other things, the start and end dates for the migration process. It is important that the procedure for enacting the binding legal act is designed in such a way that it runs smoothly in a mass process involving a large number of CSO areas to be processed simultaneously, and that no delays arise in this regard.	

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 55 Copper switch-off areas	
1. The copper switch-off shall be organised in CSO areas covering all geographic areas where copper networks are in service. 2. National regulatory authorities shall delimit CSO areas, taking account of the criteria set out in Commission guidance.	1. The copper switch-off shall be organised in CSO areas covering all geographic areas where copper networks are in service. 2. National regulatory authorities shall delimit CSO areas, taking account of the criteria set out in Commission

3. By 31 May 2028, national regulatory authorities shall publish the list of CSO areas. 4. National regulatory authorities shall review and, where appropriate, update the list of CSO areas to support a timely and orderly copper switch-off. Any updated list shall be published without undue delay.	guidance. **The guidance will take effect on the date of publication of this act in the Official Journal.** 3. By 31 May 2028, national regulatory authorities shall publish the list of CSO areas. 4. National regulatory authorities shall review and, where appropriate, update the list of CSO areas to support a timely and orderly copper switch-off. Any updated list shall be published without undue delay.

Justification

According to paragraph 2, NRAs shall delimit CSO areas by taking into account the criteria set out in the Commission Guidance. From BREKO's point of view, the CSO area must be defined based on the technical structure and characteristics of the copper network to be decommissioned, in order to ensure an efficient copper switch-off process and enable the realization of corresponding cost savings. Street cabinet areas are clearly the smallest unit that could qualify as a potential switch-off area. Proceeding by street cabinet areas holds the greatest potential for an accelerated decommissioning of the copper network. It also appears technically feasible.

It may be possible to aggregate several switch-off units (street cabinets) into small switch-off areas, provided that this does not slow down the process and that the aggregation is carried out in a non-discriminatory manner.

At the same time, the delineation of these areas must remain transparent and understandable for municipalities and end users.

It is also crucial that these optimization approaches are not weakened by external factors, such as disproportionate administrative burdens associated with formal procedural steps (e.g. legal acts or market analyses). Instead, the relevant requirements should be appropriately adjusted so that rollout and investment economics remain the guiding principle. Accordingly, regulatory optimization should primarily be achieved through adapting requirements, rather than through inefficient or suboptimal structuring of practical processes.

In order to ensure a timely start of copper switch-off processes, we call for the earliest possible publication of the Commission's guidance referred to in Article 2. The Commission should already start working on the guidance in parallel to the ongoing legislative process.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 57 **Sustainability conditions**	
1. For the purposes of this Title, the sustainability conditions shall consist of the following requirements: (a) at least 95% of the premises within the CSO area are passed by a fibre network, within the meaning of Article 2(3);	1. For the purposes of this Title, the sustainability conditions shall consist of the following requirements: (a) at least **85** ~~95~~% of the premises within the CSO area are passed by a fibre

(b) affordable retail connectivity services of comparable quality are available to end-users relying on copper-based services. 2. National regulatory authorities shall specify, in accordance with national circumstances, objective and transparent parameters and criteria for affordability.	network, within the meaning of Article 2(3); (b) affordable retail connectivity services of comparable quality are available to end-users relying on copper-based services. 2. National regulatory authorities shall specify, in accordance with national circumstances, objective and transparent parameters and criteria for affordability.

Justification

The Commission's fundamental approach of using premises passed rather than premises connected as the parameter on which the beginning of the copper switch-off process depends is both conceptually sound and practical.

By referring to 'premises passed', the Commission takes account of the differences that exist in individual Member States, for example with regard to responsibilities for the provision of services on private land and within buildings. It also takes into account the varying circumstances that may exist in individual CSO areas, for example regarding the proportion of cable network usage or the number of mobile-only customers.

If the beginning of the copper switch-off were to be tied to premises connected instead, network operators would have to build a significant number of connections to homes whose owners or tenants might be unwilling to activate a corresponding FTTH service. But without the certainty that connected homes will eventually pay for FTTH services, investment into further fibre roll-out might become not economically viable.

To enable a swift start to the migration process, the **threshold** for the number of 'premises passed' required to initiate the switch-off process **should be lowered from 95 to 85 per cent**. The decisive criterion for the trigger threshold is the question of the level of roll-out at which it can generally be assumed that the connectivity target described in Article 71 ('anyone who wishes to have a fibre-optic connection in a roll-out area shall receive one, excluding cases where roll-out is not economically viable') has been achieved. Since the connectivity target described in Article 71, at the time of switch-off, is correctly not based on full roll-out (which may be achieved at a later date), it is realistic to assume that the near-total FTTH coverage required at the time of disconnection will be achieved within the time available for this (3 years plus the time required for the adoption of the binding legal act) with a threshold of 85 per cent 'premises passed'.

By applying the affordability criterion, the Commission aims to create an attractive environment for customers to switch to fibre-optic networks during the migration process and, for reasons of sustainability, to largely avoid a switch to Fixed Wireless Access (FWA) solutions or HFC networks.

Although this objective is understandable, the affordability requirement completely disregards the economic viability of fibre-optic roll-out (and thus the investment incentives), particularly in high-capex Member States. As a result, the affordability requirement would, in all likelihood, act as a brake on investment.

