

Brussels, 10 October 2008

**COMPROMISE PROPOSAL  
FOR THE**

**CONSOLIDATED VERSION OF THE PROPOSAL AMENDING DIRECTIVE 2002/22/EC  
(Universal Service Directive)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

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

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

After having consulted the European Data Protection Supervisor,

Acting in accordance with the procedure laid down in Article 251 of the Treaty

*Whereas: [common to the Universal Service and ePrivacy Directives]*

- (1) *The functioning of the five directives 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)<sup>1</sup>, 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)<sup>2</sup>, 2002/21/EC of the European Parliament and the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)<sup>3</sup>, 2002/22/EC of the European Parliament and the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)<sup>4</sup> and 2002/58/EC of the European Parliament and the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)<sup>5</sup> which constitute the existing regulatory framework for electronic communications networks and services is subject to periodic review by the Commission, with a view in particular to determining the need for modification in the light of technological and market developments.*

<sup>1</sup>OJ L 108, 24.4.2002, p. 7.

<sup>2</sup>OJ L 108, 24.4.2002, p. 21.

<sup>3</sup>OJ L 108, 24.4.2002, p. 33.

<sup>4</sup>OJ L 108, 24.4.2002, p. 51.

<sup>5</sup>OJ L 201, 31.7.2002, p. 37.

- (2) *In that regard, the Commission presented its findings in its Communication to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 29 June 2006 on the Review of the EU Regulatory Framework for electronic communications networks and services.*
- (3) *The reform of the EU regulatory framework for electronic communications networks and service, including the reinforcement of provisions for users with disabilities, represents a key step towards achieving a Single European Information Space and at the same time an inclusive information society. These objectives are included in the strategic framework for the development of the information society as described in the Commission Communication to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions entitled “i2010 — A European Information Society for growth and employment”.*
- (4) *For the sake of clarity and simplicity, the present act only deals with the amendments to Directives 2002/22/EC and 2002/58/EC.*
- (40) *Directives 2002/22/EC and 2002/58/EC should therefore be amended accordingly.*

*[for the rest, see the relevant articles]*

HAVE ADOPTED THIS DIRECTIVE:

## CHAPTER I SCOPE, AIMS AND DEFINITIONS

### *Article 1*

#### **Subject-matter and scope**

1. Within the framework of Directive 2002/21/EC (Framework Directive), this Directive concerns the provision of electronic communications networks and services to end-users. The aim is to ensure the availability throughout the Community of good quality publicly available services through effective competition and choice and to deal with circumstances in which the needs of end-users are not satisfactorily met by the market. **The Directive also includes provisions concerning consumer premises certain aspects of terminal equipment to facilitate access for disabled users.**

2. This Directive establishes the rights of end-users and the corresponding obligations on undertakings providing publicly available electronic communications networks and services. With regard to ensuring provision of universal service within an environment of open and competitive markets, this Directive defines the minimum set of services of specified quality to which all end-users have access, at an affordable price in the light of specific national conditions, without distorting competition. This Directive also sets out obligations with regard to the provision of certain mandatory services ~~such as the retail provision of leased lines.~~

**3. The provisions included in the present Directive with regard to the end-users' rights shall apply without prejudice to Community rules on consumer protection, in particular Directives 93/13/EC and 97/7/EC, and national rules in conformity with Community law.**

**(4a) Without prejudice to Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity<sup>6</sup>, and in particular the disability requirements laid down in Article 3(3)(f) thereof, certain aspects of terminal equipment, including equipment intended for disabled users, should be brought within the scope of Directive 2002/22/EC in order to facilitate access to networks and the use of services. Such equipment currently includes receive-only radio and television terminal equipment as well as special terminal devices for hearing-impaired users.**

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<sup>6</sup> OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

*Article 2*  
**Definitions**

For the purposes of this Directive, the definitions set out in Article 2 of Directive 2002/21/EC (Framework Directive) shall apply.

The following definitions shall also apply:

(a) "public pay telephone" means a telephone available to the general public, for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes;

~~(b) "public telephone network" means an electronic communications network which is used to provide publicly available telephone services; it supports the transfer between network termination points of speech communications, and also other forms of communication, such as facsimile and data;~~

(c) "publicly available telephone service" means a service available to the public for originating **and receiving**<sup>7</sup>, **directly or indirectly via carrier selection or pre-selection or resale**, national **or national** and/or international calls and access to emergency services through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance, directory enquiry services, directories, provision of public pay phones, provision of service under special terms, provision of special facilities for customers with disabilities or with special social needs and/or the provision of non-geographic services;

(5) *Definitions need to be adjusted so as to conform to the principle of technology neutrality and to keep pace with technological development. In particular, conditions for the provision of a service should be separated from the actual definitional elements of a publicly available telephone service, i.e. an electronic communications service available to the public for originating and receiving, directly or indirectly **via carrier selection or pre-selection or resale**, national **or national** and/or international calls through a number or numbers in a national or international telephone numbering plan, **whether such a service is based on circuit switching or packet switching technology. Publicly available telephone services also include means of communication specifically intended for disabled users using text relay or total conversation services. It is the nature of such a service that it is bidirectional, enabling both the parties to communicate.** A service which does not fulfil all these conditions, **such as for example a "click-through" application on a customer service website**, is not a publicly available telephone service.*

(6) *It is necessary to clarify **that the indirect provision of service could include the application of certain provisions to take account of** situations where **originating is made via carrier selection or pre-selection or where** a service provider resells or re-brands publicly available telephone services provided by another undertaking.*

(d) "geographic number" means a number from the national **telephone** numbering plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point (NTP);

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<sup>7</sup> ES would prefer "originating and/or receiving".

~~(e) "network termination point" (NTP) means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the NTP is identified by means of a specific network address, which may be linked to a subscriber number or name; (moved to Framework Directive)~~

(f) "non-geographic numbers" means a number from the national numbering plan that is not a geographic number. It includes inter alia mobile, freephone and premium rate numbers.

## CHAPTER II UNIVERSAL SERVICE OBLIGATIONS INCLUDING SOCIAL OBLIGATIONS

### *Article 3*

#### **Availability of universal service**

1. Member States shall ensure that the services set out in this Chapter are made available at the quality specified to all end-users in their territory, independently of geographical location, and, in the light of specific national conditions, at an affordable price.
2. Member States shall determine the most efficient and appropriate approach for ensuring the implementation of universal service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. They shall seek to minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest.

### *Article 4*

#### **Provision of access at a fixed location and provision of telephone services**

1. Member States shall ensure that all reasonable requests for connection at a fixed location to ~~the a public telephone communications network and for access to publicly available telephone services at a fixed location~~ are met by at least one undertaking.
2. The connection provided shall be capable of ~~allowing end-users to make and receive local, national and international telephone calls;~~ **supporting voice, facsimile and data communications and data communications**, at data rates that are sufficient to permit functional Internet access, taking into account prevailing technologies used by the majority of subscribers and technological feasibility.<sup>8</sup>
3. Member States shall ensure that all reasonable requests for provision of a **publicly available telephone service, over the network connection referred to in paragraph 1, that allows for, allowing originating and receiving of national and international calls and calls to emergency services via the number "112" as well as via any other national emergency numbers,** are met by at least one undertaking.

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<sup>8</sup> ES suggests adding:

**"Member States may define the data rates that are considered appropriate for functional Internet access."**

(7) *As a result of technological and market evolutions, networks are increasingly moving to the "Internet Protocol" (IP) technology and consumers are increasingly able to choose between a range of competing voice service providers. Therefore, Member States should be able to separate universal service obligations concerning the provision of a connection to the public communications network at a fixed location from the provision of a publicly available telephone service (including calls to emergency services via the number "112"). Such separation should not affect the scope of universal service obligations defined and reviewed at Community level. Member States that use other national emergency numbers besides "112" may impose on undertakings similar obligations for access to those national emergency numbers.*

#### *Article 5*

### **Directory enquiry services and directories**

1. Member States shall ensure that:

(a) at least one comprehensive directory is available to end-users in a form approved by the relevant authority, whether printed or electronic, or both, and is updated on a regular basis, and at least once a year;

(b) at least one comprehensive telephone directory enquiry service is available to all end-users, including users of public pay telephones.

2. The directories in paragraph 1 shall comprise, subject to the provisions of Article ~~11~~ **12** of Directive ~~97/66/EC~~ **2002/58/EC**, all subscribers of publicly available telephone services.

3. Member States shall ensure that the undertaking(s) providing the services referred to in paragraph 1 apply the principle of non-discrimination to the treatment of information that has been provided to them by other undertakings.

#### *Article 6*

### **Public pay telephones**

1. Member States shall ensure that national regulatory authorities can impose obligations on undertakings in order to ensure that public pay telephones are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones, the accessibility of such telephones to disabled users and the quality of services.

2. A Member State shall ensure that its national regulatory authority can decide not to impose obligations under paragraph 1 in all or part of its territory, if it is satisfied that these facilities or comparable services are widely available, on the basis of a consultation of interested parties as referred to in Article 33.

3. Member States shall ensure that it is possible to make emergency calls from public pay telephones using the single European emergency call number "112" and other national emergency numbers, all free of charge and without having to use any means of payment.

## Article 7

### Special Measures for disabled users<sup>9</sup>

1. Member States shall, ~~where appropriate, unless requirements have been specified under Chapter IV which achieve the equivalent effect,~~ take specific measures ~~for disabled end-users in order~~ to ensure access to and affordability of ~~the services identified in Articles 4(3) and 5 for disabled end-users publicly available telephone services, including access to emergency services, directory enquiry services and directories, equivalent comparable~~ to that enjoyed by other end-users. Member States may oblige national regulatory authorities to assess the general need and the specific requirements, including extent and concrete form of such specific measures for disabled users.
2. Member States ~~shall~~ may take specific measures, in the light of national conditions, to ensure that disabled end-users can also take advantage of the choice of undertakings and service providers available to the majority of end-users.

## Article 8

### Designation of undertakings

1. Member States may designate one or more undertakings to guarantee the provision of universal service as identified in Articles 4, 5, 6 and 7 and, where applicable, Article 9(2) so that the whole of the national territory can be covered. Member States may designate different undertakings or sets of undertakings to provide different elements of universal service and/or to cover different parts of the national territory.
2. When Member States designate undertakings in part or all of the national territory as having universal service obligations, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no undertaking is a priori excluded from being designated. Such designation methods shall ensure that universal service is provided in a cost-effective manner and may be used as a means of determining the net cost of the universal service obligation in accordance with Article 12.

*(7a) In accordance with the principle of subsidiarity, it is for the Member States to decide on the basis of objective criteria which undertakings are designated as universal service providers, where appropriate taking into account the ability and the willingness of undertakings to accept all or part of the universal service obligations. This does not preclude that Member States may include, in the designation process, specific conditions justified on grounds of efficiency, including inter alia grouping of geographical areas or components or minimum period for the designation.*

3. When an ~~operator~~ undertaking designated in accordance with paragraph 1 intends to dispose of a substantial part or all of its local access network assets to a separate legal entity under different ownership, it shall inform in advance the national regulatory authority in a timely manner, in order to allow the national regulatory authority to assess the effect of the intended transaction on the provision of access at a fixed location and of telephone services pursuant to Article 4. The national regulatory authority may impose, amend or withdraw conditions specific obligations in accordance with Article 6 (2) of Directive 2002/20/EC (Authorisation Directive).

