



EU4Digital

EU4Digital: supporting digital economy
and society in the Eastern Partnership

Methodology on national electronic communications regulatory authorities independence assessment for Eastern Partnership countries

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List of Acronyms & Abbreviations

Abbreviations	Definition
AM	Armenia
AZ	Azerbaijan
BE	Belgium
BEREC	Body of European Regulators for Electronic Communications
BY	Belarus
EaP	Eastern Partnership
EaPeReg	Eastern Partnership Electronic Communications Regulators Network
EECC	European Electronic Communications Code
EU	European Union
EWG	Expert Working Group
EU4Digital Facility, EU4Digital	EU4Digital: supporting digital economy and society in the Eastern Partnership
GE	Georgia
IMTR	International Mobile Termination Rates
MD	Republic of Moldova (Moldova)
MRA	Mutual Recognition Agreement
MS	Member States
NRA	National Regulatory Authority
NRAs	National Regulatory Authorities
RRA	Regional Roaming Agreement
UA	Ukraine
WTO	World Trade Organization
2002/2009 regulatory framework	2002/2009 EU electronic communications regulatory framework



1 Executive summary

Linked to the “Eastern Partnership 20 Deliverables for 2020”¹ document, EU4Digital facility has been launched aiming inter alia at supporting strengthening of independence of National Regulatory Authorities (NRAs) in the Eastern Partnership (EaP) region with the ultimate target of independent National Regulatory Authority (NRA) for electronic communications in place in at least five Partner Countries.

In January 2019 EaP wide EU4Digital facility was launched covering inter alia telecommunications area. It will serve as a support mechanism for decision makers and experts in the EaP countries’ in telecommunications area by providing assistance to address tasks related to international roaming and potential arrangement on creating a common international roaming space among the 6 EaP countries, strengthening the independence of NRAs, and freeing the 700 MHz band for future mobile usage.

Under the scope of the EU4Digital facility dedicated to strengthening of the independence of the NRAs, methodology for independence assessment of functioning NRAs was developed and is outlined further in this document.

The aim of the methodology is to enable the relevant EaP countries to assess and identify legislative gaps, if any, and, if necessary, compare among EaP countries’ NRA governance model as well as assignment powers and responsibilities as set forth by the European Union (EU) 2002/2009 electronic communications regulatory framework (please see chapter 3 for details). The methodology is composed of 2 principal assessment dimensions, each divided in a set of sub-dimensions of assessment criteria:

1. Governance:
 - 1.1. Setup of the National Regulatory Authority;
 - 1.2. Setup of decision-making body;
 - 1.3. Appeal and Dispute Resolution.
2. Powers and obligations:
 - 2.1. General Powers and Obligations;
 - 2.2. Market Analysis;
 - 2.3. Scarce Resource Management;
 - 2.4. Consumer Protection;
 - 2.5. Universal Service.

The methodology is accompanied by an information collection questionnaire (please see Annex 1) for the purposes of gathering relevant norms of national legislation.

Based on answers provided by EaP countries regarding assessment criteria of this Methodology, the comprehensive state-of-play assessment of regulatory governance and powers and obligations will be carried out. Further, the legislative gap analysis against the background of relevant EU legislation will be conducted and country-specific recommendations regarding NRAs independence strengthening will be prepared.

Within the scope of EU4Digital activities, data collection for EaP countries are started in Q1 2020, and recommendations prepared by the end of June 2020. This will be an initial assessment and the Methodology will remain as a tool for EaPeReg and EaP countries to periodically evaluate their progress in terms of regulatory independence.

¹ https://eeas.europa.eu/sites/eeas/files/20_deliverables_for_2020.pdf



2 Aim of the methodology

The aim of the methodology is to enable the EaP countries first with the support of the “EU4Digital: Supporting digital economy and society in the Eastern Partnership” (hereinafter – EU4Digital facility) and afterwards via the EaPeReg or on their own to assess the state-of-play in terms of legislative gaps in the field of governance of regulatory independence in the electronic communications regulation.