We therefore urge the Commission to swiftly draw up guidelines setting out criteria for affordability, which also take into account the need to preserve and stimulate investment into

FTTH networks. (e.g. by taking into account the average household income in the respective Member State). Furthermore, it is not to be expected that existing FWA or HFC customers will switch to fibre-optic networks on a large scale during the switch-off period if they have not already done so during the voluntary migration phase. Ultimately, they are not additionally affected by the copper switch-off

TITLE III – Interconnection (Art. 65 - 71)

CHAPTER II: Symmetric rules for access

BREKO welcomes the **continuation of the current SMP-based regulatory framework for establishing ex-ante regulation** as well as the continued use of the **market recommendation on structurally regulation-worthy markets.** This remains necessary in light of the current market situation.

We would like to underline this particularly in light of the recent considerations by the Bundesnetzagentur to partially release Deutsche Telekom from regulation in certain sub-markets. It must be clearer which criteria are used to assess a position of market power. Instead of examining reliable market shares in the retail and wholesale markets, the Bundesnetzagentur based its assessment solely on network coverage in order to deregulate. Against this background, we would welcome the establishment at European level of recommended criteria for granting SMP status that are more reasonable than the sole criterion of network coverage.

We view the extended possibilities for NRAs to apply symmetric tools, as envisaged in the draft DNA, with concern. **The application of symmetric regulation must be examined with the utmost caution** as long as operators with effective market power remain active in the market. Premature symmetric regulation would reinforce the existing market imbalance and have a negative impact on the urgently needed further investments in fibre rollout.

Premature symmetric regulation would exacerbate the existing market imbalance and have a negative impact on the urgently needed further investment in fibre-optic roll-out. Symmetric regulation is only necessary where, following the copper switch-off, negative competitive outcomes arise because one or more of the target network operators fails to submit an appropriate open-access offer.

In this case, regulatory intervention is required, but this can already be implemented under the current provisions of Article 61 of the EECC. In principle, however, appropriate voluntary offers must take precedence over regulatory intervention in relation to operators that do not hold a dominant market position.

The current wording of Articles 71 and 73 leaves uncertainty as to whether NRAs must conduct market reviews in each copper switch-off area; given that such reviews would be resource-intensive while open access will in any case be required, it is preferable to avoid imposing this obligation on NRAs and instead require operators to negotiate access conditions bilaterally, with NRA intervention only where no agreement is reached.

Text proposed by the Commission	*BREKO proposal for Amendment*

Article 71 **Symmetric measures for transition to fibre**	
2. In the market analysis carried out pursuant to Article 73(1) in the context of the copper switch-off, the national regulatory authority shall define the conditions for the access obligations, including the cost recovery calculation, as needed.	2. ~~In the market analysis carried out pursuant to Article 73(1) in the context of the copper switch-off, the national regulatory authority shall define the conditions for the access obligations, including the cost recovery calculation, as needed.~~ **If an assessment of a CSO network reveals a lack of adequate wholesale offerings, the national regulatory authority may, under the conditions set forth in Article 69(2) and (3), impose access obligations on fair and reasonable terms. A prior formal market analysis under Article 73 is not required.**

Justification

According to Articles 71 and 73 NRAs shall **review markets** in areas affected by copper switch-off and pursuantly define conditions for access obligations, including the cost recovery calculation. Carrying our market analyses for every defined CSO area would tie up a lot of the NRA's capacities, without providing tangible benefits. It is clear that operators of FTTH networks who stand to benefit from copper switch-off will have to grant open access to their networks. The question is how to bring this about. In BREKO's opinion, priority should be given to market-based solutions, e.g. agreements under which market participants consent to a set of network access commitments. There is a wide consensus among alternative network operators that any access seeker should be able to obtain Level 2 and Level 3 bitstream access on fair, reasonable and non-discriminatory terms. National regulatory authorities should only intervene if voluntary commitments to grant network access do not come forth or remain insufficient. In that case, article 71 of the draft DNA provides national regulatory authorities with subsidiary powers to impose network access obligations without a need to recur to a prior market analysis.

In any case, it appears completely unworkable for NRAs to conduct market analyses in every designated CSO area. For the switch-off process to work smoothly, CSO areas must be kept as small as possible. The greater the CSO areas, the later will the sustainability conditions in art. 57 be met, thereby delaying copper switch-off. In a meeting with Commission officials hosted by the German Ministry for Digital Matters and Government Modernisation on May 25th, Commission officials declared that CSO areas and markets analysed in the context of the copper-to-fibre migration do not necessarily have to match. In that case, the question remains what added value such market analyses can bring. Given the small-scale nature of much of the FTTH rollout in Germany, an analysis of larger geographical units may often produce no findings of any significant market power, which leaves the problem of network access unsolved.

The decisive factor here is whether acceptable outcomes can be achieved in end-user markets through voluntary open access. If this is the case, there is no need for further measures or regulatory intervention.

<u>Additional comments on Section 71(1) and (3):</u> The chosen approach ("anyone in the roll-out area who wishes to have a fibre-optic connection will receive one") is, in principle, to be welcomed and does not imply full roll-out at the time a CSO area is decommissioned. However,

operators cannot be expected to connect premises whose owners or tenants are unwilling to pay for FTTH-based services. This is especially true in cases where connecting a user's premises entails very high costs. Paragraph 3 takes this into account, stipulating that in the event of particularly high roll-out costs, an “additional connection fee” may be charged in addition to the standard connection fee. Conversely, this means that a standard connection fee may be charged for every connection installed. However, such fees are not common in Germany and are difficult to enforce.