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<sup>9</sup> AT has a scrutiny reserve on this article, while SE would prefer to reinstate the Commission's initial wording.

*Article 9*  
**Affordability of tariffs**

1. National regulatory authorities shall monitor the evolution and level of retail tariffs of the services identified in Articles 4, 5, 6 and 7 as falling under the universal service obligations and **either** provided by designated undertakings **or available in the market, if no undertakings are designated in relation to these services, ~~otherwise available in the market~~**, in particular in relation to national consumer prices and income.
  2. Member States may, in the light of national conditions, require that designated undertakings provide **to consumers** tariff options or packages **to consumers** which depart from those provided under normal commercial conditions, in particular to ensure that those on low incomes or with special social needs are not prevented from accessing ~~or using the publicly available telephone service~~ **the network access referred to in Article 4(1), or using the services identified in Articles 4(3), 5, 6 and 7 as falling under the universal service obligations and provided by designated undertakings.**
  3. Member States may, besides any provision for designated undertakings to provide special tariff options or to comply with price caps or geographical averaging or other similar schemes, ensure that support is provided to consumers identified as having low incomes, **disability** or special social needs.
  4. Member States may require undertakings with obligations under Articles 4, 5, 6 and 7 to apply common tariffs, including geographical averaging, throughout the territory, in the light of national conditions or to comply with price caps.
  5. National regulatory authorities shall ensure that, where a designated undertaking has an obligation to provide special tariff options, common tariffs, including geographical averaging, or to comply with price caps, the conditions are fully transparent and are published and applied in accordance with the principle of non-discrimination. National regulatory authorities may require that specific schemes be modified or withdrawn.
- (8) *National regulatory authorities should be able to monitor the evolution and the level of retail tariffs for services that fall under the scope of universal service obligations even when a Member State has not designated an undertaking to provide universal service. **In this case the monitoring should be made in such a way that it would not represent excessive administrative burden for either national regulatory authorities or undertakings providing these services.***



*Article 10*  
**Control of expenditure**

1. Member States shall ensure that designated undertakings, in providing facilities and services additional to those referred to in Articles 4, 5, 6, 7 and 9(2), establish terms and conditions in such a way that the subscriber is not obliged to pay for facilities or services which are not necessary or not required for the service requested.
2. Member States shall ensure that designated undertakings with obligations under Articles 4, 5, 6, 7 and 9(2) provide the specific facilities and services set out in Annex I, Part A, in order that subscribers can monitor and control expenditure and avoid unwarranted disconnection of service.
3. Member States shall ensure that the relevant authority is able to waive the requirements of paragraph 2 in all or part of its national territory if it is satisfied that the facility is widely available.

*Article 11*  
**Quality of service of designated undertakings**

1. National regulatory authorities shall ensure that all designated undertakings with obligations under Articles 4, 5, 6, 7 and 9(2) publish adequate and up-to-date information concerning their performance in the provision of universal service, based on the quality of service parameters, definitions and measurement methods set out in Annex III. The published information shall also be supplied to the national regulatory authority.
2. National regulatory authorities may specify, inter alia, additional quality of service standards, where relevant parameters have been developed, to assess the performance of undertakings in the provision of services to disabled end-users and disabled consumers. National regulatory authorities shall ensure that information concerning the performance of undertakings in relation to these parameters is also published and made available to the national regulatory authority.
3. National regulatory authorities may, in addition, specify the content, form and manner of information to be published, in order to ensure that end-users and consumers have access to comprehensive, comparable and user-friendly information.
4. National regulatory authorities shall be able to set performance targets for those undertakings with universal service obligations at least under Article 4. In so doing, national regulatory authorities shall take account of views of interested parties, in particular as referred to in Article 33.
5. Member States shall ensure that national regulatory authorities are able to monitor compliance with these performance targets by designated undertakings.
6. Persistent failure by an undertaking to meet performance targets may result in specific measures being taken in accordance with Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)(13). National regulatory authorities shall be able to order independent audits or similar reviews of the performance data, paid for by the undertaking concerned, in order to ensure the accuracy and comparability of the data made available by undertakings with universal service obligations.

## *Article 12*

### **Costing of universal service obligations**

1. Where national regulatory authorities consider that the provision of universal service as set out in Articles 3 to 10 may represent an unfair burden on undertakings designated to provide universal service, they shall calculate the net costs of its provision.

For that purpose, national regulatory authorities shall:

(a) calculate the net cost of the universal service obligation, taking into account any market benefit which accrues to an undertaking designated to provide universal service, in accordance with Annex IV, Part A; or

(b) make use of the net costs of providing universal service identified by a designation mechanism in accordance with Article 8(2).

2. The accounts and/or other information serving as the basis for the calculation of the net cost of universal service obligations under paragraph 1(a) shall be audited or verified by the national regulatory authority or a body independent of the relevant parties and approved by the national regulatory authority. The results of the cost calculation and the conclusions of the audit shall be publicly available.

## *Article 13*

### **Financing of universal service obligations**

1. Where, on the basis of the net cost calculation referred to in Article 12, national regulatory authorities find that an undertaking is subject to an unfair burden, Member States shall, upon request from a designated undertaking, decide:

(a) to introduce a mechanism to compensate that undertaking for the determined net costs under transparent conditions from public funds; and/or

(b) to share the net cost of universal service obligations between providers of electronic communications networks and services.

2. Where the net cost is shared under paragraph 1(b), Member States shall establish a sharing mechanism administered by the national regulatory authority or a body independent from the beneficiaries under the supervision of the national regulatory authority. Only the net cost, as determined in accordance with Article 12, of the obligations laid down in Articles 3 to 10 may be financed.

3. A sharing mechanism shall respect the principles of transparency, least market distortion, non-discrimination and proportionality, in accordance with the principles of Annex IV, Part B. Member States may choose not to require contributions from undertakings whose national turnover is less than a set limit.

4. Any charges related to the sharing of the cost of universal service obligations shall be unbundled and identified separately for each undertaking. Such charges shall not be imposed or collected from undertakings that are not providing services in the territory of the Member State that has established the sharing mechanism.

*Article 14*  
**Transparency**

1. Where a mechanism for sharing the net cost of universal service obligations as referred to in Article 13 is established, national regulatory authorities shall ensure that the principles for cost sharing, and details of the mechanism used, are publicly available.
2. Subject to Community and national rules on business confidentiality, national regulatory authorities shall ensure that an annual report is published giving the calculated cost of universal service obligations, identifying the contributions made by all the undertakings involved, and identifying any market benefits, that may have accrued to the undertaking(s) designated to provide universal service, where a fund is actually in place and working.

*Article 15*  
**Review of the scope of universal service**

1. The Commission shall periodically review the scope of universal service, in particular with a view to proposing to the European Parliament and the Council that the scope be changed or redefined. A review shall be carried out, on the first occasion within two years after the date of application referred to in Article 38(1), second subparagraph, and subsequently every three years.
2. This review shall be undertaken in the light of social, economic and technological developments, taking into account, inter alia, mobility and data rates in the light of the prevailing technologies used by the majority of subscribers. The review process shall be undertaken in accordance with Annex V. The Commission shall submit a report to the European Parliament and the Council regarding the outcome of the review.

**CHAPTER III**  
**REGULATORY CONTROLS ON UNDERTAKINGS WITH SIGNIFICANT MARKET**  
**POWER IN SPECIFIC RETAIL MARKETS**

*Article 16*  
**Review of obligations**

1. — Member States shall maintain all obligations relating to:

(a) retail tariffs for the provision of access to and use of the public telephone network, imposed under Article 17 of Directive 98/10/EC of the European Parliament and of the Council of 26 February 1998 on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment(14);

(b) carrier selection or pre-selection, imposed under Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of open network provision (ONP)(15);

(c) leased lines, imposed under Articles 3, 4, 6, 7, 8 and 10 of Directive 92/44/EEC, until a review has been carried out and a determination made in accordance with the procedure in paragraph 3 of this Article.

2. — The Commission shall indicate relevant markets for the obligations relating to retail markets in the initial recommendation on relevant product and service markets and the Decision identifying transnational markets to be adopted in accordance with Article 15 of Directive 2002/21/EC (Framework Directive).

3. — Member States shall ensure that, as soon as possible after the entry into force of this Directive, and periodically thereafter, national regulatory authorities undertake a market analysis, in accordance with the procedure set out in Article 16 of Directive 2002/21/EC (Framework Directive) to determine whether to maintain, amend or withdraw the obligations relating to retail markets. Measures taken shall be subject to the procedure referred to in Article 7 of Directive 2002/21/EC (Framework Directive).

(9) *Redundant obligations designed to facilitate the transition from the old regulatory framework of 1998 to the one of 2002 should be deleted, together with other provisions that overlap with and duplicate those laid down in Directive 2002/21/EC.*

*Article 17*

**Regulatory controls on retail services**

1. Member States shall ensure that, ~~where:~~ **national regulatory authorities impose appropriate regulatory obligations on undertakings identified as having significant market power on a given retail market in accordance with Article 14 of Directive 2002/21/EC (Framework Directive):**

(a) **where** as a result of a market analysis carried out in accordance with Article 16(3) **of Directive 2002/21/EC (Framework Directive)** a national regulatory authority determines that a given retail market identified in accordance with Article 15 of Directive 2002/21/EC (Framework Directive) is not effectively competitive, and

(b) **where** the national regulatory authority concludes that obligations imposed under **Articles 9, 10, 11, 12 and 13 of Directive 2002/19/EC (Access Directive), or Article 19 of this Directive** would not result in the achievement of the objectives set out in Article 8 of Directive 2002/21/EC (Framework Directive).

~~national regulatory authorities shall impose appropriate regulatory obligations on undertakings identified as having significant market power on a given retail market in accordance with Article 14 of Directive 2002/21/EC (Framework Directive):~~

2. Obligations imposed under paragraph 1 shall be based on the nature of the problem identified and be proportionate and justified in the light of the objectives laid down in Article 8 of Directive 2002/21/EC (Framework Directive). The obligations imposed may include requirements that the identified undertakings do not charge excessive prices, inhibit market entry or restrict competition by setting predatory prices, show undue preference to specific end-users or unreasonably bundle services. National regulatory authorities may apply to such undertakings appropriate retail price cap measures, measures to control individual tariffs, or measures to orient tariffs towards costs or prices on comparable markets, in order to protect end-user interests whilst promoting effective competition.

~~3. National regulatory authorities shall, on request, submit information to the Commission concerning the retail controls applied and, where appropriate, the cost accounting systems used by the undertakings concerned.~~

4. National regulatory authorities shall ensure that, where an undertaking is subject to retail tariff regulation or other relevant retail controls, the necessary and appropriate cost accounting systems are implemented. National regulatory authorities may specify the format and accounting methodology to be used. Compliance with the cost accounting system shall be verified by a qualified independent body. National regulatory authorities shall ensure that a statement concerning compliance is published annually.

