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from: General Secretariat
to: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council on guidelines for trans-European telecommunications networks and repealing Decision No1336/97/EC
- Outcome of the European Parliament's first reading
(Strasbourg, 24 to 27 February 2014)

I. INTRODUCTION

The Rapporteur, Mr. Evžen Tošenovský (ECR, CZ) presented a report on the proposal for a Regulation on behalf of the Committee on Industry, Research and Energy. The report contained 57 amendments (amendments 1 - 57) to the proposal for a Regulation.

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the Committee presented one additional amendment (amendment 58) to the proposal for a Regulation. This amendment had been agreed during the informal contacts referred to above and were consequently intended to replace amendment 1-57 previously voted by the Committee.

II. VOTE

When it voted on 26 February 2014, the plenary adopted amendment 58 to the proposal for a Regulation. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

Trans-European telecommunications networks *I**

European Parliament legislative resolution of 26 February 2014 on the proposal for a regulation of the European Parliament and of the Council on guidelines for trans-European telecommunications networks and repealing Decision No 1336/97/EC (COM(2013)0329 – C7-0149/2013 – 2011/0299(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0657), and the amended proposal (COM (2013)0329),
 - having regard to Article 294(2) and Article 172 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0149/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 22 February 2012¹,
 - having regard to the opinion of the Committee of the Regions of 4 May 2012²,
 - having regard to the undertaking given by the Council representative by letter of 15 November 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on the Environment, Public Health and Food Safety, the Committee on the Internal Market and Consumer Protection, the Committee on Regional Development and the Committee on Culture and Education (A7-0272/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 143, 22.5.2012, p. 120.

² OJ C 225, 27.7.2012, p. 211.

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Position of the European Parliament adopted at first reading on 26 February 2014 with a view to the adoption of Regulation (EU) No .../2014 of the European Parliament and of the Council on guidelines for trans-European *networks in the area of telecommunications infrastructure* and repealing Decision No 1336/97/EC

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

Whereas:

- (1) Telecommunications networks and services are increasingly becoming internet-based infrastructures, with broadband networks and digital services closely interrelated. The internet is becoming the dominant platform for communication, services, **education, participation in social and political life, cultural content, and** business. Therefore, the trans-European availability of **widespread, high-speed, secure** internet access and digital services in the public interest is essential for **social and** economic growth, **competitiveness, social inclusion** and the internal market.
- (2) On 17 June 2010, the European Council endorsed the Commission communication of 26 August 2010 on a Digital Agenda for Europe, which aims to chart a course to maximise the social and economic potential of information and communication technologies. It seeks to stimulate supply and demand of competitive high-speed internet infrastructure and internet-based digital services with a view to advancing towards a true Digital Single Market, which is essential for smart, sustainable and inclusive growth.

¹ OJ C [...], [...], p. [...].

² OJ C 356, 5.12.2013, p. 116.

³ Position of the European Parliament of 26 February 2014.


- (3) Regulation (EU) No 1316/2013 of the European Parliament and of the Council¹ determines the conditions, methods and procedures for providing Union financial assistance to trans-European networks in the sectors of transport, telecommunications and energy infrastructures. Given that there are similar challenges and opportunities in the sectors covered by the Connecting Europe Facility (CEF), there is significant scope for exploiting synergies, including by combining CEF funding with other sources of funding.
- (4) A large number of cross-border digital services implementing exchanges between European public administrations in support of Union policies are a reality. When providing new solutions, it is important to capitalise on existing solutions implemented in the context of other European initiatives, avoid duplication of work, and ensure coordination and alignment of approaches and solutions across initiatives and policies, such as for instance the ISA programme established by Decision No 922/2009/EC of the European Parliament and of the Council², the Fiscalis programme established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council³ and Horizon 2020 established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council⁴. Similarly, it is important that solutions comply with agreed *international and/or European standards or with open specifications for interoperability, particularly those*

¹ Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129).

² Decision No 922/2009/EC of the European Parliament and of the Council² of 16 September 2009 on interoperability solutions for European public administrations (ISA) (OJ L 260, 3.10.2009, p. 20),

³ Regulation (EU) No 1286/2013 of the European Parliament and of the Council³ of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC (OJ L 347, 20.12.2013, p. 25).

⁴ Regulation (EU) No 1291/2013 of the European Parliament and of the Council⁴ of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

identified by the Commission in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council¹, and other relevant specifications and orientations, such as the European Interoperability Framework for European public services (EIF) .

