

BEREC's position on the universal service of the DNA

2 June 2026

Key messages

- The BEREC welcomes the DNA proposal foreseeing universal service as a safety net for digital inclusion.
- (scope) BEREC welcomes the DNA proposal on maintaining universal service in the regulatory framework; however, it is concerned that the proposed approach to universal service could reduce Member States' flexibility to preserve essential consumer safeguards and create regulatory uncertainty through **unclear allocation of roles** between the Commission and BEREC in this regard.
- (categories of users) BEREC supports Member States' choice to extend universal service protections and availability obligations to categories of **end-users who are equally as vulnerable as consumers**, noting that the DNA proposal could narrow the scope of protection and undermine equal treatment.
- (availability and affordability) BEREC recommends ensuring certainty in the universal service framework that safeguards the public interest, **allows reasonable national affordability measures**, and provides clear rules on the availability of universal service obligations across the Single Market.
- (compensation) BEREC is cautious of the DNA's shift towards horizontal State aid and SGEI-based financing that could undermine effective national universal service funding models; hence, calls for increased **legal certainty and explicit possibility of reasonable regulatory measures** needed to ensure digital inclusion and the effective functioning of the Single Market.

Detailed assessment and proposals for each aspect are in the subchapters of this paper.

**BEREC's position on the universal service of
the DNA
(scope)**

Commission proposal on the scope of universal service:

The DNA proposes a more harmonised approach to defining adequate internet access service. The USO scope maintains the principle of availability, ensuring that consumers - and by extension micro-enterprises, small enterprises and not-for-profit organisations - have access to adequate internet access and voice communication services at a fixed location. The concept of affordability is also maintained, with a more harmonised approach to establishing affordability measures for consumers with low income or special social needs. The USO provisions complement the copper switch-off process and the transition to fibre and will therefore be subject to review.

It envisages common procedures for Member States to define “adequate” connectivity in light of the minimum bandwidth enjoyed by most consumers. It also provides a structured approach to affordability including monitoring of retail price evolution, measures for consumers with low income and special social needs, and specific support to ensure equivalent access for end-users with disabilities, while enabling the Commission to adopt implementing acts on adequate internet access service in light of national conditions and on the criteria and methodology to be considered for affordability assessment.

BEREC’s assessment:

BEREC welcomes the continued role of universal service obligations as a safety net while recognising the introduction of a number of substantive changes:

Any proposals to reduce Member States’ discretion, whether through (i) implementing acts on the methodology for defining adequate internet access service and the criteria and methodology for assessing affordability or (ii) the removal or reduction of existing consumer protection safeguards, should be reviewed to ensure that unintended consequences do not arise. To ensure continuity of protection and regulatory certainty, the co-legislators should clarify the scope of universal service, including the possible stipulations under Part VI of the DNA that are essential to ensuring continuity of protection and regulatory certainty, in particular with respect to:

- affordable and adequate internet access service
- the possibility for end-users in remote areas to subscribe only to standalone voice communications services (currently allowed under Article 84(4) of the EECC)
- transitional arrangements for control of expenditure facilities, and
- the framework for designation of universal service provider(s),

to avoid regulatory discontinuity and ensure consistent consumer protection.

BEREC is of the view that:

- The removal of Member States’ capability to maintain existing USO elements (currently allowed under Article 92 of the EECC) risks eliminating well-functioning national measures, such as comprehensive electronic directories or other legacy services on which some Member States continue to rely to address specific national needs.
- The overarching principle should be the efficiency and effectiveness of the regulatory tools.
- There is a significant risk **of institutional inconsistency and regulatory overlap** regarding the definition of “adequate internet access service” in the DNA proposal. While the proposal seeks to streamline and simplify universal service, the current drafting of Articles 87 and 89 may inadvertently create inconsistency and regulatory overlap. The DNA Recitals suggest that procedures for defining connectivity are

"supported by BEREC guidance," however, Article 89 grants the Commission broad authority to define national conditions and affordability methodologies. The Commission's broad implementing act powers under Article 89 risk extending into areas traditionally determined at national level, including eligibility thresholds and affordability criteria set by social-policy authorities. The lack of a clear separation between the respective roles of BEREC (Article 87) and the Commission (Article 89) may undermine regulatory predictability and impede the effective provision of a universal service safety net.

- limiting access to control of expenditure facilities (e.g. pre-payment, call barring) solely to officially vulnerable consumers benefiting from affordability measures represents a significant narrowing compared to the EECC. The proposed amendment to Article 91 of the DNA would reduce protections for all other consumers who fall outside the official affordability scheme but still require safeguards. Moreover, the transition arrangements for existing designations related to availability and affordability obligations under Article 90 do not extend to control of expenditure measures, creating a gap in consumer protection during migration.