The EU4Digital will conduct case by case initial analysis and jointly with the EaPeReg prepare assessment of results in terms of legislative gaps identified and organise workshops, after which results will be disseminated to all stakeholders to address the identified gaps and shortages and to follow up with country specific action plans for improvement and preparation of relevant legislation.

Pursuant to the criteria specified and the questionnaire annexed to this Methodology, the EaPeReg would be in position to collect on regular basis and monitor as necessary legislative developments related the legislative environment surrounding the functioning of national regulatory authorities.

The Methodology may be updated as relevant legislative provisions and/or transposition and implementation evolves.



3 Background of the methodology

Linked to the “Eastern Partnership 20 Deliverables for 2020”² document, EU4Digital facility has been launched aiming inter alia at supporting strengthening of independence of NRAs in the EaP region with the ultimate target of independent NRA for electronic communications in place in at least five Partner Countries. For EaP countries, the EU4Digital prepared an early Country profiles – As-Is situation analysis report. The report demonstrated differences in state-of-play of legal environments surrounding the functioning on NRAs, requiring further exploration of the legislative frameworks on country-per-country basis.

An independently functioning NRA is a cornerstone of the EU electronic communications regulatory framework. There have been several iterations of the electronic communications regulatory framework – 1998, 2002, 2009 and 2018.

As sector-specific regulatory framework, the 1998 framework so-called Open Network Provision framework was aimed at liberalising the provision of telecommunications services and infrastructure in the EU. It mandated for an NRA to be created and enabled an opportunity for intervention for the NRAs in order to facilitate development of competition.

The concept of NRA further evolved with adoption and implementation of the 2002 electronic communications regulatory framework³ and, as a result, enhanced role was foreseen for the NRAs also guaranteeing independent functioning and decision making. The 2002 electronic communications regulatory framework was amended in 2009 via the Better Regulation Directive⁴ and the Consumer Rights Directive⁵, forming the so called 2002/2009 EU electronic communications regulatory framework (hereinafter – 2002/2009 regulatory framework). It provides basis of strengthening of the Single Market via national regulatory systems with aligned setups and features.

As a result of transposition of 2002/2009 regulatory framework, there is a clear median of setup and functioning of a national regulatory system in a broader system of the EU. Below is a summary of situation in EU Member States (MS) regarding the typical competences / powers of NRAs (Please see Figure 1).

² https://eeas.europa.eu/sites/eeas/files/20_deliverables_for_2020.pdf

³ DIRECTIVE 2002/21/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive);

DIRECTIVE 2002/19/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive);

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);

DIRECTIVE 2002/22/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive); COMMISSION DIRECTIVE 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services;

DIRECTIVE 2002/58/EC OF THE EUROPEAN PARLIAMENT AND OF 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)

⁴ DIRECTIVE 2009/140/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services

⁵ DIRECTIVE 2009/136/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws



Typical powers of NRA	Situation within EU MS
1. Market regulation and wholesale disputes	<ul style="list-style-type: none"> • Majority of NRAs in EU MS have all of the typical powers assigned • Only 4 EU MS have different set up: <ul style="list-style-type: none"> ○ 4 EU MS NRAs do not have powers associated with spectrum regulation ○ 1 EU MS NRA has only market regulation and wholesale dispute resolution power assigned ○ 1 EU MS NRA has less than a half of typical powers assigned
2. Roaming	
3. Facilitating change of provider	
4. Universal service	
5. Net neutrality	
6. Consumer protection	
7. Numbering	
8. General authorisation: registry & changes	
9. Spectrum	

Figure 1. General overview of competences / powers of NRAs of the EU⁶

In 2018 European Electronic Communications Code⁷ (EECC) was adopted joining the various Directives into a single Directive.

The EU regulatory frameworks reflect the developments in the electronic communications markets and services and along the lines of developments provide rules of balancing the market and customer interests, inter alia, setting up and strengthening the NRAs. The EECC being the latest step providing guidance of facilitating the electronic communications markets.