Instead of a connection fee, operators should be allowed to make the connection of a user's premises dependent upon whether the user enters into an agreement on the provision of FTTH-based services. This would take account of the varying relevance of the different forms of financing in the individual Member States. It is important that a form of financing can be assigned to the connection requested by the user.

TITLE IV – Markets and Competition

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 80 **Access to passive networks**	
1. A national regulatory authority may, in accordance with Article 77, impose obligations on undertakings to meet reasonable requests for access to, and use of, dark fibre and civil engineering including, but not limited to, buildings or entries to buildings, building cables, including wiring, antennae, towers and other supporting constructions, poles, masts, ducts, conduits, inspection chambers, manholes and cabinets, in situations where, having considered the market analysis, the national regulatory authority concludes that denial of access or access given under unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market and would not be in the end-user’s interest.	1. A national regulatory authority may, in accordance with Article 77, impose obligations on undertakings to meet reasonable requests for access to, and use of, ~~dark fibre and~~ civil engineering including, but not limited to, buildings or entries to buildings, building cables, including wiring, antennae, towers and other supporting constructions, poles, masts, ducts, conduits, inspection chambers, manholes and cabinets, in situations where, having considered the market analysis, the national regulatory authority concludes that denial of access or access given under unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market and would not be in the end-user’s interest. […] 3. National regulatory authorities may provide that the network operators and public sector bodies owning or controlling physical infrastructure may refuse access to infrastructure according to paragraph 1 and 2 where there are viable alternative means of non-discriminatory open wholesale active access to VHCNs that are provided by the same network operator or

	by the same public body, provided that both of the following conditions are met: (a) such alternative means of wholesale access is offered under fair and reasonable terms and conditions, including price; (b) the deployment project of the requesting operator addresses the same coverage area and there is no other fibre network connecting end-user premises serving the coverage area.

Justification

To preserve investment incentives and avoid adverse and unintended economic impacts on the business model of the first mover operator in deploying fibre networks, NRAs shall be allowed to include the possibility to refuse access to passive networks if a viable alternative of non-discriminatory wholesale access is offered. This would follow the same approach as the implementation in the Gigabit Infrastructure Act (GIA).

Furthermore, paragraph 1 should not go beyond the provisions of the former Article 72 EECC. Thus, the possibility for NRAs to impose dark fibre access should be deleted.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 81 **Harmonised access products**	
1. Without prejudice to Article 80, a national regulatory authority shall assess whether it is justified and proportionate to impose on an operator designated as having significant market power on a specific market as a result of a market analysis carried out in accordance with Article 73, an obligation to offer Union harmonised access products prior to imposing other access products.	1. Without prejudice to Article 80, a national regulatory authority shall assess whether it is justified and proportionate to impose on a~~n~~ **fixed network** operator designated as having significant market power on a specific market as a result of a market analysis carried out in accordance with Article 73 or **a mobile network operator**, an obligation to offer Union harmonised access products prior to imposing other access products.
3. The Union harmonised products may include local access products.	3. The Union harmonised products may include local access products **and shall include both, at least one product for the fixed networks and at least one product for mobile networks. The harmonised product for fixed networks shall include a bitstream layer-2-access-product.**

Justification

Even though the harmonised assess products are currently designed as pursuing a significant market power approach and thus – depending on the respective market definition – may currently not constitute an obligation for the vast majority of companies, it is essential to consider that different access models have proven effective in different Member States. In Germany, and particularly under current rollout conditions, an active wholesale product such as Bitstream Layer-2 has proven more appropriate than passive access solutions. Active access enables automatic switching processes, supporting higher, faster and more sustainable network utilisation, improving efficiency, and avoiding the undermining of investment cases. This topic has been the subject of extensive debate in various regulatory contexts, including in discussions surrounding Gigabit Infrastructure Access (GIA). To reflect the current deployment and competitive situation in the German market, a harmonised access product should include a Bistream-Layer-2 product. Furthermore, a standardised access product should also be made available for mobile networks. At present, the Commission's considerations appear to focus exclusively on fixed networks. In light of the very long, potentially unlimited licence durations now being contemplated, it would be appropriate to assess whether an access product should be introduced for the mobile market as well. This is even more important, noticing that current approaches in the spectrum chapter foresee access obligations only as a last-resort measure. From a competition perspective, it would therefore be even more reasonable to explore the introduction of a harmonised access product for mobile networks. In Germany, access to mobile networks is currently not functioning effectively. While mobile network operators are required to negotiate, they are under no obligation to conclude agreements. As a result, operators without their own infrastructure do not receive access on equal terms. This situation also has negative implications for fixed-network operators, who are unable to offer equivalent bundled products and thereby creates a significant competitive disadvantage across both markets, which are increasingly converging.

PART VI: SERVICES

TITLE I – Universal Service Obligations (Art. 87-92)

The universal service obligation has already been envisaged in the EECC as an instrument to ensure a safety net for the provision of a minimum level of voice communications and internet services. As overall network coverage increases, this instrument is losing relevance.