¹ Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

- (5) *The development of high-speed broadband networks will benefit from European technical standards. Union research and development programmes and increased monitoring of standardisation procedures are needed if the Union is to play a pivotal role in the telecommunications industry.*
- (6) Large scale pilot projects between Member States and co-financed by the Competitiveness and Innovation Programme¹, such as PEPPOL, STORK, epSOS, eCODEX or SPOCS, have validated key cross-border digital services in the internal market, based on common building blocks, *which are being consolidated by the project eSENS*. Those pilot projects have already reached or will in the near future reach the maturity level required for deployment. Existing projects of common interest have already demonstrated the clear added value of action at European level, such as in the fields of cultural heritage (Europeana), child protection (Safer Internet), social security (EESSI), while others such as in the field of consumer protection (ODR) have been proposed.
- (7) With regard to digital service infrastructures, building blocks *should* take priority over other digital service infrastructures, since the former are a pre-condition for the *latter*. Digital service infrastructures should, inter alia, create European added value and meet proven needs. They should be sufficiently mature for deployment, technically as well as operationally, as proven in particular through successful piloting. They should be based on a concrete sustainability plan to ensure the *medium to* long-term operation of core service platforms beyond the CEF. Financial assistance under this Regulation should therefore, wherever possible, be phased out over time and funding from sources other than the CEF should be mobilised, *where appropriate*.
- (8) It is important that digital service infrastructures that are necessary to meet legal obligations under Union law and/or are developing or providing building blocks, with a potential high impact on the development of pan-European public services, *be funded* so as to support multiple digital service infrastructures and, over time, gradually build up a European interoperability ecosystem. In this context, legal obligations mean specific

¹ Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15).

provisions requiring either developing or using digital service infrastructures, or requiring results which can only be achieved through European digital service infrastructures.

- (9) *As well-established digital service infrastructure, Europeana and Safer Internet for Children should have priority for funding. In particular, the continuity in Union funding from other Union programmes to CEF should be ensured in the first years of the multiannual financial framework for the period 2014-2020 laid down in Council Regulation (EU, Euratom) No 1311/2013¹ in order to allow for uninterrupted and successful delivery of service at the same level as provided for under the current funding scheme. On 10 May 2012, the Council underlined the vital importance of ensuring the long-term viability of Europeana, including in terms of governance and funding.²*
- (10) *A safe, inclusive and positive online environment for children and young people should be ensured. As a crucial measure to protect and promote children's rights in the online environment, the functioning of the Safer Internet Program should be ensured after 2014. By implementing this Regulation, the implementation of the European Strategy for a Better Internet for Children at Union as well as at Member State level should be financially supported, in particular as regards Safer Internet Centres (SICs) in the Member States. Activities of SICs, including awareness nodes and other awareness-raising activities, helplines for children, parents and carers on the best means for children to use the Internet, as well as hotlines for reporting child sexual abuse content on the Internet, are a key element and prerequisite for the success of that strategy.*

¹ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

² *OJ C 169, 15.6.2012, p. 5.*

- (11) *A future legal act of the Union on electronic identification and trust services for electronic transactions in the internal market is to determine the detailed requirements and conditions for the mutual recognition of key enablers, referred to hereinafter as the building blocks of the digital service infrastructures. That act will cover several of the most important building blocks, for example electronic identification and electronic signature as part of the projects of common interest set out in the Annex to this Regulation.*
- (12) Digital service infrastructures implemented in accordance with Decision 922/2009/EC¹ will facilitate the electronic cross-border and cross-sector interaction between European public administrations. This, in turn, will enable the provision of essential services in, inter alia, areas such as electronic identification *and authentication* and procurement, cross-border interconnection of business registers, interoperable electronic cross-border health services, as well as cross-border cooperation on cyber security, thereby contributing to the Digital Single Market. Such interaction between administrations will be achieved through the creation and/or enhancement of interoperable core service platforms, built on existing common building blocks and/or providing additional building blocks essential for the development of other core service platforms, and related generic services linking national infrastructures to core service platforms to deliver cross-border digital services.

- (13) Member States should encourage local and regional authorities to be fully and effectively involved in the governance of digital service infrastructures, and ensure that projects of common interest relating to cross-border delivery of eGovernment services take into account the EIF recommendations.
- (14) In its resolution of 6 July 2011 on European Broadband: investing in digitally driven growth¹, the European Parliament emphasised that broadband services are key to the competitiveness of Union industry and greatly contribute to Union economic growth, social cohesion and the creation of quality employment. *Investment in state-of-the-art and future-proof technology is crucial if the Union is to be home to innovation, knowledge and services.*
- (15) *A European market with nearly 500 million people connected to high-speed broadband would act as a spearhead for the development of the internal market, creating a globally unique critical mass of users exposing all regions to new opportunities and giving each user increased value, as well as giving the Union the capacity to be a world-leading knowledge-based economy. A rapid deployment of high-speed broadband networks is crucial for the development of Union productivity and for the emergence of new and small enterprises that can be leaders in different sectors such as health care, manufacturing and the service industries.*

¹ OJ C 33 E, 5.2.2013, p. 89.