As the EECC was adopted in end of 2018 and it provides that EU MS shall adopt and publish, by 21 December 2020, the laws, regulations and administrative provisions necessary to comply with this Directive, at the moment of starting of preparation of this methodology via alignment with the relevant Expert Working Group (EWG) of the EaPeReg, there is no best-practice type of experience neither to be analysed, nor applied. Moreover, the EU4Digital prepared a comparison of norms related to regulatory independence under the 2002/2009 regulatory framework and the EECC (please see Annex 3). Comparative analysis did not reveal any major discrepancies / differences on the definition and attributes of NRA independence concept. Therefore, jointly with the EaPeReg a consensus was reached to focus the harmonisation efforts and apply the 2002/2009 regulatory framework as measuring stick, however, keep the EECC in perspective and following relevant developments within the EU, revisit the baseline in the future.

For the purpose of monitoring the developments in the field of regulatory independence and following the provisions of 2002/2009 regulatory framework, the EU4Digital prepared detailed criteria to be assessed. Following agreement with the EaPeReg general regulatory powers related to international roaming and open internet as provided for by the Regulation (EU) 2015/2120⁸, and Regulation (EU) 2018/1971⁹, as well as Directive 2014/61/EU¹⁰ have been included as additional assessment criteria.

Discussion to follow 2002/2009 regulatory framework as well as suggested assessment criteria were consulted and agreed during the regular meeting of the relevant EWG of the EaPeReg and further developed were built into this methodology serving the purpose of enabling comprehensive assessment of regulatory governance and powers and obligations in the EaP countries.

⁶ Source: Body of European Regulators for Electronic Communications (BEREC)

⁷ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code

⁸ Regulation (EU) 2015/2120⁸ of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and retail charges for regulated intra-EU communications and amending Directive 2002/22/EC and Regulation (EU) No 531/2012

⁹ Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009

¹⁰ Directive 2014/61/EU¹⁰ of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks



4 Overview of the methodology

4.1 Dimensions and criteria assessed

For the purpose of identification of legislative gaps, the criteria agreed to be assessed, including those related to governance related aspects as well as typical powers of the NRAs are broken down into 2 principal dimensions:

1 Governance dimension

Pursuant to the 2002/2009 regulatory framework, NRAs are bodies under national laws entrusted with performing regulatory functions in the field of electronic communications. NRAs are hands-on on ensuring a balance between promoting efficient competition, investment and consumer interests with development of electronic communications markets, services and networks in mind. Thus, a timely, impartial decision making, separated from operational functions, is a key element under the conditions where it is expected the effective competition would not develop purely under market conditions over foreseeable time horizon.

In order to ensure evidence-based decision making driven by electronic communications market development the 2002/2009 regulatory framework provides for setting up bodies which are legally distinct and functionally separate from any other bodies which may levy undue influence. EU legislative documents set requirements for the national legislative frameworks to encompass provisions related to status of NRAs, independent decision making powers, obligations towards decision making bodies of the NRAs, financing, ability to be competitive in the labour market with attracting relevant expertise.

The 2002/2009 regulatory framework also provides requirements to enable participation of stakeholders in decision making process via consultation procedures as well as addresses the question of appeals against decisions taken by the NRA. Apart from consultation procedures, the NRAs are prohibited to take or seek instructions from any other body in relation to the exercise of tasks assigned to them.

The complete implementation of the elements above enable a balanced approach to market regulation and shall lead to a setup where operational functional are separated from regulatory, impartiality of decision making is ensured via independence guarantees, NRAs are in possession of necessary resources when it comes financing, expertise and staff, in order to perform the regulatory functions as provided for by the law.

In this Methodology, assessment criteria related to governance are grouped into the following sub-dimensions:

- Setup of the NRA;
- Setup of decision making body;
- Appeal and Dispute Resolution.

