



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 November 2013

16063/13

**Interinstitutional File:
2011/0299 (COD)**

**TELECOM 299
AUDIO 112
CODEC 2531**

NOTE

from: General Secretariat of the Council
to : Delegations
No. Cion prop.: 10201/13 TELECOM 145 AUDIO 65 CODEC 1250
Subject: Amended 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

Following the agreement reached in the second informal trialogue meeting that took place on 5 November, Coreper confirmed this agreement in principle on 8 November.

Delegations will find in Annex the text as consolidated by the 2 Quality Advisors of both institutions¹.

¹ Note: the consolidated version of the agreed text marks the amendments introduced to the Commission proposal (text in bold and italics).
The full examination in all languages - by the lawyer-linguists of both institutions - takes place after the vote in the EP's ITRE Committee.

REGULATION (EU) .../20..
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

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 procedure,

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, participating in social and political life, cultural content, and*** business. Therefore, the trans-European availability of ***widespread, high-speed, secure*** fast Internet access and digital services in the public interest is essential for ***social and*** economic growth, ***competitiveness, social inclusion*** and the Single Market.
- (2) On 17 June 2010, the European Council endorsed the Digital Agenda for Europe³ 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 in view to advance towards a true Digital Single Market, which is essential for smart, sustainable and inclusive growth.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ COM(2010) 245 final/2.

- (3) Regulation (EU) No [.../...] of the European Parliament and of the Council of [...] establishing the Connecting Europe Facility (CEF)¹ determines the conditions, methods and procedures for providing Union financial assistance to trans-European networks in transport, energy and digital communication. Given that there are similar challenges and opportunities in the sectors covered by the CEF Regulation, there is important 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 EU 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, the Fiscalis programme and Horizon 2020. Similarly, it is important that solutions comply with agreed *international and/or European* standards *or open specifications for interoperability, particularly identified by the Commission according to Regulation (EU) No 1025/2012, and relevant other* specifications and orientations, such as the European Interoperability Framework for European public services (EIF)¹.

¹ OJ [...], [...], p. [...].

(4a) *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.*

(5) Large scale pilots between Member States and co-financed by the Competitiveness and Innovation Programme 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*. These have already reached or are in the near future reaching 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.

- (5a) *Europeana and Safer Internet for Children as well-established DSIs, should have priority for funding. In particular, the continuity in EU funding from other Community programmes to CEF should be ensured in the first years of the next financing period 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 long-term viability of Europeana, including in terms of governance and funding.*¹
- (5b) *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 and beyond. By implementing this Regulation, the implementation of the European Strategy for a Better Internet for Children (COM(2012) 196 final) at European as well as at Member States 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, help lines for children, parents and carers on the best means for kids to use the Internet as well as hotlines for reporting on illegal child sex abuse content on the Internet, are a key element and prerequisite for the success of that strategy.*

¹ *OJ C 169, 15.6.2012, p. 5.*

- (5c) *Regulation (EU) No [.../...] of the European Parliament and of the Council of [...] on electronic identification and trust services for electronic transactions in the internal market (eIDAS Regulation) determines the detailed requirements and conditions for the mutual recognition of key enablers herein referred to as the building blocks of the digital service infrastructures. The eIDAS Regulation covers several of the most important building blocks, e.g. electronic identification and electronic signature as part of the projects of common interest set out in the annex to this Regulation.*
- (6) Digital service infrastructures implemented conforming to the Decision 922/2009/EC of the European Parliament and of the Council of 16 September 2009 on interoperability solutions for European public administrations⁶ 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.

- (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) Digital service infrastructures that are necessary to meet legal obligations under EU law and/or are developing or providing building blocks, with a potential high impact on the development of pan-European public services, ***are important to be funded***, so as to support multiple digital service infrastructures and over time gradually build up a European interoperability ecosystem. In this context, legal obligations mean specific provisions requiring either developing or using digital service infrastructures, or requiring results which can only be achieved through European digital service infrastructures.

- (9) 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 recommendations¹.
- (10) In its resolution of 6 July 2011 on European Broadband: investing in digitally driven growth², 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.*
- (10a) *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 European productivity and for the emergence of new and small enterprises that can be leaders in different sectors, for example health care, manufacturing and the service industries.*

¹ *Annex II of COM(2011) 744 final.*

² 2013/C 33 E/ 09.