From the BREKO's perspective, however, it is understandable that the universal service obligation should continue to exist as a safety net under the DNA. To ensure that a minimum offer of the relevant services can be made available across the entire territory at short notice, it is of great importance from BREKO's point of view that mobile services and satellite-based solutions continue to be recognised as eligible technologies. At present, there is still a degree of uncertainty in the legal text in this regard, which should be clarified (see text proposal below).

With regard to financing, it is welcome that the proposal first refers to public financial support. In addition, and in line with the recitals, it should be made clear directly in the legal text that, as a first step, social assistance measures for the financing of such services — including voucher schemes — may be used for low-income consumers.

Text proposed by the Commission	*BREKO proposal for Amendment*

Recital 231	
[…] BEREC should take into account the data collected annually by the national regulatory authorities on the evolution and level of retail prices of adequate internet access services and voice communications services at a quality specified in the respective national territories. Before issuing the guidelines, BEREC should consult stakeholders, including civil society organisations representing vulnerable consumers. The Commission should be empowered to adopt implementing acts to determine the adequate internet access service and the bandwidth necessary for social and economic participation in society. The end-user rights applicable to electronic communications services should also apply to any adequate internet access and voice communications services.	[…] ~~BEREC~~ **NRAs** should take into account the data collected annually by the national regulatory authorities on the evolution and level of retail prices of adequate internet access services and voice communications services at a quality specified in the respective national territories. Before issuing the guidelines, ~~BEREC~~ **NRAs** should consult stakeholders, including civil society organisations representing vulnerable consumers. **In evaluating the submissions, NRAs should take into account that the universal service is designed as a safety net and must not be conflated with the regular provision of gigabit services.** ~~The Commission should be empowered to adopt implementing acts to determine the adequate internet access service and the bandwidth necessary for social and economic participation in society.~~ The end-user rights applicable to electronic communications services should also apply to any adequate internet access and voice communications services.

Justification

In general, we agree that every end-user should have access to adequate internet access and voice communications services. Nevertheless, we would like to point to the fact that the universal service is a tool designed ensuring a safety net only and may not be confused with a right to the highest available technology standards at a price that does not reflect the real economic possibilities for expansion.

The open design of the consultation procedure entails the risk that the range of online services considered "essential" will continuously expand. As a result, under the objective of harmonisation, this could effectively lead to a gradual expansion of the scope — and potentially the bandwidth requirements — of the universal service. Therefore, we suggest adding the provision for BEREC or preferably the NRAs to take into account the initial purpose of the instrument when evaluating consultation submissions. Driven by the same concern, we oppose the approach of empowering the Commission to adopt implementing act determining the adequate internet access.

Text proposed by the Commission	*BREKO proposal for Amendment*
Recital 233	

The need for affordability measures varies between Member States and a harmonised approach for the criteria and methodology to be considered for assessing the affordability of adequate internet access and voice communications services should ensure the consistency of approaches, while taking into account the distinct situations across Member States. For harmonising the criteria and methodology to consider for assessing affordability, the Commission should be empowered to adopt implementing acts. The criteria should include, amongst other factors, the most affordable price available in the market and its percentage of consumer income taking into account consumers with low income or special social needs. Furthermore, the economic and social aspects to be taken into account should also include purchasing power and national support schemes, especially for vulnerable consumers.	The need for affordability measures varies between Member States and a harmonised approach for the criteria and methodology to be considered for assessing the affordability of adequate internet access and voice communications services should ensure the consistency of approaches, while taking into account the distinct situations across Member States. For harmonising the criteria and methodology to consider for assessing affordability, the Commission should be empowered to adopt implementing acts. The criteria should include, amongst other factors, the most affordable price available in the **respective** market **in each Member State** and its percentage of consumer income taking into account consumers with low income or special social needs. Furthermore, the economic and social aspects to be taken into account should also include purchasing power and national support schemes, especially for vulnerable consumers. **The Implementing Act should ensure that individual and nationally shaped circumstances can still be taken into account by Member States for calculating reasonable affordability standards for each market.**

Justification

BREKO regards the proposed empowerment of the Commission to adopt implementing acts for specifying affordability criteria with certain skepticism. While this may contribute to EU-wide harmonisation, it simultaneously raises concerns regarding an extensive centralisation of standard-setting. In particular, it remains questionable whether the individual economic circumstances of the person concerned will continue to be sufficiently taken into account. Under the previous interpretation of the EECC, factors such as disposable net household income and an individual's actual financial capacity played an important role. A more standardised EU-wide determination of affordability criteria could shift attention away from such individual and nationally shaped considerations.

We therefore call on the Commission to allow Member States a certain degree of flexibility so that they can take national circumstances into account when calculating what constitutes reasonable affordability.

Text proposed by the Commission	*BREKO proposal for Amendment*
Recital 236	
Where a Member State requires providers to offer to consumers with a low income or special	~~Where a Member State requires providers to offer to consumers with a low income or special social needs tariff options or packages~~

social needs tariff options or packages different from those provided under normal commercial conditions, those tariff options or packages should be provided by all providers of internet access and voice communications services., Requiring all providers of internet access and voice communications services to offer tariff options or packages should not result in excessive administrative or financial burden for those providers or Member States.	~~different from those provided under normal commercial conditions, those tariff options or packages should be provided by all providers of internet access and voice communications services. Requiring all providers of internet access and voice communications services to offer tariff options or packages should not result in excessive administrative or financial burden for those providers or Member States.~~

Justification

BREKO views the obligation referred to in recital 236 and imposed on all providers to offer specific tariff options or bundles with large criticism. While the recital states that this obligation should not create excessive administrative or financial burdens, it remains unclear whether this assumption will remain sustainable in light of potential future expansions of the scope of underlying services. If the range of services considered necessary continues to expand, providers may face increasing uncertainty regarding the long-term structure and economic viability of such tariff models. This could negatively affect planning certainty, investment certainty, and legal certainty. We therefore suggest deleting the recital completely and adjusting the wording in the respective Article 88 (3) (see below).