2 Powers and obligations dimension

Assuming the finalised setup of independent NRA, the 2002/2009 regulatory framework in detail addresses the powers and obligations pertinent to day-to-day regulatory work.

On the subject of powers and obligations of NRAs, the criteria are clustered per topic covered, where applicable, characterising powers and obligations of NRAs under 2002/2009 regulatory framework for electronic communications:

- General;
- Market analysis;
- Scarce resource management;
- Consumer protection;
- Universal service.

These powers and obligations jointly comprise a system under which a toolbox is created enabling NRAs to address in an evidence based, predictable, least-intrusive way the promotion of effective competition by balancing the needs of providers of electronic communication services and users.

For detailed list of criteria per each dimension please see Table 1.



Table 1. Methodology structure

No.	Criteria
1.	GOVERNANCE
1.1.	Setup of the NRA
1.1.1.	Status of NRA – legally distinct and functionally independent
1.1.2.	Decision making powers, prohibition to seek or take instructions
1.1.3.	Powers to develop NRA's own strategy
1.1.4.	Formation of NRA's budget
1.1.5.	Sources of NRA's financing
1.1.6.	Possibilities to execute (spend) NRA's budget
1.1.7.	Recruitment of personnel and experts
1.1.8.	Ability to set remuneration for Board members and employees
1.1.9.	Legislative initiative powers of NRA
1.1.10.	Bodies and process for challenging NRA's decisions
1.1.11.	Consultation and transparency requirements
1.1.12.	Cooperation setup with other competent authorities
1.2.	Setup of decision making body
1.2.1.	Procedure and conditions set for recruitment of head or collegiate body performing that function
1.2.2.	Appointment of the head or collegiate body performing that function
1.2.3.	Dismissal of the head or collegiate body performing that function, criteria for dismissal
1.2.4.	Terms in Office as head or collegiate body performing that function
1.3.	Appeal and Dispute Resolution
1.3.1.	Appeal procedures
1.3.2.	Powers of resolve disputes between undertakings
2.	POWERS AND OBLIGATIONS
2.1.	General
2.1.1.	Powers of enforcement of regulation
2.1.2.	Powers to collect information
2.1.3.	Powers to regulate market entry
2.1.4.	Powers to regulate national and/or international roaming
2.1.5.	Powers to regulate net neutrality
2.1.6.	Powers to control quality of service requirements
2.1.7.	Powers to supervise EU Broadband Cost Reduction Directive implementation from 2014
2.1.8.	Powers to organise public hearings
2.1.9.	Powers to organise associated councils or consulting bodies
2.1.10.	Powers for international cooperation
2.1.11.	Powers to be represented in international regulatory bodies



No.	Criteria
2.2.	Market Analysis
2.2.1.	Powers to define and analyse relevant markets
2.2.2.	Powers to implement <i>ex-ante</i> obligations
2.2.3.	Powers to regulate interconnection and access
2.2.4.	Powers to regulate access to ducts and/or other network infrastructure
2.2.5.	Powers to regulate termination and/or origination and/or transit tariffs
2.2.6.	Powers to set tariffs and/or prices
2.2.7.	Powers to apply cost accounting and allocation methodologies
2.2.8.	Powers to set Weighted Average Cost of Capital
2.3.	Scarce Resource Management
2.3.1.	Powers to grant scarce resources (radio frequencies and numbering)
2.3.2.	Powers to monitor radio frequencies
2.3.3.	Powers to manage numbering plans
2.4.	Consumer Protection
2.4.1.	Powers to set requirements for contracts
2.4.2.	Powers to solve customer complaints
2.5.	Universal Service
2.5.1.	Powers to set universal service obligations
2.5.2.	Powers to define universal service's baskets

4.2 Evaluation system

For each of the criteria introduced in the Table 1 above, there are specific maturity levels identified, which are arranged in the descending manner – from the highest to the lowest maturity level (scenario). Each scenario provided has certain numerical value assigned, where the higher values represent best practice scenario. Thus, the higher the score for each of the scenario the higher the maturity of the subject assessed in a relation to a particular criterion.