- (16) *The combination of new opportunities in infrastructure and new, innovative and interoperable services should set in motion a virtuous circle by stimulating increasing demand for high-speed broadband to which, in commercial terms, it would be advisable to respond.*
- (17) The Digital Agenda for Europe stipulates that by 2020 all Europeans should have access to internet speeds of above 30 Mbps and 50 % or more of European households should subscribe to internet connections above 100 Mbps.
- (18) *Given the rapid development of digital services and applications demanding ever faster internet connections and the rapid evolution of state-of-the-art technologies allowing it, it is appropriate in the framework of an evaluation of the Digital Agenda for Europe to consider the revision of broadband targets for 2020 so as to ensure that the Union has competitive broadband speeds when compared to other economies in the world.*
- (19) *Part of the broadband projects should demonstrate higher ambitions, aiming at higher speeds and thus serve as pilot projects for faster connectivity and models with potential for replicability.*

- (20) *In its resolution of 12 September 2013 on the Digital Agenda for Growth, Mobility and Employment, time to move up a gear, the European Parliament emphasised that a revised forward-looking Digital Agenda for Europe target for 2020 is to connect all Union households with broadband connections delivering 100 Mbps, with 50 % of households subscribing to 1 Gbps or more.*
- (21) The private sector should play *the* leading role in rolling out and modernising broadband networks, supported by a competitive and investment-friendly regulatory framework. Where private investment falls short, Member States *should* make the necessary efforts to achieve the targets of the Digital Agenda for Europe. Public financial assistance to broadband should be limited to programmes or initiatives targeting projects which cannot be solely financed by the private sector, confirmed by an ex-ante assessment identifying market *failures* or sub-optimal investment situations, *in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council*¹.

¹ *Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).*

- (22) Financial instruments for broadband networks are not to unduly distort competition, crowd out private investments or create disincentives for private operators to invest. In particular, they are to be in compliance with Articles 101, 102, 106 and 107 of the Treaty on the Functioning of the European Union (TFEU) *as well as, if relevant, with the EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks.*
- (23) *Public funding for broadband networks is to be spent solely on infrastructures which comply with the applicable law, in particular with competition law, and with access obligations in accordance with Directive 2002/19/EC of the European Parliament and of the Council¹.*
- (24) Since the financial resources available under CEF are limited, financial assistance should focus on the establishment of financing mechanisms at Union level to attract additional investments, promote a multiplier effect, and so facilitate the efficient use of private and other public funds for investment. This approach allows for contributions from business and institutional players well beyond the funding levels directly eligible through CEF.

¹ *Directive 2002/19/EC of the European Parliament and of the Council¹ of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.4.2002, p. 7).*

- (25) *In view of limited financial resources under CEF and in order to ensure appropriate funding for digital service infrastructures, the total budgetary allocation to broadband should not exceed the minimum amount necessary to establish a cost-efficient intervention, which should be determined by an ex-ante assessment taking into account, inter alia, the type of envisaged financial instruments, potential leverage effect for the minimum efficient project portfolio, and market conditions.*
- (26) The CEF support to broadband deployment should complement assistance provided under other Union programmes and initiatives, including the European Structural and Investment Funds (ESI Funds), in cases where an ex-ante assessment identifies market failures or sub-optimal investment situations and where so decided by managing authorities. CEF financial assistance to broadband deployment should contribute to Member States' efforts both directly and by providing an investment vehicle for voluntary, ring-fenced contributions from other sources, including ESI Funds, thus allowing Member States to take advantage of the know-how and scale-effects of Union-managed facilities with a view to increasing the efficiency of public spending.

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

(28) The Union may support the deployment of broadband networks contributing to the objectives of the Digital Agenda for Europe in all types of areas. *The reduction of the digital divide and the increase in digital inclusion are important objectives of the Digital Agenda for Europe. All the Union's actions in the field of broadband should therefore address the special needs of suburban, rural, and in particular sparsely populated and less developed regions, which need to be served with connections.* This includes the deployment of broadband networks to link islands, landlocked, mountainous, remote and peripheral regions, including island Member States, with the central regions of the Union and/or actions to improve the reliability or performance of connections between such regions and central regions of the Union.

- (29) *In order to complete the Digital Single Market, compatibility between the CEF and national and regional broadband actions should be encouraged.*
- (30) In implementing this Regulation, the forms of financial assistance should be aligned with the characteristics of the actions in question. Thus, in the field of digital service infrastructures, core service platforms which cannot be funded from other sources should be prioritised for funding in the form of procurement or, exceptionally, grants, while generic services should be given only limited financial assistance from the CEF. Furthermore, any financial assistance from the CEF should aim at efficient use of the Union's funds and, therefore, broadband networks should be supported by financial instruments, which ensure a higher leverage effect than grants.
- (31) Intervention under this Regulation should aim at achieving synergies and interoperability between the different projects of common interest described in the Annex, as well as with other infrastructures, including transport and energy infrastructures supported by the CEF, relevant research infrastructures supported, inter alia, by Horizon 2020 and relevant infrastructures supported by ESI Funds, while avoiding duplication and undue administrative burdens.

- (32) Financial assistance to projects of common interest should be complemented by horizontal actions, including technical assistance, demand stimulation measures and coordination, which should aim to maximise the impact of Union intervention.
- (33) When committing funds to intervention in broadband networks, the Commission should take due account of the results of the evaluations of existing Union financial instruments.
- (34) ■ The Commission should be assisted by an Expert Group of representatives of *all* Member States which *should* be consulted on and contribute to, inter alia, monitoring of the implementation of this Regulation, planning, evaluation and addressing implementation problems.
- (35) *The Expert Group should also cooperate with those entities involved in the implementation of this Regulation, such as local and regional authorities, internet access providers, public network administrators and component manufacturers as well as national regulatory authorities and the Body of European Regulators for Electronic Communications (BEREC), established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council¹.*

¹ Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (OJ L 337, 18.12.2009, p.1).