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 87 Universal service	
5. All consumers in the Union shall be entitled to have access to an affordable and adequate internet access service and to voice communications services at the quality specified in their territories, at a fixed location.	5. All consumers in the Union shall be entitled to have access to an affordable and adequate internet access service and to voice communications services at the quality specified in their territories, at a fixed location. **In addition, Member States may also ensure the affordability of the services referred to in paragraph 1 that are not provided at a fixed location where they consider this to be necessary to ensure consumers' full social and economic participation in society.**

Justification

Even though, recital 230 states, that there should be no limitations on the technical means by which the adequate internet service access and voice communications services at a fixed location are provided, allowing for wired or wireless technologies in a technologically neutral way, the removal of the former Article 84 (2) EECC leaves room for interpretation whether mobile services as well as satellite services remain adequate in order to fulfill the Universal service provisions. Since mobile and satellite solutions are often used to provide universal services at short notice, those technologies should clearly remain within the scope of the Article.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 88 Provision of affordable universal service	
4. Where Member States establish that, in light of national conditions, retail prices for the services referred to in Article 87(1) are not affordable, because consumers with low income or special social needs are prevented from accessing such services, they shall take measures to ensure affordability for such consumers of adequate internet access service and voice communications services at least at a fixed location. 5. Where Member States decide to require tariff options or packages, these shall be offered by all providers. These offers shall be easily accessible to consumers with low income or special social needs. National regulatory authorities in coordination with other competent authorities shall ensure, where applicable, that the conditions under which undertakings provide tariff options or packages are fully transparent and are published and applied in accordance with the principles of non-discrimination and efficiency.	2. Where Member States establish that, in light of national conditions, retail prices for the services referred to in Article 87(1) are not affordable, because consumers with low income or special social needs are prevented from accessing such services, they shall ~~take measures~~ **provide those consumers with direct support for communication purposes, which could be part of social allowances, vouchers, or direct payments to those consumers** to ensure affordability for such consumers of adequate internet access service and voice communications services at least at a fixed location. Member States may further use public financial support to cover some or all the specific net costs incurred in discharging the universal service obligations. 3. Where Member States decide to require tariff options or packages, these shall be offered by ~~all~~ providers **of such services**. These offers shall be easily accessible to consumers with low income or special social needs. National regulatory authorities in coordination with other competent authorities shall ensure, where applicable, that the conditions under which undertakings provide tariff options or packages are fully transparent and are published and applied in accordance with the principles of non-discrimination and efficiency.

Justification

We'd like to highlight the importance of public policy tools referred to in Article 90 but also social policy tools as social allowances, vouchers or direct payments to consumers with special social needs or low income to be provided by Member States. Although recitals 234 and 235 highlight the importance of those state social assistance funds, it is not included in Article 88. Recitals 234 and 235 state correctly that social protection for low-income consumers should primarily be provided through existing social welfare systems rather than through far-reaching interventions in market structures. Targeted support mechanisms are generally more precise and less distortive to markets. Furthermore, such mechanisms reflect established practice in other areas of social support, such as electricity and gas supply, where social burdens are primarily addressed through welfare and compensation mechanisms rather than through structural interventions in price formation. We therefore suggest to explicitly mention those tools in the respective Article.

We further welcome the explicit mentioned possibility of financing through public funds in recital 237. Where universal service obligations create specific net costs, public funding appears to be an appropriate instrument for compensating additional financial and administrative burdens on individual market participants. This can help avoid distortions of competition and ensure that socially desirable obligations are supported through a broader funding base.

Furthermore, unlike the previous requirement in the EECC, Article 88 (3) provides that tariff options for consumers with low income or special social needs shall be offered by all providers adequate internet access and voice communications services, if Member States should decide that the respective tariffs are required.

BREKO views the obligation referred to in Article 88 (3) DNA and in recital 236 and imposed on all providers to offer specific tariff options or bundles with large criticism. While the recital states that this obligation should not create excessive administrative or financial burdens, it remains unclear whether this assumption will remain sustainable in light of potential future expansions of the scope of underlying services. If the range of services considered necessary continues to expand, providers may face increasing uncertainty regarding the long-term structure and economic viability of such tariff models. This could negatively affect planning certainty, investment certainty, and legal certainty. From BREKO's point of view, Member States should be able to decide whether the respective tariffs should only be offered by certain providers and not automatically be imposed on all providers.

TITLE III – End-User Rights

Chapter I – Rights of Consumers (Articles 95-99)

The implementation of end-user rights regulations has diverged massively across the European Union. Germany, in particular, has in many cases gone beyond the requirements of European regulations f. ex. by making product information sheets obligatory in addition to transparent information provided on the respective websites directly. This is only one example for a requirement, creating rather a bureaucratic burden than providing user-friendly assistance.