5. Without prejudice to Article 9(2) and Article 10, national regulatory authorities shall not apply retail control mechanisms under paragraph 1 of this Article to geographical or user markets where they are satisfied that there is effective competition.

*Article 18*

**Regulatory controls on the minimum set of leased lines**

~~1. — Where, as a result of the market analysis carried out in accordance with Article 16(3), a national regulatory authority determines that the market for the provision of part or all of the minimum set of leased lines is not effectively competitive, it shall identify undertakings with significant market power in the provision of those specific elements of the minimum set of leased lines services in all or part of its territory in accordance with Article 14 of Directive 2002/21/EC (Framework Directive). The national regulatory authority shall impose obligations regarding the provision of the minimum set of leased lines, as identified in the list of standards published in the Official Journal of the European Communities in accordance with Article 17 of Directive 2002/21/EC (Framework Directive), and the conditions for such provision set out in Annex VII to this Directive, on such undertakings in relation to those specific leased line markets.~~

~~2. — Where as a result of the market analysis carried out in accordance with Article 16(3), a national regulatory authority determines that a relevant market for the provision of leased lines in the minimum set is effectively competitive, it shall withdraw the obligations referred to in paragraph 1 in relation to this specific leased line market.~~

~~3. — The minimum set of leased lines with harmonised characteristics, and associated standards, shall be published in the Official Journal of the European Communities as part of the list of standards referred to in Article 17 of Directive 2002/21/EC (Framework Directive). The Commission may adopt amendments necessary to adapt the minimum set of leased lines to new technical developments and to changes in market demand, including the possible deletion of certain types of leased line from the minimum set, acting in accordance with the procedure referred to in Article 37(2) of this Directive.~~

*(10) The requirement to provide a minimum set of leased lines at retail level, which was necessary to ensure the continued application of provisions of the regulatory framework of 1998 in the field of leased lines, which was not yet sufficiently competitive at the time the 2002 framework entered into force, is no longer necessary and should be repealed.*

*Article 19*

**Carrier selection and carrier pre-selection**

~~1. National regulatory authorities shall require undertakings notified as having significant market power for the provision of connection to and use of the public telephone network at a fixed location in accordance with Article 16(3) to enable their subscribers to access the services of any interconnected provider of publicly available telephone services:~~

~~(a) on a call-by-call basis by dialling a carrier selection code; and~~

~~(b) by means of pre-selection, with a facility to override any pre-selected choice on a call-by-call basis by dialling a carrier selection code.~~

~~2. User requirements for these facilities to be implemented on other networks or in other ways shall be assessed in accordance with the market analysis procedure laid down in Article 16 of Directive 2002/21/EC (Framework Directive) and implemented in accordance with Article 12 of Directive 2002/19/EC (Access Directive).~~

~~3. National regulatory authorities shall ensure that pricing for access and interconnection related to the provision of the facilities in paragraph 1 is cost oriented and that direct charges to subscribers, if any, do not act as a disincentive for the use of these facilities.~~

*(11) Continuing to impose carrier selection and carrier pre-selection directly by Community legislation could hamper technological progress. These remedies should rather be imposed by national regulatory authorities as a result of market analysis in accordance with the procedures in Directive 2002/21/EC **through obligations referred to in Article 12 of the Directive 2002/19/EC (Access Directive).***

**CHAPTER IV  
END-USER INTERESTS AND RIGHTS**

*Article 20*  
**Contracts**<sup>10</sup>

~~1. Paragraphs 2, 3 and 4 This article shall apply without prejudice to Community rules on consumer protection, in particular Directives 97/7/EC and 93/13/EC and 97/7/EC, and national rules in conformity with Community law.~~

2. Member States shall ensure that, where subscribing to services providing connection and/or access to the a public telephone communications network and/or publicly available telephone services, consumers and other end-users so requesting<sup>11</sup> have a right to a contract with an undertaking or undertakings providing such services and/or connection. The contract shall specify in a clear, comprehensive and easily accessible form at least:<sup>12</sup>

(a) the identity and address of the supplier;

(b) services provided, including in particular:<sup>13</sup>

- information on any restrictions imposed by the provider regarding a subscriber's ability to access, use or distribute lawful content or run lawful applications and services;<sup>14</sup>

- the minimum service quality levels offered, as well as namely the time for the initial connection and, where appropriate, other quality of service parameters, eventually defined by the national regulatory authorities;

- (e) the types of maintenance service offered and customer support services provided, as well as the methods to contact with these services;

- any restrictions on the use of terminal equipment imposed by the provider;<sup>15</sup>

(c) where an obligation exists under Article 25, the subscriber's options as to whether to include his or her personal data in a directory and the data concerned;<sup>16</sup>

(d) particulars of prices and tariffs and, the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained, payment methods offered and any differences in costs due to payment method;

<sup>10</sup> BE and SI have a scrutiny reserve on the whole article 20.

<sup>11</sup> UK, BG, DE, LU and IE have a reserve on "and other end-users so requesting".

<sup>12</sup> AT has a scrutiny reserve on this subparagraph.

<sup>13</sup> BE has a scrutiny reserve on the whole paragraph (b).

<sup>14</sup> CZ, LU, EE, SE, LT, IE, DK, PL, FI, IT and DE have a reserve on this indent while HU, SE and AT have a scrutiny reserve.

<sup>15</sup> CZ, IE, LU, EE, LT and FI have a reserve on this indent, while AT has a scrutiny reserve;

IE suggests: "- any restrictions on the use of terminal equipment **supplied** by the provider".

<sup>16</sup> ES and IE have a scrutiny reserve on (c).



(e) the duration of the contract; **and** the conditions for renewal and termination of services and of the contract, **including:**

**- conditions regarding minimum contract duration related to promotions**

**- direct costs for any charges related to portability of numbers and other identifiers,** <sup>17</sup>

**- any charges due on termination of the contract, including any cost recovery with respect to terminal equipment;** <sup>18</sup>

(f) any compensation and the refund arrangements which apply if contracted service quality levels are not met; **and**

(g) the method of initiating procedures for settlement of disputes in accordance with Article 34;

(h) **the type of action that might be taken by the undertaking providing connection and/or services in reaction to security or integrity incidents or threats and vulnerabilities.**

**The contract shall also include any information which may be provided by the relevant public authorities for this purpose on the use of electronic communications networks and services to engage in unlawful activities or to disseminate harmful content, and on the means of protection against risks to personal security, privacy and personal data, referred to in Article 21(4a) and relevant to the service provided.** <sup>19</sup>

**Member States may extend these obligations to cover other end-users:**

~~3. — Where contracts are concluded **The information listed in paragraph 2 shall also be included in contracts** between consumers and electronic communications services providers other than those providing connection and/or access to the **a public telephone communications network and/or publicly available telephone services.** , the information in paragraph 2 shall also be included in such contracts. Member States may extend this obligation to cover other end-users.~~

4. Member States shall ensure that where contracts are concluded between subscribers and undertakings providing electronic communications services that allow voice communication, subscribers are clearly informed whether or not access to emergency services, **and whether caller location information,** is provided. Providers of electronic communications services shall ensure that customers are clearly informed of **any limitation in the lack of** access to emergency services in advance of the conclusion of a contract and **regularly thereafter in case of any change in the access to the emergency services.**

~~5. — **Member States shall ensure that where contracts are concluded between subscribers and undertakings providing electronic communications services and/or networks, subscribers are clearly informed in advance of the conclusion of a contract and regularly thereafter of any limitations imposed by the provider on their ability to access or distribute lawful content or run any lawful applications and services of their choice.**~~

<sup>17</sup> SI proposes to include “paid by the consumer concerned”.

<sup>18</sup> DE and AT have a reserve on this indent.

<sup>19</sup> DK, IE, DE, AT, CZ, HU, LU and PL have a reserve on this subparagraph, while SI and BE have a scrutiny reserve.

~~6. Member States shall ensure that where contracts are concluded between subscribers and undertakings providing electronic communications services and/or networks, subscribers are clearly informed, in advance of the conclusion of the contract, and regularly thereafter of their general obligations to respect copyright and related rights. Without prejudice to Directive 2000/31/EC on electronic commerce, this includes the obligation to inform subscribers of the most common acts of infringements and their legal consequences.~~

7. Member States shall ensure that subscribers shall have a right to withdraw from their contracts without penalty upon notice of proposed modifications in the contractual conditions proposed by operators the undertakings providing electronic communications networks and/or services. Subscribers shall be given adequate notice, not shorter than one month, ahead of any such modifications and shall be informed at the same time of their right to withdraw, without penalty, from such contracts, if they do not accept the new conditions. Member States shall ensure the national regulatory authorities are able to specify the format of such notifications.

*(11a) The provisions on contracts should apply not only to consumers but also to other end-users, primarily micro enterprises and, small and medium-sized enterprises (SMEs), who may prefer a contract adapted to consumer needs. To avoid unnecessary administrative burdens on providers and complexity related to the definition of SMEs, the provisions on contracts should not apply automatically to those other end-users but only where they so request. Member States should take appropriate measures to promote awareness amongst SMEs of this possibility.*

*(12) Providers of electronic communications services should ensure that their customers are adequately informed as to whether or not access to emergency services is provided and on any limitation in service (such as limitation in the provision of caller location information or the routing of emergency calls), and are given clear and transparent information in the initial customer contract and ~~at regular intervals thereafter in case of any change in the access provision,~~ for example in customer billing information. This information should include any limitations as to territorial coverage, on the basis of the planned technical operating parameters of the service and the available infrastructure. Where the service is not provided over a switched telephony network, the information should also include the level of reliability of the access and of caller location information compared to a service that is provided over a switched telephony network, taking into account current technology and quality standards, as well as any quality of service parameters specified under Directive 2002/22/EC. Voice calls remain the most robust and reliable form of access to emergency services. Other means of contact, such as text messaging, may be less reliable and may suffer from lack of immediacy. Member States should however, if they deem it appropriate, be free to promote the development and implementation of other means of access to emergency services which are capable of ensuring access equivalent to voice calls. Customers should also be kept well informed of possible type of actions that the provider of electronic communications service may take to address security threats or in response to a security or integrity incident, since such actions could have a direct or indirect impact on the customer's data, privacy or other aspects of the service provided.*

*(12a) With respect to terminal equipment, the customer contract should specify any restrictions imposed by the provider on the customer's use of the equipment, such as by way of "SIM-locking" mobile devices, and any charges due on termination of the contract, whether before or on the agreed expiry date, including any cost imposed in order to retain the equipment.*