- (36) *Regulation (EU) No 1316/2013 establishes the CEF Coordination Committee, which is also a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council¹. Regulation (EU) No 1316/2013 also confers upon the Commission the powers to adopt in accordance with the examination procedure annual and multiannual work programmes, including in the telecommunications sector, the latter being subject to this Regulation . It is important to clarify in this regard that Member States, when discussing issues related to this Regulation, in particular draft annual and multiannual work programmes, should be represented in the CEF Coordination Committee by experts in the telecommunications infrastructure sector.*
- (37) *Since the objectives of this Regulation, in particular the coordinated development of the trans-European networks in the area of telecommunications infrastructure, cannot be sufficiently achieved by the Member States but can rather, by reason of the cross-border character of the supported infrastructures, and effects on the entire territory of the Union, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.*
- (38) *In order to support projects of common interest in the sectors of transport, telecommunications and energy infrastructures, Regulation (EU) No 1316/2013 determines the conditions, methods and procedures for providing Union financial assistance to trans-European networks. It also establishes the breakdown of the resources to be available under Regulation (EU, Euratom) No 1311/2013 in all three sectors.Regulation (EU) No 1316/2013 is applicable from 1 January 2014. It is thus appropriate to align the application of this Regulation with the application of Regulation (EU) No 1316/2013 and with Regulation (EU, Euratom) No 1311/2013 Therefore, this Regulation should apply from 1 January 2014.*

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (*OJ L 55, 28.2.2011, p. 13*).

(39) *Decision No 1336/97/EC of the European Parliament and of the Council¹ should be repealed,*

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

1. This Regulation lays down guidelines for the timely deployment and interoperability of projects of common interest in the field of trans-European *networks in the area of telecommunications infrastructure*.

¹ Decision No 1336/97/EC of the European Parliament and of the Council of 17 June 1997 on a series of guidelines for trans-European telecommunications networks (*OJ L 183, 11.7.1997, p. 12*).

2. In particular, this Regulation provides for:
- (a) the objectives *and operational priorities of projects of common interest*;
 - (b) *the identification of* projects of common interest;
 - (c) the *criteria* according to which *actions contributing to* projects of common interest *shall* be eligible for Union financial assistance in accordance with Regulation (EU) No 1316/2013 in their development, implementation, deployment, interconnection, and interoperability;
 - (d) ■ priorities for *funding for* projects of common interest ■ .

■

Article 2

Definitions

1. For the purposes of this Regulation, the definitions set out in Article 2 of Regulation (EU) No 1316/2013 shall apply. ■

2. **For the purposes of this Regulation and of Regulation (EU) No 1316/2013, the** following definitions shall also apply:

- (a) "telecommunications **infrastructure**" means broadband networks and digital service infrastructures;
- (b) "digital service infrastructures" means infrastructures which enable networked services to be delivered electronically, typically over the internet, providing trans-European interoperable services of common interest for citizens, businesses and/or public authorities, and which are composed of core service platforms and generic services;
- (c) "building blocks" means **basic** digital service infrastructures, **which are key enablers to be reused in more complex digital services infrastructures**;
- (d) "core service platforms" means central hubs of digital service infrastructures aiming to ensure trans-European connectivity, access and interoperability, and which are open to Member States and may be open to other entities;
- (e) "generic services" means **gateway** services linking one or more national infrastructure(s) to **core service platform(s)** ;

- (f) "broadband networks" means wired and wireless **■** access networks, ancillary infrastructure and core networks capable of delivering very high speed connectivity **■** ;
- (g) "*horizontal actions*" means studies and programme support actions as defined in points (6) and (7) of Article 2 of Regulation (EU) No 1316/2013, respectively.

Article 3

Objectives

1. The projects of common interest shall contribute to achieving the general objectives specified in Article 3 of Regulation (EU) No 1316/2013.
2. In addition to the general objectives, the projects of common interest shall pursue one or more of the following specific objectives:
 - (a) economic growth and support to the completion *and functioning* of the **■** internal market in support of the competitiveness of the European economy, including small and medium-sized enterprises (SMEs);

(b) improvements in daily life for citizens, businesses and public authorities *at every level* through the promotion of *broadband networks*, interconnection and interoperability of national, regional and local *broadband* networks, as well as *non-discriminatory* access to such networks *and digital inclusion*.

3. The following operational priorities shall contribute to the achievement of the objectives referred to in paragraphs (1) and (2):

(a) interoperability, connectivity, sustainable deployment, operation and upgrading of trans-European digital service infrastructures, as well as coordination at European level;

(b) efficient flow of private and public investments to stimulate the deployment and modernisation of broadband networks with a view to contributing to achieving the broadband targets of the Digital Agenda for Europe.