- (10b) *The combination of new opportunities in infrastructure and new, innovatory 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.***
- (11) 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.**
- (11a) *Given the rapid development of digital services and applications demanding ever faster internet connections and 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 comparing to other economies in the world.***
- (11b) *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.***

- (11c) *In its resolution of 12 September 2013 on the Digital Agenda for Growth, Mobility and Employment, time to move up a gear^[1], the European Parliament emphasised that a revised forward-looking digital agenda target for 2020 should be to connect all EU households with broadband connections delivering 100 megabits/second, with 50 % of households subscribing to 1 Gbps or more.*
- (12) 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* undertake the necessary efforts to achieve the targets of the Digital Agenda. 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 imperfections *failures* or sub-optimal investment situations, *in line with Article 140.2(a) of Regulation No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002.*

¹ 2013/2593 (RSP)

- (13) Financial instrument(s) for broadband networks must not unduly distort competition, crowd out private investments or create disincentives on private operators to invest. In particular, they will be in compliance with Articles 101, 102, 106 and 107 of the Treaty on the Functioning of the European Union *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.*
- (13a) *Public funding for broadband should be spent solely on infrastructures which comply with applicable law, in particular with competition law, and with access obligations in accordance with Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive).*
- (14) 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.

- (14a) *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 i.a. the type of envisaged financial instruments, potential leverage effect for the minimum efficient project portfolio, and market conditions.*
- (15) The CEF support to broadband deployment should complement assistance provided under other Union programmes and initiatives, including the European Structural and Investment Funds (ESIF) in cases where an ex-ante assessment identifies market failures or sub-optimal investment situations and where thus 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 ESIF, thus allowing Member States to take advantage of the know-how and scale-effects of EU-managed facilities with a view to increasing the efficiency of public spending.

- (15a) *In order to ensure best value for money, and given 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 European Structural and Innovation Fund 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.*
- (16) 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 digital divide and digital inclusion is an important objective of the Digital Agenda for Europe. All 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 reliability or performance of connections between such regions and central regions of the Union.

- (16a) *In order to complete the single digital market, compatibility between the Connecting Europe Facility programme and national and regional broadband actions should be encouraged.*
- (17) In implementing this Regulation, the method of intervention 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 Union's funds and, therefore, broadband networks should be supported by financial instruments, which ensure higher leverage effect than grants.
- (18) The intervention under this Regulation should aim at the achievement of synergies and interoperability between 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 ESIF, while avoiding duplication and undue administrative burden.

- (19) Financial assistance to projects of common interest should be complemented by horizontal actions, including technical assistance, demand stimulation measures and coordination, which should aim at maximizing the impact of EU intervention.
- (20) When committing funds to the intervention in broadband networks, the Commission should take due account of the results of the evaluations of existing Union's financial instruments.
- (21) ■ 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 these guidelines, planning, evaluation and addressing implementation problems.
- (22a) *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).*

(22b) *Regulation [CEF] establishes the CEF Coordination Committee, which is also a committee within the meaning of Regulation (EU) No 182/2011. Regulation [CEF] 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 on guidelines for trans-European networks in the area of telecommunications infrastructure. 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.*

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*.

2. In particular, this Regulation provides for;
- (a) the objectives for *and operational priorities of projects of common interest*,
 - (aa) *the identification of* projects of common interest;
 - (b) the *criteria* under which *actions contributing to* projects of common interest *shall* be eligible for Union financial assistance in accordance with Regulation (EU) No *xxxx*/2012 [CEF regulation] in their development, implementation, deployment, interconnection, and interoperability;
 - (c) **■** 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 *xxxx*/2012 (CEF Regulation) apply. **■**

2. ***For the purposes of this Regulation and of Regulation (EU) No xxx/2012 (CEF Regulation), the*** following definitions shall also apply:

- (a) "■ Telecommunications ***infrastructure***" means broadband networks and digital service infrastructures.
- (b) "Digital service infrastructures" enable networked services to be delivered electronically, typically over the internet, providing trans-European interoperable services of common interest for citizens, businesses and/or governments. Digital service infrastructures 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. Core service platforms shall be 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 Regulation (EU) No xxxx/2012 [CEF regulation].*

Article 3

Objectives

1. The projects of common interest shall contribute to achieving the general objectives specified in article 3 of Regulation (EU) No **xxxx**/2012 [CEF regulation].
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 **■** Single Market in support of the competitiveness of the European economy, including small and medium sized enterprises (SMEs).