Some criteria are more relevant than others, and for such a reason they were given higher value in the computation of the overall outcome for each country. For instance, the majority of the criteria related to governance aspects have a values scale from 0.5 to 5, while most of the criteria related to typical powers and obligations of the NRAs have assigned values ranging from 0.5 to 3. This is not a reflection of priority of potential legislative gaps identified during the work following the implementation of this Methodology.

In most cases, only single scenario per each criterion can be selected. However, in some specifically identified cases for a single criterion, several responses may be applicable if further detailing regarding the existing framework in the EaP country are needed. It may result in country indicating additional legislative feature resulting in identifying higher maturity level. Furthermore, for some designated criteria, there may be responses cumulative in nature, when for a single criterion to be covered, a number of requirements have to be met and appropriate feedback provided.

Please note, that numerical values to each criterion are not intended to indicate a scoring pattern but rather provide guidance on what can be deemed to be an expected outcome and to also enable the monitoring of the progress during the process of alignment of relevant EaP legislative provisions to those of the EU.

For select specific instances, where direct reference link to the EU legislative framework was not established, a criterion derived from the assumption independent functioning of NRAs as well as principle of decision making impartiality and prohibition to seek or take instructions, and availability of relevant budgetary support were included.



5 Criteria to be assessed

This chapter provides criteria, its definition, maturity assessment framework (scenarios) and reference to relevant legal background (please see Annex 2 for detailed criteria mapping with EU regulatory framework). Developed maturity assessment framework may be updated as relevant legal provisions or transposition practice evolves.

For the purpose of collection detailed information, a questionnaire (please see Annex 1) covering has been developed, enabling both collection of specific relevant articles as-is on a per country basis as well providing interpretation and any other important links, coming not directly electronic communications legal framework but, for instance, general horizontally applicable rules for functioning of governmental bodies.

1 Governance

1.1 Setup of the National Regulatory Authority

This set of criteria addresses setup of regulatory authority. Independence and impartial decision making are key elements of a well-functioning overall regulatory setup. NRAs shall be legally distinct and functionally independent to ensure impartiality of decision making.

The NRA shall have decision making powers to take binding decisions that only can be challenged before court through a clearly established appeal mechanism. The NRA is also prohibited to take or seek instructions on exercise of tasks assigned. There is a requirement to ensure administrative capacity of the NRAs, by ensuring access to appropriate finances and human resources. There can be several approaches to sources of financing – fee based or state budget, with the first meeting a requirement of a stronger independence criteria.

1.1.1 Status of NRA – legally distinct and functionally independent

Definition:

This criteria refers to the guarantees the countries assume against the independent functioning of NRAs by ensuring legal separation and functional independence.

NRA should be legally distinct from and functionally independent of all organisations providing electronic communications networks, equipment or services, independent market participants, customers and governments, impartial decision making is a key element in ensuring effective competition in the electronic communications markets by enabling timely, predictable, evidence-based decision balancing the services provider's and user's needs. Legal separation and functional independence are to be set forth by legislation, with level of introduction varying from the strongest coming from guarantees set forth by the constitutional law and ranging to no guarantees provided in the specific country.

Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.

Maturity assessment scenarios:

#	Options	Value
1.	Status set in the Constitution	5
2.	Status set in the separate law on NRA	3
3.	Status set in the law on state Agencies	1
4.	Other	0.5
5.	Legal distinction and functional independence are not foreseen / defined in any of the legal acts	0

1.1.2 Decision making powers, prohibition to seek or take instructions from any other body

Definition:

This criteria refers to the ability of the NRA to take decisions on ex ante market regulation or for the resolution of disputes between parties.



NRA shall act independently and shall not seek or take instructions from any other body in relation to the exercise of ex ante market regulation or for the resolution of disputes between undertakings. The NRA is also prohibited to seek or take instructions, further strengthening the independence of NRA.