■

Article 4

Projects of common interest

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1. Projects of common interest shall, in particular:
 - (a) aim at the creation and/or enhancement of interoperable and, whenever possible, internationally compatible core service platforms ■ , accompanied by generic services for digital service infrastructures;
 - (b) provide efficient investment vehicles for broadband networks, attract new categories of investors and project promoters, and encourage replicability of innovative projects and business models.
2. ■ Projects of common interest may encompass their ■ entire cycle, including feasibility studies, implementation, continuous operation *and upgrading*, coordination and evaluation.
3. Projects of common interest may be supported through horizontal actions.

4. Projects of common interest, and actions contributing to them, are further described in the Annex.

Article 5

Methods of intervention

1. In the area of digital service infrastructures, core service platforms shall be implemented primarily by the Union while generic services shall be implemented by the parties connecting to the relevant core service platform. Investments in broadband networks ***shall be*** undertaken predominantly by the private sector, ***supported by a competitive and investment-friendly regulatory framework***. Public support ***for broadband networks*** shall be provided only where there is market failure or a sub-optimal investment situation.
2. Member States **█** and other entities in charge of or contributing to the implementation of projects of common interest ***shall be encouraged to take the measures necessary to facilitate the implementation of projects of common interest. The final decision on the implementation of a project of common interest which relates to the territory of a Member State shall be taken after the approval of that Member State.***

3. Actions contributing to projects of common interest, *which meet the criteria set out in Article 6 of this Regulation*, shall be eligible for Union financial assistance under the conditions and instruments available under Regulation (EU) No 1316/2013. Financial assistance shall be provided in accordance with the relevant rules and procedures adopted by the Union, the funding priorities *set out in Article 6 of this Regulation*, and the availability of resources, *taking into account the specific needs of beneficiaries*.
4. Actions contributing to projects of common interest in the field of digital service infrastructures *shall* be supported by:
 - (a) procurement; and/or
 - (b) grants.
5. Actions contributing to projects of common interest in the field of broadband networks shall be supported by:
 - (a) financial instruments as defined in Regulation (EU) No 1316/2013, which shall be open to additional contributions from other sectors of the CEF, other instruments, programmes and budget lines in the Union budget, Member States, including regional and local authorities and any other investors, including private investors in accordance with Article 15(2) of Regulation (EU) No 1316/2013; and /or

(b) the combination of financial instruments and grants from public sources other than the CEF, whether they are public sources of the Union or national.

6. Horizontal actions shall be supported by:

(a) procurement; and/or

(b) grants.

7. *The total amount of the budget allocated to financial instruments for broadband networks shall not exceed the minimum necessary to establish cost-efficient interventions which shall be determined on the basis of ex-ante assessments as referred to in Article 14(1) of Regulation (EU) No 1316/2013.*

That amount shall be 15 % of the financial envelope for the telecommunications sector referred to in point (b) of Article 5(1) of Regulation (EU) No 1316/2013.

8. *At least one-third of the broadband projects receiving financial assistance under this Regulation shall aim at broadband speeds above 100Mbps.*

9. *Following the report referred to in Article 8(6), the European Parliament and the Council may, upon a proposal by the Commission, revise the amount determined in accordance with paragraph 7 of this Article and the proportion of projects referred to in paragraph 8 of this Article.*
10. Where the support from the CEF complements ESI Funds and other direct public support, the achievement of synergies between CEF actions and support from ESI Funds may be reinforced by using an appropriate coordination mechanism.

Article 6

Eligibility criteria and priorities for funding

1. Actions contributing to projects of common interest in the field of digital service infrastructures shall meet all the following criteria in order to be eligible for funding:
 - (a) have sufficient maturity to be deployed, as proven in particular through successful piloting under programmes such as the Union programmes related to innovation and research;

- (b) contribute to Union policies and activities in support of the internal market;
- (c) create European added value and ***have a strategy and planning for*** long-term sustainability, where appropriate through funding sources other than CEF, ***the quality of which is to be*** demonstrated by a feasibility and cost-benefit assessment. ***Such strategy shall be updated when appropriate;***
- (d) comply with ***international and/or European*** standards ***or open*** specifications and orientations for interoperability, such as the European Interoperability Framework, and capitalise on existing solutions.

2. ***The selection of actions contributing to projects of common interest in the field of digital service infrastructures to be funded under the CEF, as well as their level of funding, shall be carried out as part of an annual work programme referred to in Article 17(1) of Regulation (EU) No 1316/2013.***

3. Building blocks essential for, and with demonstrable prospects of being used in, the development, deployment and operation of other digital service infrastructures as listed in ***Section 1.1 of the*** Annex, shall be given top priority for funding.