- (12b) Without imposing any obligation on the provider to take action over and above what is required under Community law, the customer contract should also specify the type of action, if any, the provider might take in case of security or integrity incidents, threats or vulnerabilities.
- (12c) In order to address public interest issues with respect to the use of communications services, and to encourage protection of the rights and freedoms of others, the relevant national authorities should be able to produce and have disseminated, with the aid of providers, public interest information related to the use of communications services. This information should include public interest warnings regarding copyright infringement, other unlawful uses and dissemination of harmful content, and advice and means of protection against risks to personal security, which may for example arise from disclosure of personal information in certain circumstances, privacy and personal data. The information could be coordinated by way of the cooperation procedure established in Article 33(2a) of Directive 2002/22/EC. Such public interest information should be updated whenever necessary and it should be presented in easily comprehensible printed and electronic formats, as determined by each Member State, and on national public authority websites. National regulatory authorities should be able to oblige providers to disseminate this standardised information to all their customers in a manner deemed appropriate by the national regulatory authorities. The information should also be included in contracts.
- (13) The right of subscribers to withdraw from their contracts without penalty refers to modifications in contractual conditions which are imposed by the providers of electronic communications networks and/or services.
- (14) End-users should decide what lawful content they want to be able to send and receive, and which services, applications, hardware and software they want to use for such purposes, without prejudice to the need to preserve the integrity and security of networks and services. A competitive market with transparent offerings as provided for in Directive 2002/22/EC should ensure that end-users are able to access and distribute any lawful content and to use any lawful applications and/or services of their choice, as stated in Article 8 of Directive 2002/21/EC. Given the increasing importance of electronic communications for consumers and businesses, users should in any case be fully informed of any restrictions and/or limitations imposed on the use of electronic communications services by the service and/or network provider with which they conclude the contract. Such information should, at the option of the provider, specify either the type of content, application or service concerned, or individual applications or services, or both. Depending on the technology used and the type of restriction and/or limitation, such restrictions and/or limitations may require user consent under Directive 2002/58/EC (Privacy Directive). Where there is a lack of effective competition, national regulatory authorities should use the remedies available to them in Directive 2002/19/EC to ensure that users' access to particular types of content or applications is not unreasonably restricted.

*(14a) In the absence of relevant rules of Community law, content, applications and services are deemed lawful or harmful in accordance with national substantive and procedural law. It is a task for the relevant authorities of the Member States, not for providers of electronic communications networks or services, to decide, in accordance with due process, whether content, applications or services are lawful or harmful or not. The Framework Directive and the Specific Directives are without prejudice to Directive 2000/31/EC (Directive on electronic commerce), which inter alia contains a "mere conduit" rule for intermediary service providers, as defined therein.*

## Article 21

### Transparency and publication of information

~~1. Member States shall ensure that transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, and on standard terms and conditions, in respect of access to and use of publicly available telephone the services identified in Articles 4, 5, 6 and 7 is available to end-users and consumers, in accordance with the provisions of Annex II.~~

~~2. Member States shall ensure that undertakings providing public electronic communications networks and/or services publish comparable, adequate and up-to-date information on applicable prices and tariffs in respect of access and use of their services provided to consumers. Such information shall be published in an easily accessible form.~~

1. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing electronic communications networks and/or services to publish transparent, comparable<sup>20</sup>, adequate and up-to-date information as set out in Annex II, on applicable prices and tariffs and on standard terms and conditions in respect of access and use of their services provided to end-users and consumers. National regulatory authorities may specify additional requirements regarding the form in which such information shall be published to ensure transparency, comparability, clarity and accessibility for the benefit of consumers.

2. National regulatory authorities shall encourage the provision of **comparable** information to enable end-users, as far as appropriate, and consumers to make an independent evaluation of the cost of alternative usage patterns, **for instance** by means of, ~~for instance,~~ interactive guides or similar techniques. Member States shall ensure that national regulatory authorities **may** make such guides or techniques available, **in particular** when these are not available on the market **free of charge or at a reasonable price**. Third parties shall have a right to use without charge the **tariffs information** published by undertakings providing electronic communications networks and/or services, for the purposes of selling or making available such interactive guides or similar techniques.

3. Member States shall<sup>21</sup> ensure that national regulatory authorities are able to oblige undertakings providing electronic communications services to inter alia:<sup>22</sup>

<sup>20</sup> AT has a reserve on the word "comparable".

<sup>21</sup> DK would suggest replacing "shall" by "may".

<sup>22</sup> SI and FI have a scrutiny reserve on paragraph 3.

- ~~(a) provide applicable tariff information to customers subscribers regarding any number or service subject to particular pricing conditions, with respect to individual categories of services national regulatory authorities may require such information to be provided immediately prior to connecting the call; at the time and point of purchase to ensure that customers are fully informed of pricing conditions.~~
- ~~(b) inform subscribers of any change to any restrictions imposed by the undertaking on their ability to access, use or distribute lawful content or run lawful applications and services of their choice;<sup>23</sup>~~
- ~~(c) inform subscribers of their right to include their personal data in a directory and of the types of data concerned; and<sup>24</sup>~~
- ~~(d) regularly inform disabled subscribers of details of current products and services aimed at them.~~

~~If deemed appropriate, national regulatory authorities may promote self- or co-regulatory measures prior to imposing any obligation.~~

~~4. Member States shall ensure that national regulatory authorities oblige the undertakings referred to in paragraph 3 to distribute public interest information to existing and new subscribers where appropriate. Such information shall be produced by the relevant public authorities in a standardised format and shall inter alia cover the following topics:~~

- ~~(a) The most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related right, and their consequences; and~~
- ~~(b) means of protection against risks to personal security, privacy and personal data in using electronic communications services.<sup>25</sup>~~

~~5. Member States shall ensure that national regulatory authorities are able to oblige undertakings providing electronic communications services and/or networks to provide information required in accordance with Article 20(5) to customers in a clear, comprehensive and easily accessible form.~~

~~6. In order to ensure that end-users can benefit from a consistent approach to tariff transparency, as well as to the provision of information in accordance with Article 20(5) in the Community, the Commission may, having consulted the European Electronic Communications Market Authority (hereinafter referred to as "the Authority"), take the appropriate technical implementing measures in this area, such as specify the methodology or procedures. Those measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(3).~~

<sup>23</sup> UK, DE, LU, EE, DK, FI and PL have a reserve on (b), while BE, HU and EE have a scrutiny reserve.

<sup>24</sup> UK and FI have a reserve on (c).

<sup>25</sup> UK, DE, LU, IE, HU, AT, SI and BE have a reserve on paragraph 4a.

- (15) *The availability of transparent, up-to-date and comparable ~~tariffs information on offers and services~~ is a key element for consumers in competitive markets with several providers offering services. **End-users and consumers** of electronic communications services should be able to easily compare prices of various services offered on the market based on ~~tariff~~ information published in an easily accessible form. In order to allow them to make price comparisons easily, national regulatory authorities should have powers to require from ~~operators undertakings providing electronic communications networks and/or services~~ better ~~tariff~~ transparency on information (including tariffs, consumption patterns, and other relevant statistics) and to ensure that third parties have the right to use without charge publicly available ~~tariffs information~~ published by undertakings providing electronic communications networks and/or services. They should also be able to make price guides available in particular where the market has not provided them free of charge or at a reasonable price. Operators Undertakings should not be entitled to any remuneration for such use of tariffs information which had already been published and thus belong to the public domain. In addition, end-users and consumers should be adequately informed of the price involved or the type of service offered before they purchase a service, in particular if a freephone number is subject to any additional charges. National regulatory authorities should be able to require that such information is provided generally, and, for certain categories of services determined by them, immediately prior to connecting the call. When determining the categories of call requiring pricing information prior to connection, national regulatory authorities should take due account of the nature of the service, the pricing conditions which apply to it and whether it is offered by a provider who is not a provider of electronic communications services. The Commission should be able to adopt technical implementing measures to ensure that end-users benefit from a consistent approach to tariff transparency in the Community. Without prejudice to Directive 2000/31/EC on electronic commerce, the undertakings should also provide public interest information to subscribers on the most common acts of infringements and their legal consequences.*
- (15a) *Customers should be informed of their rights with respect to the use of their personal information in directories of subscribers, and in particular of the purpose or purposes of such directories, as well as their right, free of charge, not to be included in a public subscriber directory, as provided for in Directive 2002/58/EC. Where systems exist allowing information to be included in the directory database but not disclosed to users of directory services customers should also be informed of that possibility.*

*Article 22*  
**Quality of service**

1. Member States shall ensure that national regulatory authorities are, after taking account of the views of interested parties, able to require undertakings that provide publicly available electronic communications ~~services networks and/or services~~ to publish comparable, adequate and up-to-date information for end-users on the quality of their services, **including and on measures taken to ensure equivalent comparable access for disabled end-users**. The information shall, on request, also be supplied to the national regulatory authority in advance of its publication.

2. National regulatory authorities may specify, inter alia, the quality of service parameters to be measured, and the content, form and manner of information to be published, **including possible quality certification mechanisms**, in order to ensure that end-users have access to comprehensive, comparable, **reliable** and user-friendly information. Where appropriate, the parameters, definitions and measurement methods given in Annex III could be used.

3. **In order to prevent degradation of service and hindering or slowing of traffic over networks, Member States shall ensure that national regulatory authorities are able to set minimum quality of service requirements on undertakings providing public communications networks. The Commission may, having consulted the Authority, adopt technical implementing measures concerning minimum quality of service requirements to be set by the national regulatory authority on undertakings providing public communications networks. These measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(3).**

*(16) A competitive market should ensure that users are able to have the quality of service they require, but in particular cases it may be necessary to ensure that public communications networks attain minimum quality levels so as to prevent degradation of service, the blocking of access and the slowing of traffic over the networks. ~~In particular, the Commission should be able to adopt implementing measures with a view to identifying the quality standards to be used by the national regulatory authorities.~~*

*Article 23*  
**Availability of services**

Member States shall take all necessary ~~steps measures~~ to ensure the integrity of the public telephone network at fixed locations and, **fullest possible availability of publicly available telephone services provided over public communications networks** in the event of catastrophic network breakdown or in cases of *force majeure*. ~~the availability of the public telephone network and publicly available telephone services at fixed locations~~. Member States shall ensure that undertakings providing publicly available telephone services at fixed locations take all **reasonable steps necessary measures** to ensure uninterrupted access to emergency services.<sup>26</sup>

*(17) In future IP networks where provision of a service may be separated from provision of the network, Member States should determine the most appropriate steps to be taken to ensure the availability of publicly available telephone services provided using public communications networks and uninterrupted access to emergency services in the event of catastrophic network breakdown or in cases of force majeure, **taking into account the priorities of different types of subscribers and technical limitations.***

*Article 23a*  
**Ensuring comparable access and choice for disabled users**<sup>27</sup>

**1. Member States shall enable relevant national authorities to specify, where appropriate, requirements to be met by undertakings providing publicly available electronic communication services to ensure that disabled end-users:**

**(a) can have access to electronic communications services comparable to that enjoyed by the majority of end-users, and**

**(b) can take advantage of the choice of undertakings and services available to the majority of end-users.**

**2. In order to be able to adopt and implement specific arrangements for disabled users, Member States shall encourage the availability of terminal equipment offering the necessary services and functions.**

**(17a) In order to ensure that disabled users benefit from the competition and the choice of service providers enjoyed by the majority of other end users, national regulatory authorities can specify, where appropriate and in light of national conditions, consumer protection requirements to be met by undertakings providing publicly available electronic communications services. Such requirements may include, in particular, undertakings being required to ensure that disabled end-users can take advantage of their services on the same terms and conditions, including prices and tariffs, as those offered to their other end-users, and to charge equivalent prices for their services irrespective of any additional costs incurred by them. They may also include requirements relating to the wholesale arrangements between undertakings.**

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<sup>26</sup> BG and IE would prefer the wording “**reasonable** measures”, while DK suggests inserting “availability **and integrity**”.