NRA and other competent authorities of the same country or of different country have the right to enter into cooperative arrangements with each other to foster regulatory cooperation. Any kind of cooperative arrangements shall be based on the merit of the electronic communication law and shall be without prejudice to the prohibition of seeking and taking instructions.

Reference:

- *Directive 2002/21/EC (Framework Directive): Article 3. – National regulatory authorities.*

Maturity assessment scenarios:

#	Options	Value
1.	Independently taken binding decisions, to be challenged only by Court	5
2.	External coordination/alignment of decisions before entering into force required	2
3.	Need for further external approval (Ministry, minister, etc.)	1
4.	Other	0.5

1.1.3 Powers to develop NRA’s own strategy

Definition:

This criteria refers to the ability of the NRA to develop NRA strategy independently, without instructions from any other body and under the relevant legislation, taking into applicable policy documents.

Reference:

- *Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.*

Maturity assessment scenarios:

#	Options	Value
1.	Independently according to regulatory tasks	5
2.	NRA plans must fit with sector policies or Government’s long term strategy	3
3.	Strategy set forth by external bodies/inputs	1
4.	Other	0.5

1.1.4 Formation of NRA’s budget

Definition:

This criteria refers to the ability of the NRA to develop formation of separate annual NRA budget independently, impartially and without instructions from any other body, under the relevant legislation, to be able to act independently without burden of other bodies. Those budgets shall ensure National regulatory authorities should be in possession of all the necessary resources, in terms of staffing, expertise, and financial means, for the performance of their tasks.

Reference:

- *Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.*

Maturity assessment scenarios:

#	Options	Value
1.	Complete budgetary autonomy – approval and execution by the NRA	5
2.	Budgetary autonomy, budget presented to Parliament directly by NRA for approval	4
3.	NRA budget approved by national highest legislative body	4
4.	NRA budget approved by the Government and/or Ministry	2
5.	Power of NRA for proposing its budget	1
6.	Other	0.5



1.1.5 Sources of NRA’s financing

Definition:

This criteria refers to the ability of the NRA to have sufficient resources available via separate, independent budget to be able to carry out the tasks assigned to the NRA and to recruit and to set competitive remuneration systems for personnel and experts that may be collected from independent sources.

The budget should be publicly available to avoid intervention of other bodies. The NRA may have additional sources of financing to be indicated separately.

Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.
- Directive 2002/20/EC (Authorisation Directive): Article 12- Administrative charges; Article 13 - Fees for rights of use and rights to install facilities.

Maturity assessment scenarios:

#	Options	Value
1.	Regulatory fee (or administrative charges) as an input from industry	5
2.	Regulatory fee and state budget	3
3.	State budget only	2
4.	Other	0.5
Additional feature		
5.	Additional sources, e.g., fees for scarce resources, incomes from auctions, etc.	1

1.1.6 Possibilities to execute (spend) NRA’s budget

Definition:

This criteria refers to the ability of the provision of the NRA to assign independently NRA budget under the relevant legislation to fulfil and carry out the tasks of the NRA, also to recruit and to independently set competitive remuneration frameworks for personnel and experts.

The specific interpretation of the provision is within the competence of the country.

Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.

Maturity assessment scenarios:

#	Options	Value
1.	Independently, including allocation of all expenditures	5
2.	Independently in some budget positions, e.g., excluding salaries	3
3.	Only after external approval	1
4.	Other	0.5

1.1.7 Recruitment of personnel and experts

Definition:

This criteria refers to the ability of NRA, having their own budget, to recruit a sufficient number of qualified staff without external pressure following the open selection procedure.

Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.



Maturity assessment scenarios:

#	Options	Value
1.	Independently, by NRA's selection procedure	5
2.	Need for external approval	3
3.	By selection panel not belonging to NRA	1
4.	Other	0.5

1.1.8 Ability to set remuneration for Board members and employees

Definition:

This criteria refers to the ability of NRA, having their own budget, to set salary ceilings for Board members and employees without external pressure or inputs.

Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.