Alternative proposal:

BEREC recommends that the scope and governance of universal service obligations be amended to:

1. explicitly preserve Member States' ability to maintain existing **effective USO elements** and provide additional **transitional safeguards**¹, including standalone voice communications services, expenditure control facilities and protections, which may be critical in supporting network migration or copper switch-off to ensure continuity of service;
2. clarify the respective roles of the Commission and BEREC in defining adequate internet access service and affordability criteria, and in particular, distinguish BEREC's guidance role from the Commission's role and discretionary use of implementing acts, to **avoid possible duplication and regulatory uncertainty**. In particular, the DNA proposal should be amended to explicitly define the technical role of BEREC in setting the parameters for "adequate" internet access service and the Commission's implementing act powers under Article 89 to ensure alignment with the technical expertise of the BEREC NRA members.

¹ For instance, in transitional provisions set out in Article 92; and control of expenditure and additional facilities in Article 91.

**BEREC's position on the universal service of
the DNA
(categories of users)**

Commission proposal on categories of users

The DNA proposal refers to different categories of users across the universal service provisions:

- Article 87 (Universal service) proposes that: "*All consumers in the Union shall be entitled to have access to an affordable and adequate internet access service and to voice communications services at the quality specified in their territories, at a fixed location*".
- Article 88 (Provision of affordable universal service) specifically targets consumers with low income or special social needs, including consumers with disabilities.
- Article 90 (Availability of universal service) proposes that Member states may impose universal service obligations to ensure that all reasonable requests by consumers, microenterprises, small enterprises and not-for-profit organisations are met.

BEREC's assessment:

Under the EECC, Member States **may**:

- extend the scope of affordable universal service to **end-users that are microenterprises, small and medium-sized enterprises (SME), and not-for-profit organisations**.
- impose universal service obligations to meet **all reasonable requests by end-users (availability)** for accessing services under the universal service scope in the relevant parts of its territory.

As previously noted in BEREC's views on the Universal Service regime, and as reflected in the Commission's proposals and IMCO Opinion (BoR (17) 203), the current framework has worked well in ensuring that a basic supply of universal services is available throughout the Member States for every end-user, while ensuring affordability for consumers as well as other relevant end-users who are equally vulnerable.

BEREC is of the view that the DNA proposal to amend the categories of users within the scope of the universal service does not reflect the regulatory principles of universal service and may lead to unequal treatment, particularly for certain end-users (such as microenterprises). This is particularly relevant as these end-users may also be vulnerable, with limited bargaining power, and rely on universal service to access an adequate Internet access service (for example, small farmers seeking to digitalise their operations). BEREC is also of the view that a clear distinction between social and economic policy should be maintained.

Alternative proposal:

BEREC proposes extending the scope of:

1. Article 88 (provision of an affordable universal service), foreseeing the possibility for Member States to include consumers as well as other **equally vulnerable end-user categories**, retaining Member States discretion in determining which of these categories should be covered at the national level.
2. Article 90 (availability of universal service) to include all **reasonable requests** by end-users.

**BEREC's position on the universal service of
the DNA
(availability and affordability)**

Commission proposal on availability and affordability

Regarding availability, the Commission narrows the scope and refers to reasonable requests by consumers, microenterprises, small enterprises and not-for-profit organisations, rather than end-users (see section on categories of users above).

The obligations are simplified so that Member States shall first use public policy tools, and only where these do not provide the desired effect may Member States impose universal service obligations. In such cases, Member States may entrust one or more undertakings with the provision of these obligations either throughout the national territory or in specific parts of the national territory.

The principles of using the most efficient and appropriate approach, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality, are retained. However, the previous references to minimising market distortions and cost-effective approaches are replaced by a requirement to ensure compatibility with the internal market, including competition rules, with no explicit reference to safeguarding the public interest.

The DNA proposal introduces a more structured approach to affordability, as set out in Article 88, including:

- monitoring of retail price evolution;
- measures for consumers with low income or special social needs;
- specific support to ensure equivalent access for end-users with disabilities.

It also empowers the Commission to adopt implementing acts on the methodology to define adequate internet access service, taking into account national conditions, and on the criteria and methodology for affordability assessments.

BEREC's assessment:

The reference to safeguarding the public interest is important, yet it no longer appears in the availability provisions. Instead, Article 90 (availability of universal service) focuses solely on the use of the most efficient and appropriate approach, subject to the principles of objectivity, transparency, non-discrimination, proportionality, and compatibility with the internal market, including competition rules. Regarding the categories of users, see the previous section.

The DNA proposal requires annual monitoring of retail prices for services within the universal service scope. BEREC notes that a fixed annual monitoring interval may have unintended consequences (e.g. it may be disproportionate in stable markets, while it may be too infrequent to monitor developing markets or new market entrants) and implies a new burden on NRAs, whereas the DNA underlines administrative simplification. Accordingly, BEREC is of the view that greater flexibility for Member States in determining the monitoring interval would be beneficial.

Article 88(3) states that where a Member State “decides to require tariff options or packages, these shall be offered by all providers”.

BEREC considers that the proposal (Article 88(3) and recitals 236 and 238) should be clearer regarding the possibility of exempting certain providers, based on objective criteria, from offering tariff options or packages other than those offered under normal commercial conditions.