<sup>27</sup> DK has a scrutiny reserve on Article 23a.



(4b) Member States should introduce measures to promote the creation of a market for widely available products and services incorporating facilities for disabled users. One way among others of achieving this is with reference to European standards, introducing electronic accessibility (eAccessibility) requirements for public procurement procedures and tendering services, in accordance with legislation upholding the rights of the disabled.

#### Article 24

### Interoperability of consumer digital television equipment

In accordance with the provisions of Annex VI, Member States shall ensure the interoperability of the consumer digital television equipment referred to therein.

#### Article 25

### ~~Operator assistance and Telephone directory enquiry services~~

1. Member States shall ensure that subscribers to publicly available telephone services have the right to have an entry in the publicly available directory referred to in Article 5(1)(a) **and their information made available to providers of directory enquiry services and/or directories in accordance with paragraph 2.**<sup>28</sup>
2. Member States shall ensure that all undertakings which assign telephone numbers to subscribers meet all reasonable requests to make available, for the purposes of the provision of publicly available directory enquiry services and directories, the relevant information in an agreed format on terms which are fair, objective, cost oriented and non-discriminatory.
3. Member States shall ensure that all end-users provided with a ~~connection to the publicly available telephone service network~~ can access ~~operator assistance services and directory enquiry services~~ **in accordance with Article 5(1)(b). National regulatory authorities shall be able to impose obligations and conditions on undertakings that control access to end-users for the provision of directory enquiry services in accordance with the provisions of Article 5 of Directive 2002/19/EC (Access Directive). Such obligations and conditions shall be objective, proportionate, non-discriminatory and transparent.**
4. Member States shall not maintain any regulatory restrictions which prevent end-users in one Member State from accessing directly the directory enquiry service in another Member State **by voice call or SMS**<sup>29</sup>, **and shall take measures to ensure such access in accordance with Article 28.**
5. Paragraphs 1, 2, 3 and 4 **shall** apply subject to the requirements of Community legislation on the protection of personal data and privacy and, in particular, Article ~~11~~ **12** of Directive ~~97/66/EC~~ **2002/58/EC**.

<sup>28</sup> BG has a scrutiny reserve on paragraph 1.

<sup>29</sup> DK, IE and ES have a reserve on the inclusion of “by voice call or SMS”.

(18) *Operator assistance services cover a range of different services for end-users. The provision of such services should be left to commercial negotiations between providers of public communications networks and operator assistance services, as is the case for any other customer support service, and there is no need to continue to mandate their provision. Therefore, the corresponding obligation should be repealed.*

(18a) *Directory enquiry services should be, and frequently are, provided under competitive market conditions, pursuant to Article 5 of Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services.<sup>30</sup> Measures concerning the inclusion of end-user data (of all undertakings that assign telephone numbers to subscribers) in databases should respect the safeguards for the protection of personal data, including Article 12 of Directive 2002/58/EC. The cost-oriented supply of that data for the purposes of publicly available directory and directory enquiry services should be in place in order to ensure that end users benefit fully from reasonable and transparent conditions from competitive offers.*

#### Article 26

### Emergency services and the single European emergency call number

1. Member States shall ensure that, ~~in addition to any other national emergency call numbers specified by the national regulatory authorities,~~ all end-users of publicly available telephone services referred to in paragraph 2, including users of public pay telephones, are able to call the emergency services free of charge and without having to use any means of payment, by using the single European emergency call number "112" ~~as well as by any other national emergency call numbers specified by the national regulatory authorities.~~

2. Member States shall ensure that undertakings providing end-users with an electronic communications service for originating national and/or international calls through to a number or numbers in a national or international telephone numbering plan provide access to emergency services.

~~2 3.~~ Member States shall ensure that calls to the single European emergency call number "112" are appropriately answered and handled in a manner best suited to the national organisation of emergency systems. ~~and within the technological possibilities of the networks.~~ **Such calls shall be answered and handled at least as expeditiously and effectively as calls to national emergency number or numbers, where these continue in use.**

4. Member States shall ensure that access for disabled end-users are able to access emergency services is comparable to that enjoyed by other end-users. In order to ensure that disabled end-users are able to access emergency services while travelling in other Member States, the measures taken for this purpose may include ensuring compliance with relevant will be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework Directive), and they shall not prevent Member States from adopting additional requirements in order to pursue the objectives set out in this Article.

<sup>30</sup> OJ L 249, 17.9.2002, p.21.

~~3 5. Member States shall ensure that, to the extent technically feasible, undertakings which operate public telephone networks make undertakings concerned make caller location information ~~is made~~ **available free of charge to the authority handling emergency calls and services, to the extent technically feasible, as soon as the call reaches that authority. This applies to for** all calls to the single European emergency call number "112". **Member States may extend this obligation to cover also calls to other national emergency numbers. Where undertakings referred to in paragraph 2 wish to claim that providing caller location information is not technically feasible, they shall bear the burden of proving this.**~~

~~**Member States shall require that caller location information is automatically provided as soon as the emergency call reaches the authority dealing with the emergency.**~~

~~4 6. Member States shall ensure that citizens are adequately informed about the existence and use of the single European emergency call number "112", in particular through initiatives specifically targeting persons travelling between Member States. **Member States shall submit a yearly report to the Commission and the Authority on the measures taken in that respect.**~~

~~**7. In order to ensure the effective implementation of "112" services in the Member States, including access for disabled end-users when travelling in other Member States, the Commission, having consulted the Authority, may adopt technical implementing measures.**~~

~~**Those measures designed to amend non-essential elements of this Directive, by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(3).**~~

(19) *End-users should be able to call and access the emergency services provided using any telephone service capable of originating voice calls through a number or numbers in the national **or international** telephone numbering plans. Emergency authorities should be able to handle and answer calls to the number "112" at least as expeditiously and effectively as calls to other national emergency numbers. It is important to increase awareness of "112" in order to improve the level of protection and security of citizens travelling in the European Union. To this end, citizens should be made fully aware that "112" can be used as a single emergency number when travelling in any Member States, in particular through information provided in international bus terminals, train stations, ports or airports and in telephone directories, payphone kiosks, subscriber and billing material. **This is primarily the responsibility of the Member States, but the Commission should continue both to support and to supplement initiatives of the Member States to further awareness of "112" and periodically to evaluate knowledge of "112" by the public.** The obligation to provide caller location information should be strengthened so as to increase the protection of citizens of the European Union. In particular, **operators undertakings** should **provide make available** caller location information to emergency services **in a "push" mode as soon as the call reaches that service independently of the technology used.** In order to respond to technological developments, including those leading to increasingly precise accuracy of location information, the Commission should be able to adopt technical implementing measures in order to ensure the effective implementation of "112" in the Community for the benefit of citizens of the European Union.*

(19a) Member States shall ensure that undertakings providing end-users with an electronic communications service for originating calls through a number or numbers in a national or international telephone numbering plan provide access to emergency services with the accuracy and reliability that is technically feasible for that electronic communications service.

Network-independent service providers may not have control over networks and could not ensure that the emergency calls made through their service would be routed with the same reliability as traditional integrated telephone service providers, as they may not be able to guarantee service availability given that problems related to the infrastructure are not under the control of these service providers.

Once internationally recognized standards are in place that will ensure accurate, reliable routing and connection to the emergency services, the network-independent service providers should also fulfil the obligations related to access to emergency services at a comparable level to other undertakings.

(20) Member States should take specific measures to ensure that emergency services, including "112", are equally accessible to disabled persons, in particular deaf, hearing-impaired, speech-impaired and deaf-blind users. This could involve the provision of special terminal devices to hearing-impaired users, text relay services, or other specific equipment.

#### Article 27

#### European telephone access codes

1. Member States shall ensure that the "00" code is the standard international access code. Special arrangements for making calls between adjacent locations across borders between Member States may be established or continued. The end-users of publicly available telephone services in the locations concerned shall be fully informed of such arrangements.

~~2. Those Member States to which the ITU assigned the international code "3883" shall entrust the Authority with sole responsibility for management of the European Telephony Numbering Space.~~

~~3. Member States shall ensure that all undertakings that operate provide publicly available telephone networks services handle all calls to and from the European telephony numbering space, without prejudice to the need for an undertaking that operates a public telephone network to recover the cost of the conveyance of calls on its network at rates that do not exceed the maximum rate they apply for calls to and from other Member States.~~

~~(21) The countries to which the International Telecommunications Union assigned the international code “3883” have delegated administrative responsibility for the European Telephony Numbering Space (ETNS) to the electronic communications committee (ECC) of the European Conference of Postal and Telecommunications Administrations (CEPT). Technological and market developments show that ETNS represents an opportunity for pan-European services to develop, but that it is currently prevented from realising its potential by overly bureaucratic procedural requirements and a lack of coordination between national administrations. In order to foster the development of ETNS, its administration (which includes assignment, monitoring and development) should be transferred to the European Electronic Communications Market Authority established by Regulation (EC) No.../... of the European Parliament and of the Council of [...]<sup>31</sup>, hereinafter referred to as “the Authority”. The Authority should ensure coordination with those countries that share “3883” but are not Member States on behalf of the Member States to which “3883” has been assigned.~~

#### Article 27a

#### Harmonised numbers for harmonised services of social value, including the missing children hotline number

1. Member States shall promote the specific numbers in the numbering range beginning with '116' identified by Commission Decision 2007/116/EC of 15 February 2007 on reserving the national numbering range beginning with '116' for harmonised numbers for harmonised services of social value.<sup>32</sup> They shall encourage the provision within their territory of the services for which such numbers are reserved.

2. Member States shall ensure that disabled end-users are able to access services provided under the '116' numbering range. In order to ensure that disabled end-users are able to access such services while travelling in other Member States, measures taken shall include ensuring compliance with relevant standards or specifications published in accordance with the provisions of Article 17 of Directive 2002/21/EC (Framework Directive).

3. Member States shall ensure that citizens are adequately informed about the existence and use of services provided under the '116' numbering range, in particular through initiatives specifically targeting persons travelling between Member States.

4. Member States shall, in addition to measures of general applicability to all numbers in the '116' numbering range taken pursuant to paragraphs 1, 2, and 3, ensure citizens' access to a service operating a hotline to report cases of missing children. The hotline shall be available on the number 116000.

4. In order to ensure the effective implementation of the '116' numbering range, in particular the missing children hotline number 116000, in the Member States, including access for disabled end-users when travelling in other Member States, the Commission, having consulted [xxx], may adopt technical implementing measures.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2).