4. Second priority shall be given to *other* digital service infrastructures in support of **the** Union law, *policies and programmes, as listed in Sections 1.2 and 1.3 of the Annex and, where possible, be* based on existing building blocks.
5. *Support to core service platforms shall take priority over generic services.*
6. On the basis of the objectives provided for in Article 3 of this Regulation, *the description of projects of common interest in the Annex to this Regulation and, taking into account the available budget, the annual and multiannual work programmes referred to in Article 17 of Regulation (EU) No 1316/2013,* may establish further eligibility and priority criteria in the field of digital service infrastructures.
7. Actions contributing to projects of common interest in the field of broadband networks shall meet all the following criteria in order to be eligible for funding:
 - (a) make a significant contribution to the realisation of the targets of the Digital Agenda for Europe;
 - (b) have sufficiently mature project development and preparation stages that are underpinned by effective implementation mechanisms;

- (c) address market *failures* or sub-optimal investment situations;
- (d) not lead to market distortions or crowding out of private investment;
- (e) use the technology which is deemed most suitable to address the needs of the geographic area in question, taking into account geographic, social and economic factors based on objective criteria and in keeping with technological neutrality;
- (f) ***deploy the technology best suited for the specific project, while proposing the best balance between state of the art technologies in terms of data flow capacity, transmission security, network resilience, and cost efficiency;***
- (g) ***have a high potential for replicability*** and/or be based on innovative business models ■ .

8. The criteria referred to in point (g) of paragraph 7 of this Article shall not be required for projects funded from additional ring-fenced contributions provided in accordance with Article 15 (2) of Regulation (EU) No 1316/2013.

9. *Horizontal actions shall meet either of the following criteria in order to be eligible for funding:*

- (a) *prepare or support implementation actions in their deployment, governance and address existing or emerging implementation problems;*
- (b) *create new demand for digital service infrastructures.*

Article 7

Cooperation with third countries and international organisations

1. The Union may establish contacts, discuss and exchange information, and cooperate with public authorities or any other organisations in third countries to achieve any objective pursued by this Regulation . Among other objectives, this cooperation shall seek to promote interoperability between networks *in the area of* telecommunications *infrastructure* in the Union and *similar* networks in third countries.
2. *European Free Trade Association (EFTA) countries which are members of the European Economic Area (EEA) may participate in the sector of the CEF covering telecommunications infrastructure in accordance with the conditions laid down in the EEA Agreement.*

3. *By way of derogation from Articles 8(3) and 9(4) of Regulation (EU) No 1316/2013, acceding States and candidate countries benefiting from a pre-accession strategy may participate in the sector of the CEF covering telecommunications infrastructure in accordance with agreements signed with the Union.*
4. *For the purposes of the participation of EFTA countries, the sector of the CEF covering telecommunications infrastructure shall be considered as a separate programme.*

Article 8

Exchange of information, monitoring and reporting

1. On the basis of information received under the third subparagraph of Article 22 of Regulation (EU) No 1316/2013, Member States and the Commission shall exchange information *and best practices* about the progress made in the implementation of *this Regulation. Where appropriate, Member States shall involve local and regional authorities in the process. The Commission shall publish a yearly overview of that information and submit it to the European Parliament and to the Council.*

2. The Commission shall consult and be assisted by an Expert Group composed of a representative of each Member State **■**. In particular, the Expert Group shall assist the Commission in:
- (a) monitoring the implementation of *this Regulation*;
 - (b) *taking account of* national plans or national strategies, **■** where applicable;
 - (c) taking measures to evaluate the implementation of the work programmes on a financial and technical level;
 - (d) addressing existing or emerging project implementation problems;
 - (e) *defining strategic orientations prior to the drawing-up of the annual and multiannual work programmes referred to in Article 17 of Regulation (EU) No 1316/2013, with particular regard to the selection and withdrawal of actions contributing to projects of common interest and the determination of the budget breakdown, as well as the revision of those work programmes.*

3. The Expert Group may also consider any other issue relating to the development of the trans-European *networks in the area of telecommunications infrastructure*.
4. *The Commission shall inform the Expert Group on the progress made in implementing the annual and multiannual work programmes referred to in Article 17 of Regulation (EU) No 1316/2013.*
5. *The Expert Group shall cooperate with entities involved in the planning, development and management of digital networks and services as well as with other relevant stakeholders.*

The Commission and other entities in charge of the implementation of this Regulation, such as the European Investment Bank, shall pay particular attention to the Expert Group's observations.

6. In conjunction with the mid-term evaluation and the ex-post evaluation of *Regulation (EU) No 1316/2013 as referred to in Article 27 of that Regulation, and with the assistance of* the Expert Group, the Commission shall publish a report on the progress in the implementation of *this Regulation*. That report shall be submitted to the European Parliament and to the Council .