As previously noted in BEREC's views on the Universal Service regime, as in the Commission's proposals and IMCO Opinion (BoR (17) 203), requiring a very small-sized

provider or a recent market entrant to offer such tariff options may be disproportionate. Where imposing obligations on all providers would result in a demonstrated excessive administrative or financial burden for providers or the Member State, Member States should be able to impose the obligation only on designated undertakings, or to exempt certain providers from the obligation. This exception may save costs at several stages, including those related to unnecessary compensation procedures. This approach is also consistent with recital 236, which states that «[r]equiring all providers of internet access and voice communications services to offer tariff options or packages should not result in excessive administrative or financial burden for those providers or Member States», and not imposing the same obligation on all providers may be precisely the most adequate measure to adopt in order to avoid excessive administrative or financial burden.

Another issue concerns the treatment of related terminal equipment and the underlying connection:

- BEREC identifies that in Article 88 of the DNA the affordability of “related terminal equipment” is explicitly ensured for consumers with disabilities (Article 88(4)), but not for low-income users or those with special social needs (Article 88(2)).
- In addition, BEREC observes that the removal of the reference to the “underlying connection”, compared to Article 84(1) of the EECC, may weaken the clarity of the affordability obligation. While recital 244 refers to possible support for equipment and in-house wiring, the absence of such elements in the operative provisions reduces legal certainty. BEREC further notes that high upfront installation and equipment costs may constitute a significant barrier to access. In this context, BEREC considers that the cost of terminal equipment and installation could be taken into account when assessing the affordability of universal service provision.

Alternative proposal:

BEREC recommends that policy makers:

1. **explicitly safeguard** the public interest in universal service obligations;
2. ensure **flexibility** for NRAs in the monitoring of **retail prices**;
3. retain the possibility for Member States to **designate one or more undertakings** for obligations related to affordability, or to exempt certain providers, on the basis of objective criteria, from the obligation to offer tariff options or packages different from those offered under normal commercial conditions;
4. provide legal certainty within the USO framework to ensure clarity, simplification and consistency across the Single Market by:
 1. ensuring that Articles (and not only recitals) clearly define **the scope of affordability measures**, including support for equipment and in-house wiring, in order to enhance legal certainty and facilitate consistent implementation across Member States;
 2. making a clear reference to the **underlying connection** within the context of the availability provisions in Article 87.

**BEREC's position on the universal service of
the DNA
(compensation)**

Commission proposal on compensation

Under the current framework (Articles 89 and 90 of the EECC), Member States have clear options and a well-defined mechanism for recovering the net costs of universal service: (1) compensation from public funds, and/or (2) sharing the net cost between providers of ECS/ECN (the industry fund system).

In contrast, the DNA proposal (specifically, Recital 237 and Article 88) seeks to repeal these sector-specific rules on designation and net cost calculation. The Commission's cited rationale is the "rare use" of formal financing procedures and the desire to rely instead on horizontal State aid rules (the SGEI² package), stating that this simplification "*could increase Member States' flexibility when choosing the method of financing of universal service obligations, possibly reducing the administrative burden for providers while ensuring compatibility with the internal market*".

BEREC's assessment:

The DNA proposes that universal service interventions be funded via State Aid or SGEI funding. While the DNA underlines flexibility and simplification (as goals) (Recital 237), BEREC is of the view that there are significant risks associated with the removal of explicit sector-specific financing options, particularly in jurisdictions where compensations rely on the industry levy-based system enabled under the EECC. BEREC considers that placing compensation principles solely in recitals, rather than in binding Articles, risks invalidating successful national models that ensure the USO burden is distributed across the industry rather than being borne solely by the state or a single designated provider. In any case, legal certainty would be lowered.

BEREC is of the view that the rare use of current formal financing procedures does not necessarily mean a lack of utility/use³. On the contrary, there are indirect impacts that may arise from the existence of a formal, sector-specific financing mechanism (e.g. it may sometimes serve as an incentive for market players to become more efficient or to resolve potential universal service gaps voluntarily to avoid the imposition of formal, audited net-cost obligations).

BEREC remains of the view that simplification of the legislative text does not necessarily lead to simplification of the regulatory framework in practice. In the context of universal service obligations, the procedural changes introduced by the DNA proposal, including the removal of specific compensation mechanisms and the shift towards horizontal State aid rules, may reduce regulatory flexibility and efficiency.

Alternative proposal:

To ensure the continued protection of vulnerable users and the stability of the sector, BEREC recommends:

1. **re-introducing financing clarity** by including in the DNA a clear legal basis in the Articles (not only recitals), providing Member States with explicit guidance on sector-specific compensation options, including public funding and industry-sharing mechanisms.
2. ensuring that "*calibrated full harmonisation*" **does not inadvertently restrict well-functioning**, established and effective financing models in those Member States where they have proven to be effective.

² Services of general economic interest.

³ BEREC notes that universal service obligations are set in a few Member States, after careful assessment, where such obligations are necessary and relevant.