<sup>31</sup>OJ C [...], [...], p. [...].

<sup>32</sup> OJ L 49, 17.2.2007, p. 30.

(21a) Pursuant to its Decision 2007/116/EC of 15 February 2007 on reserving the national numbering range beginning with '116' for harmonised numbers for harmonised services of social value,<sup>x</sup> the Commission has reserved numbers in the '116' numbering range for certain services of social value. The numbers identified in that Decision cannot be used for purposes other than those set out therein, but there is no obligation for Member States to ensure that services associated with the reserved numbers are actually provided. The appropriate provisions of Decision 2007/116/EC should be reflected in Directive 2002/22/EC in order to integrate them more firmly into the regulatory framework for electronic communications networks and services and to ensure accessibility by disabled end-users as well. Considering the particular aspects related to reporting missing children and the currently limited availability of that service, Member States should not only reserve a number, but also ensure that a service for reporting missing children is actually available in their territories under the number 116000.

<sup>x</sup> OJ L 49, 17.2.2007, p. 30.

#### Article 28

#### ~~Non-geographic numbers~~ Access to numbers and services

**1. Member States shall ensure that, where technically and economically feasible, and except where a caller subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, end-users from other Member States are able to access non-geographic numbers within their territory where technically and economically feasible, except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas. national regulatory relevant national authorities take all necessary steps to ensure that:**

- (a) end-users are able to access and use services, including information society services, provided using non-geographic numbers within the Community; and**
- (b) end-users are able to access all numbers provided in the Community, including those in the national numbering plans of Member States, those from the European Telephone Numbering Space and Universal International Freephone Numbers.**

**Member states shall ensure that the relevant National regulatory authorities shall be able to require from undertakings providing public communications networks and/or publicly available electronic communications service to block on a case-by-case basis access to numbers or services where this is justified by reasons of fraud or misuse and to ensure that in such cases, including where an investigation is pending, providers of electronic communications services withhold relevant interconnection or other service revenues.<sup>33</sup>**

<sup>33</sup> SI, IE, SE and ES have a scrutiny reserve on paragraph 1.

~~2. In order to ensure that end-users have effective access to numbers and services in the Community, the Commission may, having consulted the Authority, adopt technical implementing measures. These measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(3).~~

~~Any such technical implementing measure may be periodically reviewed to take account of market and technological developments.~~

(22) *A single market implies that end-users are able to access all numbers included in the national numbering plans of other Member States, and to access services, including Information Society services, using non-geographic numbers within the Community, including among others freephone and premium rate numbers. End-users should also be able to access numbers from the European Telephone Numbering Space (ETNS) and universal international freephone numbers (UIFN). Cross-border access to numbering resources and to the associated service should not be prevented except in objectively justified cases, such as when this is necessary to combat fraud, and abuse e.g. in connection with certain premium-rate services, or when the number is defined as having a national scope only (e.g. national short code). Users should be fully informed in advance in a clear manner of any charges applicable to freephone numbers, such as international call charges for numbers accessible through standard international dialling codes. ~~In order to ensure that end-users have effective access to numbers and services in the Community, the Commission should be able to adopt implementing measures.~~*

#### Article 29

#### Provision of additional facilities

1. Member States shall ensure that national regulatory authorities are able to require all undertakings that ~~operate provide~~ publicly available telephone networks services and/or public communications networks to make available to end-users the additional facilities listed in Annex I, Part B, subject to technical feasibility and economic viability.

2. A Member State may decide to waive paragraph 1 in all or part of its territory if it considers, after taking into account the views of interested parties, that there is sufficient access to these facilities.

3. Without prejudice to Article 10(2), Member States may impose the obligations in Annex I, Part A, point (a) and (e), ~~concerning disconnection~~ as a general requirement on all undertakings providing access to public communications networks and/or publicly available telephone services.

Article 30

**Number Portability Facilitating change of supplier**

1. Member States shall ensure that all subscribers of publicly available telephone services, including mobile services, **with numbers from the national telephone<sup>34</sup> numbering plan** who so request can retain their number(s) independently of the undertaking providing the service **in accordance with the provisions of Annex I, part C.**

~~(a) in the case of geographic numbers, at a specific location; and~~

~~(b) in the case of non-geographic numbers, at any location.~~

~~This paragraph does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.~~

2. National regulatory authorities shall ensure that pricing for ~~interconnection between operators and/or service providers~~ related to the provision of number portability is cost oriented and that direct charges to subscribers, if any, do not act as a disincentive **to subscribers for the use of these facilities change of service provider.**

3. National regulatory authorities shall not impose retail tariffs for the porting of numbers in a manner that would distort competition, such as by setting specific or common retail tariffs.

4. **Without prejudice to national provisions on termination of contracts, Pporting of numbers and their subsequent activation shall be executed within the shortest possible delay, no later than one working day from the initial request by the subscriber. National regulatory authorities may amend the one day period and prescribe appropriate measures where necessary, including when technically unfeasible or to ensure that subscribers are not switched against their will.**<sup>35</sup>

~~5. The Commission may, having consulted the Authority and taking into account technology and market conditions, amend Annex I Part C in accordance with the procedure referred to in Article 37(2):~~

~~**Such amendment may, in particular provide for:**~~

~~(a) the portability of numbers between fixed and mobile networks;~~

~~(b) the portability of subscriber identifiers and related information, in which case the provisions of paragraphs 2, 3 and 4 shall also apply to these identifiers.~~

~~**5a. Member States shall ensure that the duration of contracts concluded between users and undertakings providing an electronic communications service does not exceed 24 months.**~~

6. **Without prejudice to any minimum contractual period, national regulatory authorities Member States shall ensure that conditions and procedures for termination of contract do not act as a disincentive for changing suppliers or services service providers.**<sup>36</sup>

<sup>34</sup> FI and SI have a scrutiny reserve on “telephone”.

<sup>35</sup> PL, FI, RO, AT, ES, DK, IT and CZ have a reserve on this paragraph, and are against the reference to a delay of “one working day”. LV, LU and DE have a scrutiny reserve.

<sup>36</sup> DK and PL have a scrutiny reserve on paragraph 6.



- (23) *In order to take full advantage of the competitive environment, consumers should be able to make informed choices and to change providers when it is in their interest. It is essential to ensure that they can do so without being hindered by legal, technical or practical obstacles, including contractual conditions, procedures, charges etc. This does not preclude imposing reasonable minimum contractual periods in consumer contracts. Number portability is a key facilitator of consumer choice and effective competition in competitive markets for electronic communications. ~~and It should be implemented with the minimum of delay, ordinarily within one day from the request of the consumer, taking into account technological development and, where necessary, appropriate measures to guarantee that consumers are protected throughout the switching process. This protection may include the limitation of porting abuse and/or the setting of fast corrective actions. In order to be able to adapt number portability to market and technological evolution, including the possible porting of subscriber's personal directories and profile information stored within the network, the Commission should be able to take technical implementing measures in this area. Assessment of whether technology and market conditions are such as to allow for porting of numbers between networks providing services at a fixed location and mobile networks should in particular take into account prices for users and switching costs for undertakings providing services at fixed locations and mobile networks.~~*

*Article 31*

**"Must carry" obligations**

1. Member States may impose reasonable "must carry" obligations, for the transmission of specified radio and ~~television broadcast channels~~ **audiovisual media services** and **complementary services, particularly accessibility services to enable appropriate access for disabled users**, on undertakings under their jurisdiction providing electronic communications networks used for the distribution of radio or ~~television broadcast channels~~ **audiovisual media services** to the public where a significant number of end-users of such networks use them as their principal means to receive radio and ~~television broadcast channels~~ **audiovisual media services**. Such obligations shall only be imposed where they are necessary to meet clearly defined general interest objectives **as clearly and specifically defined by each Member State in its national law** and shall be proportionate and transparent. The obligations shall be subject to periodical review.<sup>37</sup>

**The obligations referred to in the first subparagraph shall be reviewed by the Member States at the latest within one year of <time-limit for implementation of the amending act>, except where Member States have carried out such a review within the previous 2 years.**

**Member States shall review "must carry" obligations at least every three years on a regular basis.**

2. Neither paragraph 1 of this Article nor Article 3(2) of Directive 2002/19/EC (Access Directive) shall prejudice the ability of Member States to determine appropriate remuneration, if any, in respect of measures taken in accordance with this Article while ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks. Where remuneration is provided for, Member States shall ensure that it is applied in a proportionate and transparent manner.

<sup>37</sup> BG, BE, ES and LT would prefer to keep the reference to "television broadcast channels" instead of "audiovisual media services". DE, HU, SE, SI and LU have a scrutiny reserve.

(24) ~~*A television broadcast is a linear audiovisual media service as defined in the Audiovisual Media Services Directive of the European Parliament and of the Council of [...] 2007, which is provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule; a media service provider may provide a number of audio or audio-visual programme schedules (channels). Legal “must-carry” obligations may be applied, but only to specified radio and audiovisual media services and complementary services broadcast channels supplied by a specified media service provider. Audiovisual media services are defined in Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities. Member States should provide a clear justification for the “must carry” obligations in their national law so as to ensure that such obligations are transparent, proportionate and properly defined. In that regard, “must carry” rules should be designed in a way which provides sufficient incentives for efficient investment in infrastructure. “Must carry” rules should be periodically reviewed in order to keep them up-to-date with technological and market evolution in order to ensure that they continue to be proportionate to the objectives to be achieved. Complementary services include, but are not limited to Given the rapid change in technology and market conditions such a full review would need to be carried out at least every three years and would require a public consultation of all stakeholders. One or more broadcast channels may be complemented by*~~ services to improve accessibility for users with disabilities, such as a videotext service, subtitling service, an audio description or sign language.

## CHAPTER V GENERAL AND FINAL PROVISIONS

### *Article 32*

#### **Additional mandatory services**

Member States may decide to make additional services, apart from services within the universal service obligations as defined in Chapter II, publicly available in its own territory but, in such circumstances, no compensation mechanism involving specific undertakings may be imposed.

### *Article 33*

#### **Consultation with interested parties**

1. Member States shall ensure as far as appropriate that national regulatory authorities take account of the views of end-users, and consumers (including, in particular, disabled users), manufacturers, **and** undertakings that provide electronic communications networks and/or services on issues related to all end-user and consumer rights concerning publicly available electronic communications services, in particular where they have a significant impact on the market.

**In particular, Member States shall ensure that national regulatory authorities establish a consultation mechanism ensuring that in their decisions-making process on issues related to end-user and consumer rights concerning publicly available electronic communications services, due consideration is given to consumer interests in electronic communications.**

2. Where appropriate, interested parties may develop, with the guidance of national regulatory authorities, mechanisms, involving consumers, user groups and service providers, to improve the general quality of service provision by, inter alia, developing and monitoring codes of conduct and operating standards.