7. *The report shall provide an evaluation of the progress achieved in the development and implementation of projects of common interest, including where relevant delays in implementation and difficulties are encountered, as well as information about commitments and payments.*
8. In the report, the Commission shall also evaluate whether the scope of the projects of common interest continues to reflect █ technological developments and innovations, as well as regulatory or market and economic developments and whether, in view of such developments and the need for long-term sustainability, funding for any of the projects of common interest supported should be phased out or sourced in other ways █ . For █ projects which are likely to have significant effects on the environment, those reports shall include an analysis of the environmental impact, taking into account, where appropriate, climate change adaptation and mitigation needs, and disaster resilience. Such an evaluation █ may also be carried out at any other time when it is deemed appropriate.
9. The achievement of the specific objectives set out in Article 3 shall be measured ex post, inter alia, on the basis of:

- (a) the availability of digital service infrastructures, measured by the number of Member States connected to each digital service infrastructure;
- (b) the percentage of citizens and businesses using digital service infrastructures and the availability of such services across borders;
- (c) the volume of investments attracted in the field of broadband, and the leverage effect, *for projects funded through contributions from public sources referred to in point (b) of Article 5(5)*.

■

Article 9

Repeal

Decision No 1336/97/EC is hereby repealed.

Article 10
Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January **2014**.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament
The President

For the Council
The President

ANNEX

PROJECTS OF COMMON INTEREST

Section 1. Digital Service Infrastructures

Interventions in the area of digital service infrastructure generally rely on a two-layer architecture approach: core service platforms and generic services. *The* core service platform is a pre-condition for establishing a digital service infrastructure ■ .

The core service platforms ■ address the interoperability and security needs of projects of common interest. They are intended to enable digital interactions between public authorities and citizens, between public authorities and businesses and organisations, or between public authorities of different Member States through standardised, cross-border, and user-friendly interaction platforms.

Building block digital service infrastructures take priority over other digital service infrastructures, since the former are a pre-condition for the latter. The generic services provide the connection to the core service platforms and enable the national added value services to use the core service platforms. They provide gateways between national services and core service platforms and allow national public authorities and organisations, businesses and/or citizens to access the core service platform for their cross-border transactions. The quality of the services and the support for stakeholders involved in cross-border transactions must be ensured. They must support and stimulate the take-up of core service platforms.

The focus must not be entirely on the creation of digital service infrastructures and related services but also on the governance relating to the operation of such platforms.

New core service platforms must mainly be based on existing platforms and their building blocks and/or, when possible, must add new building blocks.

1. The building blocks ■ identified to be included in the work programmes *subject to* Article 6 (1) and (3), are the following:
 - (a) Electronic identification, and authentication: this refers to services to enable cross-border recognition and validation of e-identification and e-signature.
 - (b) Electronic delivery of documents: this refers to services for the secure, traceable cross-border transmission of electronic documents.
 - (c) Automated translation: this refers to machine-translation engines and specialised language resources including the necessary tools and programming interfaces needed to operate pan-European digital services in a multilingual environment.
 - (d) Critical digital infrastructures support: this refers to communication channels and platforms intended to enhance the Union-wide capability for preparedness, information sharing, coordination and response to cyber threats.
 - (e) Electronic invoicing: this refers to services enabling *secure* electronic exchange of invoices.

2. *Well-established digital service infrastructures particularly identified to be eligible for funding contributing to uninterrupted service, subject to Article 6(1):*

- (a) *Access to digital resources of European heritage. This refers to the core service platform based on the current Europeana portal. The platform provides the access point to Europeana cultural heritage content at item level, a set of interface specifications to interact with the infrastructure (search for data, download data), support for the metadata adaptation and ingestion of new content, as well as information on conditions for reuse of the content accessible through the infrastructure.*
- (b) *Safer internet service infrastructure. This refers to the platform for acquiring, operating and maintaining shared computing facilities, databases, software tools and exchange of best practices for the Safer Internet Centres (SICs) in the Member States. Back-office operations to handle reporting of child sexual abuse content on the Internet are also included, as well as the link with police authorities including international organisations such as Interpol, and when appropriate, the handling of the take-down of this content by the relevant web sites. This will be supported by common databases and by common software systems. SICs and their relevant activities such as helplines, hotlines, awareness nodes and other awareness raising activities represent the key element of the Safer Internet infrastructure.*

3. Other digital service infrastructures ■ identified *to be eligible for funding subject to* Article 6(1):

- (a) Interoperable cross-border electronic procurement services. This refers to a set of services, which can be used by public and private sector e-procurement services providers to set up cross-border e-procurement platforms. This infrastructure will enable any company in the Union to respond to public procurement procedures from any contracting authority or entity in any Member State covering pre-award and post-award electronic procurement activities, including functionalities such as electronic submission of offers, virtual company dossier, e-catalogues, e-orders and e-invoicing.
- (b) Interoperable cross-border e-health services. This refers to a platform which enables the interaction between citizens/patients and health care providers, institution-to-institution and organisation-to-organisation transmission of data, or peer-to-peer communication between citizens/patients and/or health professionals and institutions. The services shall comprise cross-border access to electronic health records and electronic prescription services as well as remote health/assisted living teleservices, etc.

- (c) European Platform for the interconnection of European business registers. This refers to a platform which provides a set of central tools and services enabling business registers in all Member States to exchange information on registered businesses, their branches, mergers and windings-up. It shall also provide a multi-country and multilingual search service for users using a central access point accessible via the e-Justice portal.
- (d) Access to re-usable public sector information. This refers to a platform for the single access point to multilingual (official languages of the institutions of the Union) datasets held by public bodies in the Union at European, national, regional and local levels; query and visualisation tools of the data sets; assurance that the available datasets are properly anonymised, licensed and where applicable priced to be published, redistributed and reused, including a data provenance audit trail.