We therefore highly welcome the Commission's approach to fully harmonise provisions on end-user rights, such as streamlining of contractual information and aligning the provision of best-tariff information with the moment of automatic contract renewal instead of requiring it annually.

In order to achieve the greatest possible harmonization and streamlining, we suggest introducing a **separate Article 99a** providing that Member States may not deviate from any provision on end-user rights of the DNA, rather than including this provision in each individual Article.

We further suggest refraining from reiterating earlier or constantly on service-websites provided information f. ex. on contract termination options multiple times and to refrain from provisions with lack of benefit for the costumer while creating significant additional burden for providers such as the current request to explicitly draw costumers attention to and explain how to download contract documents. Refraining from those obligations would limit the necessary consumer communication to meaningful and relevant points in time, reduce administrative burden, and provide greater clarity for end-users.

We see further necessary adjustments concerning special rights for microenterprises, small and medium-sized enterprises or not-for-profit organisations (see text below).

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 95 Information requirements for contracts	
1. Before a consumer is bound by a contract or any corresponding offer, and in addition to requirements pursuant to Directive 2011/83/EU, providers of internet access services or of publicly available interpersonal communications services shall provide the information listed in Annex III of this Regulation to the extent that that information relates to a service they provide. The information shall be provided in a clear and comprehensible manner on a durable medium as defined in Article 2, point (10), of Directive 2011/83/EU or, where provision on a durable medium is not feasible, in an easily downloadable document made available by the provider. The provider shall expressly draw the consumer's attention to the availability of that document and the importance of downloading it for the purposes of documentation, future reference and unchanged reproduction. The information shall, upon request, be provided in an accessible format for end-users with disabilities in accordance with the accessibility requirements of Annex I to Directive (EU) 2019/882. […] 7. Member States shall not maintain or introduce in their national law consumer protection provisions diverging from this Article, including more or less stringent provisions to ensure a different level of protection. This is without prejudice to the right of Member States to maintain provisions on additional facilities under Directive (EU) 2018/1972.	1. Before a consumer is bound by a contract or any corresponding offer, and in addition to requirements pursuant to Directive 2011/83/EU, providers of internet access services or of publicly available interpersonal communications services shall provide the information listed in Annex III of this Regulation to the extent that that information relates to a service they provide. The information shall be provided in a clear and comprehensible manner on a durable medium as defined in Article 2, point (10), of Directive 2011/83/EU or, where provision on a durable medium is not feasible, in an easily downloadable document made available by the provider. ~~The provider shall expressly draw the consumer's attention to the availability of that document and the importance of downloading it for the purposes of documentation, future reference and unchanged reproduction.~~ The information shall, upon request, be provided in an accessible format for end-users with disabilities in accordance with the accessibility requirements of Annex I to Directive (EU) 2019/882. […] ~~7. Member States shall not maintain or introduce in their national law consumer protection provisions diverging from this Article, including more or less stringent provisions to ensure a different level of protection. This is without prejudice to the right of Member States to maintain provisions on additional facilities under Directive (EU) 2018/1972.~~

Justification
The obligations under Article 95(1) must not go beyond the obligations currently in force. Including an obligation for providers to expressly draw consumers attention to the availability of the document and the importance of downloading it for the purpose of documentation instead of simply providing the document for download as is already common practice, would exceed the reasonable requirements and create unnecessary additional bureaucratic burden. The provision of the documents themselves for download is enough and shouldn't be supplemented by the additional requirements as stated in the paragraph. We therefore call for a deletion of this respective sentence.   In general, we support the content of paragraph 7 stating that "Member States shall not maintain or introduce in their national law consumer protection provisions diverging from this Article, including more or less stringent provisions to ensure a different level of protection" (e.g. in Article 95(7) and Article 98(4) DNA). Nevertheless, from our point of view, it should be removed from the individual provisions and rather consolidated in a central provision at the end of the chapter on end-user-rights.   In line with the 'rule-exception' principle, the DNA should establish the general binding nature of this principle for all provisions.   **Suggestion for "Article 99a" DNA:**   **Member States shall not maintain or introduce in their national law consumer protection provisions diverging from Articles 95 to 99 (Rights of Consumers), including more or less stringent provisions to ensure a different level of protection, unless an exception is explicitly provided for in a specific Article.**   The sentence "This is without prejudice to the right of Member States to maintain provisions on additional facilities under Directive (EU) 2018/1972." should be deleted without replacement.   To ensure maximum harmonisation, the permission for Member States to introduce additional provisions for additional facilities pursuant to the EECC should be deleted. Retaining this provision would undermine the objective of the DNA, namely full harmonisation at the EU level.   Full harmonization at the EU level reduces bureaucratic barriers and facilitates cross-border trade for businesses. In particular, small and medium-sized enterprises benefit from lower costs and reduced legal uncertainty.   Full harmonisation would provide both businesses and consumers with greater clarity and legal certainty. Businesses would be able to operate under one coherent set of rules across the EU, reducing compliance costs and facilitating innovation, scaling and cross-border market entry. Consumers would benefit from a consistent level of protection throughout the internal market, strengthening trust in cross-border purchases. At the same time, full harmonisation would limit legal fragmentation, support more effective enforcement and avoid additional national requirements that create complexity and costs without clear added value.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 96 Transparency	
(2) Member States shall not maintain or introduce in their national law end-user protection provisions diverging from this	~~(2) Member States shall not maintain or introduce in their national law end-user protection provisions diverging from this~~

Article, including more or less stringent provisions to ensure a different level of protection.	~~Article, including more or less stringent provisions to ensure a different level of protection.~~
Justification Instead of implementing the prohibition of deviating from the DNA's provisions in every single Article, we suggest the implementation of a general binding rule in Article 99a in line with the 'rule-exception' principle.	