**2a. Without prejudice to national rules in conformity with Community law promoting cultural and media policy objectives, such as cultural and linguistic diversity and media pluralism, national regulatory authorities and other relevant authorities shall<sup>38</sup> as far as appropriate promote cooperation between undertakings providing electronic communications networks and/or services and the sectors interested in the promotion of lawful content in electronic communication networks and services. That co-operation may also include coordination of the public interest information to be made available under Article 21(4a) and Article 20(2).**

**3. Member States shall submit a yearly report to the Commission and the Authority on the measures taken and the progress towards improving interoperability and use of, and access to, electronic communications services and terminal equipment by disabled end-users.**

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<sup>38</sup> DE, IE, UK and AT have a reserve on this paragraph and would favour the replacement of “shall” by “may”. HU has a scrutiny reserve.

~~3. Without prejudice to the application of Directive 1999/5/EC and in particular of disability requirements pursuant to its Article 3(3)(f), and in order to improve accessibility to electronic communications services and equipment by disabled end-users, the Commission may, having consulted the Authority, take the appropriate technical implementing measures to address the issues raised in the report referred to in paragraph 3, following a public consultation. These measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 37(2). On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 37(2?).~~

(25) *In order to overcome existing shortcomings in terms of consumer consultation and appropriately address the interests of citizens, Member States should put in place an appropriate consultation mechanism. Such a mechanism could take the form of a body which would, independently from the national regulatory authority as well as from service providers, carry out research on consumer-related issues, such as consumer behaviour and mechanisms for changing suppliers, and which would operate in a transparent manner and contribute to the existing mechanisms for stakeholders' consultation. **Furthermore, a mechanism should be established for the purpose of enabling appropriate cooperation on issues relating to the promotion of lawful content. Any cooperation procedures agreed pursuant to such a mechanism should however not allow for systematic surveillance of internet usage. Where there is a need to address the facilitation of the access to and use of electronic communications services and terminal equipment for disabled users, and without prejudice to Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity<sup>39</sup> and in particular the disability requirements pursuant to its Article 3(3)(f), the Commission should be able to adopt implementing measures.***

#### Article 34

#### Out-of-court dispute resolution

1. Member States shall ensure that transparent, simple and inexpensive out-of-court procedures are available for dealing with unresolved disputes **arising under this Directive, involving between consumers and undertakings providing electronic communications networks and/or services, relating to issues covered by this Directive the contractual conditions and/or performance of contracts concerning supply of such networks or services.** Member States shall adopt measures to ensure that such procedures enable disputes to be settled fairly and promptly and may, where warranted, adopt a system of reimbursement and/or compensation. Member States may extend these obligations to cover disputes involving other end-users.

~~**Member States shall ensure that bodies in charge of dealing with such disputes provide relevant information for statistical purposes to the Commission and the Authority.**~~

2. Member States shall ensure that their legislation does not hamper the establishment of complaints offices and the provision of on-line services at the appropriate territorial level to facilitate access to dispute resolution by consumers and end-users.

<sup>39</sup>OJ L 91, 7.4.1999, p. 10. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

3. Where such disputes involve parties in different Member States, Member States shall coordinate their efforts with a view to bringing about a resolution of the dispute.

4. This Article is without prejudice to national court procedures.

#### *Article 35*

#### **Technical adjustment Adaptation of annexes**

Amendments necessary to adapt Annexes I, II, III, **and VI and VII** to technological developments or to changes in market demand shall be adopted by the Commission, acting in accordance with the procedure referred to in Article 37(2).

#### *Article 36*

#### **Notification, monitoring and review procedures**

1. National regulatory authorities shall notify to the Commission by at the latest the date of application referred to in Article 38(1), second subparagraph, and immediately in the event of any change thereafter in the names of undertakings designated as having universal service obligations under Article 8(1).

The Commission shall make the information available in a readily accessible form, and shall distribute it to the Communications Committee referred to in Article 37.

2. National regulatory authorities shall notify to the Commission the ~~names of operators deemed to have significant market power for the purposes of this Directive, and the obligations imposed upon them under this Directive~~ **undertakings designated as having universal service obligations**. Any changes affecting the obligations imposed upon undertakings or of the undertakings affected under the provisions of this Directive shall be notified to the Commission without delay.

*(26) Obligations imposed on an undertaking designated as having universal service obligations should be notified to the Commission.*

3. The Commission shall periodically review the functioning of this Directive and report to the European Parliament and to the Council, on the first occasion not later than three years after the date of application referred to in Article 38(1), second subparagraph. The Member States and national regulatory authorities shall supply the necessary information to the Commission for this purpose.

*Article 37*  
**Committee**

1. The Commission shall be assisted by the Communications Committee, set up by Article 22 of Directive 2002/21/EC (Framework Directive).

2. Where reference is made to this paragraph, Article 5a (1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

~~3. Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

~~2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

~~The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.~~

~~3. The Committee shall adopt its rules of procedure.~~

(38) *The measures necessary for the implementation of the Universal Service Directive and the Directive on privacy and electronic communications should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.*

(39) *In particular power should be conferred on the Commission ~~to adopt implementing measures on tariff transparency, minimum quality of service requirements, effective implementation of "112" services, effective access to numbers and services, improvement of accessibility by disabled end-users as well as amendments~~ to adapt the Annexes to technical progress or changes in market demand. ~~This power should also be conferred to adopt implementing measures concerning information and notification requirements as well as cross-border cooperation.~~ Since those measures are of a general scope and are designed to supplement this Directive by adding new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. ~~When, on imperative grounds of urgency, the normal time-limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to use the urgency procedure provided for in Article 5a(6) of the Decision.~~*

*[The following articles are common for this and the ePrivacy Directive]*

#### *Article 4*

##### **Transposition**

- (1) Member States shall adopt and publish by [...] at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from [...].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

- (2) Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 5*

##### **Entry into force**

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

#### *Article 6*

##### **Addressees**

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

**DESCRIPTION OF FACILITIES AND SERVICES REFERRED TO IN ARTICLE 10  
(CONTROL OF EXPENDITURE) ~~AND~~, ARTICLE 29 (ADDITIONAL FACILITIES) ~~AND~~  
ARTICLE 30 (FACILITATING CHANGE OF SUPPLIER)**

**Part A**

**Facilities and services referred to in Article 10**

(a) Itemised billing

Member States are to ensure that national regulatory authorities, subject to the requirements of relevant legislation on the protection of personal data and privacy, may lay down the basic level of itemised bills which are to be provided by designated undertakings (as established in Article 8) to consumers free of charge in order that they can:

- (i) allow verification and control of the charges incurred in using the public ~~telephone~~ **communications** network at a fixed location and/or related publicly available telephone services, and
- (ii) adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills.

Where appropriate, additional levels of detail may be offered to subscribers at reasonable tariffs or at no charge.

Calls which are free of charge to the calling subscriber, including calls to helplines, are not to be identified in the calling subscriber's itemised bill.

(b) Selective ~~call~~ barring for outgoing calls **or other communications**, free of charge

i.e. the facility whereby the subscriber can, on request to ~~the~~ **a designated undertaking that provides** telephone services ~~provider~~, bar outgoing calls **or other communications** of defined types or to defined types of numbers free of charge.<sup>40</sup>

(c) Pre-payment systems

Member States are to ensure that national regulatory authorities may require designated undertakings to provide means for consumers to pay for access to the public ~~telephone~~ **communications** network and use of publicly available telephone services on pre-paid terms.

(d) Phased payment of connection fees

Member States are to ensure that national regulatory authorities may require designated undertakings to allow consumers to pay for connection to the public ~~telephone~~ **communications** network on the basis of payments phased over time.

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<sup>40</sup> IE and LU have a scrutiny reserve on (b).



(e) Non-payment of bills

Member States are to authorise specified measures, which are to be proportionate, non-discriminatory and published, to cover non-payment of telephone bills for use of the public telephone network at fixed locations of **operators undertakings designated in accordance with Article 8.** These measures are to ensure that due warning of any consequent service interruption or disconnection is given to the subscriber beforehand. ~~Except in cases of fraud, persistent late payment or non-payment, these measures are to ensure, as far as is technically feasible, that **Any service interruption is shall normally be confined to the service concerned. Exceptionally,**~~ **Except in cases of fraud, persistent late payment or non-payment, these measures are to ensure, as far as is technically feasible that any service interruption is confined to the service concerned. Member States shall ensure that national regulatory authorities are able to authorise disconnection from the network as a result of non-payment of bills for services provided over the network.** Disconnection for non-payment of bills should take place only after due warning is given to the subscriber. Member States may allow a period of limited service prior to complete disconnection, during which only calls that do not incur a charge to the subscriber (e.g. "112" calls) are permitted.

## Part B

### List of facilities referred to in Article 29

(a) Tone dialling or DTMF (dual-tone multi-frequency operation)

i.e. the public ~~telephone~~ **communications** network supports the use of DTMF tones as defined in ETSI ETR 207 for end-to-end signalling throughout the network both within a Member State and between Member States.

(b) Calling-line identification

i.e. the calling party's number is presented to the called party prior to the call being established.

This facility should be provided in accordance with relevant legislation on protection of personal data and privacy, in particular Directive ~~97/66/EC~~ **2002/58/EC**.

To the extent technically feasible, operators should provide data and signals to facilitate the offering of calling-line identity and tone dialling across Member State boundaries.

## **Part C**

### **Implementation of the number portability provisions referred to in Article 30**

**The requirement that all subscribers with numbers from the national numbering plan, who so request can retain their number(s) independently of the undertaking providing the service shall apply:**

- (a) in the case of geographic numbers, at a specific location; and**
- (b) in the case of non-geographic numbers, at any location.**

**This paragraph does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.**

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**INFORMATION TO BE PUBLISHED IN ACCORDANCE WITH ARTICLE 21  
(TRANSPARENCY AND PUBLICATION OF INFORMATION)**

The national regulatory authority has a responsibility to ensure that the information in this Annex is published, in accordance with Article 21. It is for the national regulatory authority to decide which information is to be published by the undertakings providing public telephone **communications** networks and/or publicly available telephone services and which information is to be published by the national regulatory authority itself, so as to ensure that consumers are able to make informed choices. ~~Where information is published by the undertakings providing public communications networks and/or publicly available telephone services, the national regulatory authority may specify the manner in which the information is published, in order to ensure that consumers are fully informed.~~

1. Name(s) and address(es) of undertaking(s)

i.e. names and head office addresses of undertakings providing public telephone **communications** networks and/or publicly available telephone services.

2. ~~Publicly available telephone~~ **Description of services offered**

2.1. ~~Scope of the publicly available telephone~~ **services offered**

~~Description of the publicly available telephone services offered, indicating what is included in the subscription charge and the periodic rental charge (e.g. operator services, directories, directory-enquiry services, selective call barring, itemised billing, maintenance, etc.).~~

2.2. Standard tariffs covering ~~with an indication of what is included in~~ **indicating the services provided and the content of each tariff element (e.g. charges for access, all types of usage charges, maintenance charges)**, and including details of standard discounts applied and special and targeted tariff schemes **and any additional charges, as well as costs with respect to terminal equipment, shall also be included.**<sup>41</sup>

2.3. Compensation/refund policy, including specific details of any compensation/refund schemes offered.

2.4. Types of maintenance service offered.

2.5. Standard contract conditions, including any minimum contractual period, **termination of the contract, procedures and direct charges related to the portability of numbers and other identifiers**, if relevant.