- (b) improvements in the daily life for citizens, businesses and governments *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 mentioned in paragraphs (1) and (2):

- (a) interoperability, connectivity, sustainable deployment, operation and upgrading of trans-European digital service infrastructures and their common building blocks, as well as coordination at European level.
- (b) efficient flow of private and public investments to stimulate the deployment and modernisation of broadband networks in view to contribute towards achieving the broadband targets of the Digital Agenda for Europe.

■

Article 4
Projects of common interest

■

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, 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 to this Regulation.

■

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 ***to broadband networks*** shall be provided only where there is market failure or a sub-optimal investment situation.
2. Member States ■ and/or other entities in charge of or contributing to the implementation of projects of common interest ***are encouraged to take the measures necessary to facilitate the implementation of projects of common interest. The final decision on the implementation of projects of common interest, which relates to a territory of a Member State, will be taken after the approval of the Member State concerned.***

3. Actions contributing to projects of common interest, *which meet the criteria set out in Article 6*, shall be eligible for EU financial support under the conditions and instruments available under Regulation (EU) No **xxxx**/2012 [CEF regulation]. Financial support shall be provided in accordance with the relevant rules and procedures adopted by the Union, funding priorities *set out in Article 6* and availability of resources, *taking into account specific needs of the beneficiaries*:
- (a) Actions contributing to projects of common interest in the field of digital service infrastructures *shall* be supported by:
 - (a) procurement and/or
 - (b) grants.
 - (b) 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 **xxxx**/2012 [CEF regulation], which shall be open to additional contributions from other parts of the Connecting Europe Facility, 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 **xxxx**/2012 [CEF regulation] and /or

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

(c) Horizontal actions shall be supported by

(a) procurement and/or

(b) grants.

3a *The total amount of budget allocated to financial instruments for broadband shall not exceed the minimum necessary to establish cost-efficient interventions which shall be determined on the basis of ex-ante assessments mentioned in Article 14 of Regulation (EU) No xxxx/2013 [CEF regulation].*

This amount shall be 15 % of the financial envelope for the telecommunications sector mentioned in Article 5(1)(b) of Regulation No xxxx/2013 [CEF regulation].

3aa *At least one third of the broadband projects financially supported under this Regulation shall aim at speeds above 100Mbps.*

- 3b** *Following the mid-term report on the progress in the implementation of this Regulation, as referred to in Article 8.3, the European Parliament and the Council may, upon a proposal by the Commission, revise the amount determined in accordance with paragraph 3a and the percentage of projects set in paragraph 3aa.*
4. Where the support from the CEF complements ESIF and other direct public support, the achievement of synergies between CEF actions and support from ESIF 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 must, to be eligible for funding, cumulatively:
 - (a) have reached 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 single 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.

1a Selection of actions contributing to projects of common interest in the field of digital service infrastructures to be funded under CEF, as well as their level of funding, shall be done as part of an annual work programme referred to in Article 17(1) of the CEF Regulation.

- 2. 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 the annex (***Section 1.1***) shall be given first priority for funding.

3. Second priority shall be given to *other* digital service infrastructures in support of ■ EU legislation, *policies and programmes, as listed in the annex (Section 1., 2(a). and 2(b.)) and, where possible, be* based on existing building blocks.
- 3a** *The support to core service platforms shall take priority over generic services.*
4. On the basis of the objectives provided for in Article 3, *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 xxx/2012 [CEF regulation]* may establish further eligibility and priority criteria in the field of digital service infrastructures.
5. Actions contributing to projects of common interest in the field of broadband networks shall cumulatively meet 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 and crowding out of private investment
- (e) use the technology which is deemed most suitable to address the needs of the area in question taking into account geographic, social and economic factors based on objective criteria and in line with technological neutrality.
- (ea) *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.*
- (eb) *have a high potential for replicability* and/or be based on innovative business models ■ .

6. The criteria mentioned in point (f) of the preceding paragraph shall not be required for project funded from additional ring-fenced contributions provided in accordance with Article 15.2 of Regulation (EU) No **xxxx**/2012 [CEF regulation] .