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 97 **Contract duration and termination**	
(2) Where a contract or national law provides for automatic prolongation of a fixed duration contract for electronic communications services other than number-independent interpersonal communications services and other than transmission services used for the provision of machine-to-machine services, consumers are entitled, after such prolongation, to terminate the contract at any time with a maximum one-month notice period and without incurring any costs except the charges for receiving the service during the notice period. Before the contract is automatically prolonged, providers shall inform the consumers in a prominent and timely manner and on a durable medium, of the end of the contractual commitment and of the means by which to terminate the contract. In addition, and at the same time, providers shall give consumers best tariff advice relating to their services. […] (6) Member States shall not maintain or introduce in their national law end-user protection provisions diverging from this Article, including more or less stringent provisions to ensure a different level of protection. This is without prejudice to the right of Member States to maintain provisions referred to in paragraph 1.	(2) Where a contract or national law provides for automatic prolongation of a fixed duration contract for electronic communications services other than number-independent interpersonal communications services and other than transmission services used for the provision of machine-to-machine services, consumers are entitled, after such prolongation, to terminate the contract at any time with a maximum one-month notice period and without incurring any costs except the charges for receiving the service during the notice period. Before the contract is automatically prolonged, providers shall inform the consumers in a prominent and timely manner and on a durable medium, of the end of the contractual commitment ~~and of the means by which to terminate the contract. In addition, and at the same time, providers shall give consumers best tariff advice relating to their services.~~ […] ~~(6) Member States shall not maintain or introduce in their national law end-user protection provisions diverging from this Article, including more or less stringent provisions to ensure a different level of protection. This is without prejudice to the right of Member States to maintain provisions referred to in paragraph 1.~~

Justification
The obligations under Article 97(2) must not go beyond the obligations currently in force. Section 97(2) must not result in providers being required to keep documents permanently available for customer access. Further, providers should not be required to reiterate the options for terminating a contract prior to automatic renewal that were already communicated at the time the contract was concluded or available on providers' websites. The statement in Article 97(2) DNA, "In addition, and at the same time, providers shall give consumers best tariff advice relating to their services," should be deleted. The term "best tariff" is overly vague and inherently dependent on subjective assessment in the individual case of a user. Providing even a reasonably reliable recommendation of the "best tariff" would require the collection and analysis of user data. Such data processing is likely to conflict with fundamental data protection principles. Instead of implementing the prohibition of deviating from the DNA's provisions in every single Article, we suggest the implementation of a general binding rule in Article 99a in line with the 'rule-exception' principle.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 98 **Bundled offers**	
(4) Member States shall not maintain or introduce in their national law end-user protection provisions diverging from this Article, including more or less stringent provisions to ensure a different level of protection.	~~(4) Member States shall not maintain or introduce in their national law end-user protection provisions diverging from this Article, including more or less stringent provisions to ensure a different level of protection.~~
Justification Instead of implementing the prohibition of deviating from the DNA's provisions in every single Article, we suggest the implementation of a general binding rule in Article 99a in line with the 'rule-exception' principle.	

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 99 **Rights for microenterprises, small and medium-sized enterprises or not-for-profit organisations**	
Article 95, Article 97(1), Article 98(1) and Article 98(3) shall also apply to end-users that are microenterprises or not-for-profit organisations, unless they have explicitly agreed to waive all or parts of rights laid down in those provisions. Article 97(2), Article 97(3) and	~~Article 95, Article 97(1), Article 98(1) and Article 98(3) shall also apply to end-users that are microenterprises or not-for-profit organisations, unless they have explicitly agreed to waive all or parts of rights laid down in those provisions. Article 97(2), Article 97(3)~~

Article 97(5) shall also apply to end-users that are microenterprises, small and medium-sized enterprises or not-for-profit organisations, unless they have explicitly agreed to waive all or parts of the rights laid down in those provisions.	~~and Article 97(5) shall also apply to end-users that are microenterprises, small and medium-sized enterprises or not-for-profit organisations, unless they have explicitly agreed to waive all or parts of the rights laid down in those provisions.~~

Justification

Article 99 provides that certain end-user rights provisions may also be applied to microenterprises, small and medium-sized enterprises and not-for-profit organisations unless they have explicitly agreed to waive all or parts of rights laid down in those provisions.

While it is understandable that microenterprises should be protected from excessive administrative burdens, it is not evident why they should be treated as private consumers rather than business customers in telecommunications contract law. No analogous provision exists, for example, for the conclusion of energy supply contracts. It is therefore unclear why such an alignment should be introduced specifically in telecommunications law.

Moreover, practical experience shows that microenterprises, SMEs and not-for-profit organisations generally agree to waive these special provisions. The additional inquiry, however, creates considerable bureaucratic effort on both sides. Article 99 should therefore be deleted accordingly.