■ Electronic procedures for setting up and running a business in another European country. This service will allow all necessary administrative procedures to be dealt with electronically across borders through single contact points. This service is a requirement in Directive 2006/123/EC of the European Parliament and of the Council¹.

¹ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (*OJ L 376, 27.12.2006, p. 36*).

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- (e) Interoperable cross-border online services. This refers to platforms which shall facilitate interoperability and cooperation between Member States in areas of common interest, particularly with a view to improving the functioning of the internal market, such as eJustice, which will enable online cross-border access by citizens, businesses, organisations and legal practitioners to legal resources/documents and judicial procedures, Online Dispute Resolution (ODR) which will enable online resolution of cross-border disputes between consumers and merchants and Electronic Exchange of Social Security Information (EESSI), which will help social security bodies across the Union exchange information more rapidly and securely.

Section 2. Broadband networks

1. The scope of actions

Actions shall consist in particular of one or more of the following components:

- (a) the deployment of passive physical infrastructure, active physical infrastructure or the combination of the two and ancillary infrastructure elements, complete with services necessary to operate such infrastructure;

- (b) associated facilities and associated services, such as building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets;
- (c) *where possible*, potential synergies **shall be exploited** between the roll-out of broadband networks and other utilities networks (energy, transport, water, sewerage, etc.), in particular those related to smart electricity distribution.

2. Contribution to the achievement of the targets of the Digital Agenda for Europe.

All projects receiving financial assistance under this *section* shall contribute significantly to the achievement of the targets of the Digital Agenda for Europe. ■

■ Actions funded directly by the Union shall:

- (a) be based on ■ wired or wireless *technology* capable of delivering very high-speed broadband services, thus meeting demand for applications which require high bandwidth ■ ;
- (b) be based on innovative business models and/or attract new categories of project promoters or new categories of investors; or

- (c) have a high potential for replicability, thus allowing them *to achieve* broader impact on the market due to their demonstration effect;
- (d) *assist in narrowing the digital divide, where possible;*
- (e) *comply with applicable law, in particular with competition law, and with access obligations in accordance with Directive 2002/19/EC .*

Actions funded from additional ring-fenced contributions provided in accordance with Article 15(2) of Regulation (EU) No 1316/2013 shall bring significant new capabilities to the market in terms of broadband service availability, speeds and capacity. Projects which provide speeds of data transmission of less than 30 Mbps should ensure the increase of speeds to at least 30 Mbps *and where possible to 100 Mbps and above* over time.

3. Project assessment to establish optimal funding structures

The implementation of actions shall be based on a comprehensive project assessment. Such a project assessment shall cover, inter alia, market conditions including information on existing and/or planned infrastructure, regulatory obligations on project promoters, as well as commercial and marketing strategies. In particular, the project assessment shall establish whether the programme:

- (a) is necessary to address market *failures* or sub-optimal investment situations, ***which cannot be solved by regulatory measures;***
- (b) does not lead to market distortions and crowding out of private investment.

These criteria shall be established primarily on the basis of the revenue potential and the level of risk associated with a project and the type of geographical area covered by an action.

4. Sources of funding

- (a) Projects of common interest in the field of broadband shall be funded through financial instruments. The budget allocated to these instruments shall be sufficient, but shall not exceed, the amount which is necessary to establish a fully operational intervention and to achieve a minimum efficient instrument size.

- (b) Subject to the rules of Regulation (EU, Euratom) No 966/2012, Regulation (EU) No 1316/2013 and all relevant regulations concerning ESI Funds, the financial instruments referred to in point (a) may be combined with additional contributions from:
- (i) other sectors of the CEF;
 - (ii) other instruments, programmes and budget lines in the Union budget;
 - (iii) Member States, including regional and local authorities, that decide to contribute own resources or resources available from ESI Funds. ESI Funds contributions will be geographically ring-fenced to ensure that they are spent within a Member State or a region which provides a contribution;
 - (iv) any other investors, including private investors.
- (c) Financial instruments referred to in points (a) to (b) may also be combined with grants by Member States, including regional and local authorities, that wish to contribute own resources or resources available from ESI Funds, provided that:
- (i) the action in question meets all criteria for funding under this Regulation; and
 - (ii) relevant State aid clearance has been obtained.

Section 3. Horizontal actions

The deployment of trans-European *networks in the area of* telecommunications *infrastructure* that will help to remove the bottlenecks existing in the Digital Single Market shall be accompanied by studies and programme support actions. These actions may consist of either:

- (a) technical assistance to prepare or support implementation actions in their deployment, governance and addressing existing or emerging implementation problems; or
- (b) actions to create new demand for digital service infrastructures.

■ Coordination of Union support under this Regulation with the support from all other available sources, while avoiding duplication of infrastructure and preventing the displacement of private investments.

■