7. *Horizontal actions shall meet the following criteria in order to be eligible for funding.*
- (a) *prepare or support implementation actions in their deployment, governance and addressing existing or emerging implementation problems; or*
 - (b) *create new demand for digital service infrastructures.*

Article 7 ■

Cooperation with third countries and international organisations

1. The Union may establish contacts, discuss, exchange information and cooperate with public authorities or any other organisations in third countries to achieve any objective pursued by these guidelines ■. Among other objectives, this cooperation shall seek to promote the interoperability between ■ networks *in the area of* telecommunications *infrastructure* in the Union and *similar* networks of 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 the CEF Regulation No. xxx/2012, accession countries 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 telecommunications infrastructures covered by the CEF Regulation shall be considered as a separate programme.*

Article 8

Exchange of information, monitoring and reporting

1. On the basis of information received under Article 21 of the Regulation XXX establishing the CEF, Member States and the Commission shall exchange information *and best practices* about the progress made with 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 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) undertaking 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 drawing up of the annual and multiannual work programmes referred to respectively in Articles 17(1) and 17(2) of Regulation (EU) No xxx/2013 [CEF Regulation] establishing the Connecting Europe Facility, with particular regard to the selection and withdrawal of actions contributing to projects of common interest and the determination of the budget breakdown, and the revision of these work programmes.*

- 2a** The Expert Group may also consider any other issue relating to the development of the trans-European *networks in the area of* telecommunications *infrastructure*.
- 2b** *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 (CEF).*
- 2c** *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.

3. In conjunction with the mid-term evaluation and the ex-post evaluation of the Regulation (EU) No xxx/2013 [CEF 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 the Council ■.

- 3a** *That 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 encountered as well as information about commitments and payments.*
4. In these reports 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 project 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, these 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.
5. The achievement of the sectorial objectives set out in Article 3 shall be measured ex post inter alia by:

- (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 mentioned in Article 5.3(b)*.

I

Article 9

Repeal

Decision No 1336/97/EC, as amended by Decision No 1376/2002/EC, is repealed.

Article 10

Entry into force

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

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

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

Done at Brussels,

For the European Parliament

The President

For the Council

The President

¹ *To be noted: in case the Regulation is not ready for adoption and publication by 1 January 2014, a Recital justifying application from that date will be introduced in the text.*

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

Building block digital service infrastructures shall 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 shall be assured. They shall support and stimulate take-up of core service platforms.

The focus shall 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 shall mainly be based on existing platforms and their building blocks and/or, when possible, shall add new building blocks.

1. Building blocks ■ identified to be included in the work programmes *subject to* Articles 6.1 and 6.2:
 - (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 secured, traceable cross border transmission of electronic documents.
 - (c) Automated translation: this refers to machine translation engine and specialised language resources including the necessary tools and programming interfaces needed to operate the pan-European digital services in a multilingual environment.
 - (d) Critical digital infrastructures support: this refers to communication channels and platforms intended to enhance the EU-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.

1(a) 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 sex abuse content 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.**

2 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 EU 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, eCatalogues, eOrders and eInvoicing.
- (b) Interoperable cross border eHealth services: This refers to a platform, which enables the interaction between citizens/patients and health care providers, institution-to-institution and organization-to-organization 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 wind-ups. 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 (EU official languages) datasets held by public bodies in the EU 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 the dealing of all necessary administrative procedures electronically across borders through Points of Single Contact. This service is a requirement in the Directive 2006/123/EC on services in the internal market.

- (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 Single Market, such as eJustice, which will enable the online cross-border access of citizens, businesses, organisations and legal practitioners to legal means/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 EU 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 financially supported under this *section* shall significantly contribute 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 *to achieve* broader impact on the market due to their demonstration effect.

(ca) *Where possible, assist in narrowing the digital divide.*

(cb) *Comply with applicable law, in particular with competition law, and with access obligations in accordance with Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive).*

(a) Actions funded from additional ring-fenced contributions provided in accordance with Article 15.2 of Regulation (EU) No xxxx/2012 [CEF regulation] 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. Modalities for 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 the Financial Regulation, Regulation (EU) No xxxx/2012 [CEF regulation] and Regulations (EU) No xxxx (2013) [all the ESIF regulations], the financial instruments mentioned in point (a) may be combined with additional contributions from:
 - (a) other parts of the Connecting Europe Facility,
 - (b) other instruments, programmes and budget lines in the Union budget;
 - (c) Member States, including regional and local authorities, that decide to contribute own resources or resources available from ESIF. ESIF contributions will be geographically ring-fenced to ensure that they are spent within a Member State or a region which provides a contribution.
 - (d) any other investors, including private investors.
- (c) Financial instruments mentioned 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 ESIF, provided that:
 - (a) an action in question meets all criteria for funding under this Regulation, and
 - (b) 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:

- (a) Technical assistance to prepare or support implementation actions in their deployment, governance and addressing existing or emerging implementation problems.
- (b) Actions to stimulate existing demand or 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.

■