3. Dispute settlement mechanisms including those developed by the undertaking.

4. Information about rights as regards universal service, including **where appropriate** the facilities and services mentioned in Annex I.

<sup>41</sup> DE has a scrutiny reserve on 2.2.

## QUALITY OF SERVICE PARAMETERS

### SUPPLY-TIME AND QUALITY-OF-SERVICE PARAMETERS, DEFINITIONS AND MEASUREMENT METHODS REFERRED TO IN ARTICLES 11 AND 22

**For undertaking ~~designated to provide~~ providing access to a public communications network**

PARAMETER (Note 1)	DEFINITION	MEASUREMENT METHOD
Supply time for initial connection	<u><b>ETSI EG 202 057</b></u>	<u><b>ETSI EG 202 057</b></u>
Fault rate per access line	<u><b>ETSI EG 202 057</b></u>	<u><b>ETSI EG 202 057</b></u>
Fault repair time	<u><b>ETSI EG 202 057</b></u>	<u><b>ETSI EG 202 057</b></u>

**For undertaking ~~designated to provide~~ providing a publicly available telephone service**

Call set up time (Note 2)	<u><b>ETSI EG 202 057</b></u>	<u><b>ETSI EG 202 057</b></u>
<u><b>Response times for operator services</b></u>	<u><b>ETSI EG 202 057</b></u>	<u><b>ETSI EG 202 057</b></u>
Response times for directory enquiry services	<u><b>ETSI EG 202 057</b></u>	<u><b>ETSI EG 202 057</b></u>
Proportion of coin and card operated public pay-telephones in working order	<u><b>ETSI EG 202 057</b></u>	<u><b>ETSI EG 202 057</b></u>
Bill correctness complaints	<u><b>ETSI EG 202 057</b></u>	<u><b>ETSI EG 202 057</b></u>
<b>Unsuccessful call ratio</b> (Note 2)	<u><b>ETSI EG 202 057</b></u>	<u><b>ETSI EG 202 057</b></u>

Version number of ETSI EG ~~201 769-1~~ is 1.1.1 (April 2000) 202 057-1 is 1.2.1. (October 2005).

Note 1

Parameters should allow for performance to be analysed at a regional level (i.e. no less than level 2 in the Nomenclature of Territorial Units for Statistics (NUTS) established by Eurostat).

Note 2

Member States may decide not to require that up-to-date information concerning the performance for these two parameters be kept, if evidence is available to show that performance in these two areas is satisfactory.

**CALCULATING THE NET COST, IF ANY, OF UNIVERSAL SERVICE OBLIGATIONS  
AND ESTABLISHING ANY RECOVERY OR SHARING MECHANISM IN  
ACCORDANCE WITH ARTICLES 12 AND 13**

**Part A: Calculation of net cost**

Universal service obligations refer to those obligations placed upon an undertaking by a Member State which concern the provision of a network and service throughout a specified geographical area, including, where required, averaged prices in that geographical area for the provision of that service or provision of specific tariff options for consumers with low incomes or with special social needs.

National regulatory authorities are to consider all means to ensure appropriate incentives for undertakings (designated or not) to provide universal service obligations cost efficiently. In undertaking a calculation exercise, the net cost of universal service obligations is to be calculated as the difference between the net cost for a designated undertaking of operating with the universal service obligations and operating without the universal service obligations. This applies whether the network in a particular Member State is fully developed or is still undergoing development and expansion. Due attention is to be given to correctly assessing the costs that any designated undertaking would have chosen to avoid had there been no universal service obligation. The net cost calculation should assess the benefits, including intangible benefits, to the universal service operator.

The calculation is to be based upon the costs attributable to:

(i) elements of the identified services which can only be provided at a loss or provided under cost conditions falling outside normal commercial standards.

This category may include service elements such as access to emergency telephone services, provision of certain public pay telephones, provision of certain services or equipment for disabled people, etc;

(ii) specific end-users or groups of end-users who, taking into account the cost of providing the specified network and service, the revenue generated and any geographical averaging of prices imposed by the Member State, can only be served at a loss or under cost conditions falling outside normal commercial standards.

This category includes those end-users or groups of end-users which would not be served by a commercial operator which did not have an obligation to provide universal service.

The calculation of the net cost of specific aspects of universal service obligations is to be made separately and so as to avoid the double counting of any direct or indirect benefits and costs. The overall net cost of universal service obligations to any undertaking is to be calculated as the sum of the net costs arising from the specific components of universal service obligations, taking account of any intangible benefits. The responsibility for verifying the net cost lies with the national regulatory authority.

## **Part B: Recovery of any net costs of universal service obligations**

The recovery or financing of any net costs of universal service obligations requires designated undertakings with universal service obligations to be compensated for the services they provide under non-commercial conditions. Because such a compensation involves financial transfers, Member States are to ensure that these are undertaken in an objective, transparent, non-discriminatory and proportionate manner. This means that the transfers result in the least distortion to competition and to user demand.

In accordance with Article 13(3), a sharing mechanism based on a fund should use a transparent and neutral means for collecting contributions that avoids the danger of a double imposition of contributions falling on both outputs and inputs of undertakings.

The independent body administering the fund is to be responsible for collecting contributions from undertakings which are assessed as liable to contribute to the net cost of universal service obligations in the Member State and is to oversee the transfer of sums due and/or administrative payments to the undertakings entitled to receive payments from the fund.

**PROCESS FOR REVIEWING THE SCOPE OF UNIVERSAL SERVICE IN  
ACCORDANCE WITH ARTICLE 15**

In considering whether a review of the scope of universal service obligations should be undertaken, the Commission is to take into consideration the following elements:

- social and market developments in terms of the services used by consumers,
- social and market developments in terms of the availability and choice of services to consumers,
- technological developments in terms of the way services are provided to consumers.

In considering whether the scope of universal service obligations be changed or redefined, the Commission is to take into consideration the following elements:

- are specific services available to and used by a majority of consumers and does the lack of availability or non-use by a minority of consumers result in social exclusion, and
- does the availability and use of specific services convey a general net benefit to all consumers such that public intervention is warranted in circumstances where the specific services are not provided to the public under normal commercial circumstances?



## INTEROPERABILITY OF DIGITAL CONSUMER EQUIPMENT REFERRED TO IN ARTICLE 24

### 1. **The** common scrambling algorithm and free-to-air reception

All consumer equipment intended for the reception of **conventional** digital television signals (**i.e. broadcasting via terrestrial, cable or satellite transmission which is primarily intended for fixed reception, such as DVB-T, DVB-C or DVB-S**)<sup>42</sup>, for sale or rent or otherwise made available in the Community, capable of descrambling digital television signals, is to possess the capability to:

- allow the descrambling of such signals according to **the a** common European scrambling algorithm as administered by a recognised European standards organisation, currently ETSI;
- display signals that have been transmitted in **the** clear provided that, in the event that such equipment is rented, the rentee is in compliance with the relevant rental agreement.

### 2. Interoperability for analogue and digital television sets

Any analogue television set with an integral screen of visible diagonal greater than 42 cm which is put on the market for sale or rent in the Community is to be fitted with at least one open interface socket, as standardised by a recognised European standards organisation, e.g. as given in the CENELEC EN 50 049-1:1997 standard, permitting simple connection of peripherals, especially additional decoders and digital receivers.

Any digital television set with an integral screen of visible diagonal greater than 30 cm which is put on the market for sale or rent in the Community is to be fitted with at least one open interface socket (either standardised by, or conforming to a standard adopted by, a recognised European standards organisation, or conforming to an industry-wide specification) e.g. the DVB common interface connector, permitting simple connection of peripherals, and able to pass all the elements of a digital television signal, including information relating to interactive and conditionally accessed services.

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<sup>42</sup> ES and FI have a reserve on this paragraph.

## ~~CONDITIONS FOR THE MINIMUM SET OF LEASED LINES REFERRED TO IN ARTICLE 18~~

### Note:

In accordance with the procedure in Article 18, provision of the minimum set of leased lines under the conditions established by Directive 92/44/EC should continue until such time as the national regulatory authority determines that there is effective competition in the relevant leased lines market.

National regulatory authorities are to ensure that provision of the minimum set of leased lines referred to in Article 18 follows the basic principles of non-discrimination, cost orientation and transparency:

#### 1. ~~Non-discrimination~~

National regulatory authorities are to ensure that the organisations identified as having significant market power pursuant to Article 18(1) adhere to the principle of non-discrimination when providing leased lines referred to in Article 18. Those organisations are to apply similar conditions in similar circumstances to organisations providing similar services, and are to provide leased lines to others under the same conditions and of the same quality as they provide for their own services, or those of their subsidiaries or partners, where applicable.

#### 2. ~~Cost orientation~~

National regulatory authorities are, where appropriate, to ensure that tariffs for leased lines referred to in Article 18 follow the basic principles of cost orientation:

To this end, national regulatory authorities are to ensure that undertakings identified as having significant market power pursuant to Article 18(1) formulate and put in practice a suitable cost accounting system:

National regulatory authorities are to keep available, with an adequate level of detail, information on the cost accounting systems applied by such undertakings. They are to submit this information to the Commission on request.

#### 3. ~~Transparency~~

National regulatory authorities are to ensure that the following information in respect of the minimum set of leased lines referred to in Article 18 is published in an easily accessible form:

3.1. Technical characteristics, including the physical and electrical characteristics as well as the detailed technical and performance specifications which apply at the network termination point.

3.2. Tariffs, including the initial connection charges, the periodic rental charges and other charges. Where tariffs are differentiated, this must be indicated.

~~Where, in response to a particular request, an organisation identified as having significant market power pursuant to Article 18(1) considers it unreasonable to provide a leased line in the minimum set under its published tariffs and supply conditions, it must seek the agreement of the national regulatory authority to vary those conditions in that case.~~

~~3.3. Supply conditions, including at least the following elements:~~

~~- information concerning the ordering procedure;~~

~~- the typical delivery period, which is the period, counted from the date when the user has made a firm request for a leased line, in which 95 % of all leased lines of the same type have been put through to the customers.~~

~~This period will be established on the basis of the actual delivery periods of leased lines during a recent time interval of reasonable duration. The calculation must not include cases where late delivery periods were requested by users;~~

~~- the contractual period, which includes the period which is in general laid down in the contract and the minimum contractual period which the user is obliged to accept;~~

~~- the typical repair time, which is the period, counted from the time when a failure message has been given to the responsible unit within the undertaking identified as having significant market power pursuant to Article 18(1) up to the moment in which 80 % of all leased lines of the same type have been re-established and in appropriate cases notified back in operation to the users. Where different classes of quality of repair are offered for the same type of leased lines, the different typical repair times shall be published;~~

~~- any refund procedure.~~

~~In addition where a Member State considers that the achieved performance for the provision of the minimum set of leased lines does not meet users' needs, it may define appropriate targets for the supply conditions listed above.~~

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