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 99a **Maximum harmonization of Consumer Rights**	
/	**Member States shall not maintain or introduce in their national law consumer protection provisions diverging from Articles 95 to 99 (Rights of Consumers), including more or less stringent provisions to ensure a different level of protection, unless an exception is explicitly provided for in a specific Article.**

Justification

Full harmonisation of consumer protection rights can only fully realise its benefits if it is consistently enforced across all areas. This is the objective pursued by the DNA. Accordingly, it would be consistent not to regulate the prohibition for Member States to deviate from the provisions of the DNA in individual articles, but rather in a general, separate article applicable to the entire chapter. Such an article could be worded as proposed above.

Part VIII: General and final provisions

TITLE I – PROVISION OF INFORMATION, SURVEYS AND CONSULTATION MECHANISM (Art. 181-185)

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 181 **Provision of information**	
4. The national regulatory authority where networks and services are provided may request the competent authority designated pursuant to the Cybersecurity Act which is to replace Regulation (EU) 2019/881 , to verify the compliance with the ICT supply chain security requirements and share the findings when such verification is necessary for the purposes of assessing the compliance with general authorisation conditions pursuant to Article 9(4), point d) and Article 20.	4. The national regulatory authority where networks and services are provided may request the competent authority designated pursuant to ~~the Cybersecurity Act which is to replace Regulation (EU) 2019/881~~ **existing national and European regulations**, to verify the compliance with the ICT supply chain security requirements and share the findings when such verification is necessary for the purposes of assessing the compliance with general authorisation conditions pursuant to Article 9(4), point d) and Article 20. (d) to comply with cybersecurity rules~~.~~
Justification	
The current draft of the DNA refers in several places to the Cybersecurity Act (CSA) – which is expected to be replaced by the Cybersecurity Act 2 (CSA 2) – as well as to specific ICT supply chain security requirements. Since both reference frameworks have not yet been formally implemented, a regulatory dependency is created. The ratification of the DNA is already a highly complex challenge given the heterogeneous conditions across Member States; linking it to regulatory instruments that are not yet finalized, jeopardises the timely completion of the process. We therefore propose removing the specific references to the CSA/CSA 2 and the ICT supply chain security requirements from the DNA and rather refer to the existing national and European regulations. This would allow for swift implementation of the DNA, independent of the progress made on other regulatory initiatives.	

TITLE IV – Ecosystem Cooperation (Art. 191-193)

Title IV, setting out provisions for the facilitation of ecosystem cooperation opens up the possibility of voluntary conciliation mechanisms. According to recital 405, this measure is seen to be appropriate in order to promote effective cooperation between providers of electronic communications networks or closely related sectors and to facilitate dialogue on technical and commercial arrangements.

BREKO believes that the introduction of a voluntary conciliation mechanism in Article 192, explicitly including dialogue on commercial arrangements, reopens the debate on the “fair share” of network expansion costs. Since the liberalization of the telecommunications markets, the EU Commission has been committed to ensuring that all market players have the same rights and opportunities - this must be maintained at all costs. Bilateral payment agreements entail the risk of indirectly financing network deployment that benefits only the "large telcos" and thereby leads to a distortion of competition. In BREKO's view the risk that payments will only benefit larger companies and do not benefit all companies investing in fiber optic networks proportionally is too large. Furthermore, we see that the provisions could compromise net neutrality as a central basic principle pf the free Internet and the EU's Open Internet guidelines.

Therefore, we suggest deleting Articles 191 – 193 completely.

TITLE V – Compliance and Right of Appeal

Text proposed by the Commission	*BREKO proposal for Amendment*
Article 195 **Restriction of withdrawal of rights**	
1. Competent authorities may restrict or withdraw rights of use for radio spectrum, other than those granted for an indefinite period of time, where needed to ensure efficient and effective use of radio spectrum, or the implementation of the technical harmonisation measures adopted under Article 4 of Decision No 676/2002/EC. Any such decision shall be based on pre-established and clearly defined procedures under national law, in accordance with the principles of proportionality and non-discrimination. Where rights of use have been assigned for a specific duration, unless provided otherwise at the time of the granting of the right, the holders of the rights shall have the right to be compensated appropriately for the direct cost of migration or reallocation of radio spectrum in accordance with national law.	1. Competent authorities may restrict or withdraw rights of use for radio spectrum, ~~other than those granted for an indefinite period of time~~, where needed to ensure efficient and effective use of radio spectrum, or the implementation of the technical harmonisation measures adopted under Article 4 of Decision No 676/2002/EC. Any such decision shall be based on pre-established and clearly defined procedures under national law, in accordance with the principles of proportionality and non-discrimination. Where rights of use have been assigned for a specific duration, unless provided otherwise at the time of the granting of the right, the holders of the rights shall have the right to be compensated appropriately for the direct cost of migration or reallocation of radio spectrum in accordance with national law.
Justification In light of the potential risk of sacrificing a very important degree of competition, we ask for an alteration of Article 195(2), so that competent authorities will still have the power and right to restrict or withdraw any rights of use for radio spectrum – also those granted for an indefinite period of time. Taking this option away from the authorities would be particularly disastrous in the case of frequencies allocated for an indefinite period and would severely curtail the scope for maintaining competition.	

BREKO is registered in the lobby register (R002215) for the representation of interests vis-à-vis the German Bundestag and the Federal Government and in the European Transparency Register (028570718529-43) for the representation of interests vis-à-vis the EU institutions.