Maturity assessment scenarios:

#	Options	Value
1.	Independently, within the limits of budget	5
2.	Limited by external requirements, e.g., salary ceiling for state employees, different quotas or quotients	3
3.	Need for external approval	1
4.	Other	0.5

1.1.9 Legislative initiative powers of NRA

Definition:

This criteria refers to the ability of NRA to initiate upon its proposal amendments to legal enactments stipulating the functioning environment of the NRAs and beyond, including potentially delegating powers, without prejudice to the national constitutional law.

Reference:

No direct EU legislation reference. During the legislative process the hands-on experience of NRA may not be realised to its fullest potential via legislative proposals, should those proposals be aligned with relevant state institution or national frameworks, whereby, the inputs received may be linked to governmental or non-governmental bodies linked to the various groups stakeholders whose efforts may not be based on independent decision making or balancing the market and consumer interests simultaneously.

Maturity assessment scenarios:

#	Options	Value
1.	Powers delegated by the law to submit legislative proposals to Parliament	5
2.	Rights to issue opinions and make recommendations on draft laws and/or policies	3
3.	None	0
4.	Other	0.5

1.1.10 Bodies and process for challenging NRA's decisions

Definition:

This criterion refers to the potential challenging and/or intervention on NRA's decision. Every entity affected by the decision, shall have right to appeal against the decision to a body which is independent of parties to process. This is also to identify whether undue influence may be exerted by means of national procedures requiring certain steps (e.g. registration, clearance, etc.) before regulations and/or decision take their legal effect.



Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.

Maturity assessment scenarios:

#	Options	Value
1.	Courts only	5
2.	Ministries or ministers	1
3.	Other governmental institutions and/or bodies or other state executive	1
4.	Other	0.5

1.1.11 Consultation and transparency requirements

Definition:

This criteria refers to the ability of NRA to ensure publicly available non-binding consultation with interested parties by providing an opportunity to express their opinions and views before adoption of the final decision.

Reference:

- Directive 2002/21/EC (Framework Directive) Article 6 - Consultation and transparency mechanism.

Maturity assessment scenarios:

#	Options <i>(Please note there may be more than one applicable response)</i>	Value
1.	Public consultations on all drafted rules, methodologies and decisions	5
2.	Publication of all decisions approved by the NRA	3
3.	Requirement to publish annual report	1
4.	Other	0.5
5.	None	0

1.1.12 Cooperation setup with other competent authorities

Definition:

This criteria refers to the ability of NRA to ensure transparent, publicly available consultation and cooperation framework with other competent authorities on common interest within the terms of relevant legislation.

Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.

Maturity assessment scenarios:

#	Options	Value
1.	Independently, by NRA choice	5
2.	Set in the laws and Regulations	3
3.	Initiated by external instruction	1
4.	Other	0.5

1.2 Setup of decision making body

Decision making body has to be setup in a transparent procedure. The appointment shall be based on professional skills and capacities of the candidate solely, with regulatory tasks at hand in mind. There can be different level of appointment, depending on constitutional framework in a particular country, the overarching idea for appointment is to ensure the stability and predictability for the appointment from the perspectives of appointment, taking the office as well as dismissal with criteria for dismissal provided in advance and communicated to the members of decision-making body.



1.2.1 Procedure and conditions set for recruitment of head or collegiate body performing that function

Definition:

This criterion refers to the procedure and conditions to be provided for under relevant legislation to appoint the head or collegiate body performing that function of an NRA to a reasonable term measuring the persons professional experience on the basis of merit, skills, knowledge and experience and most important - following an open selection procedure.

Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.

Maturity assessment scenarios:

#	Options <i>(Please note there may be more than one applicable response)</i>	Value
1.	Only professional skills and personal capacities of candidate	5
2.	Mandatory holding of other appointments in government or regulated industry	3
3.	Other principle of recruitment	0.5
Additional feature		
4.	Following an open selection procedure	1

1.2.2 Appointment of the head or collegiate body performing that function

Definition:

This criteria refers to the procedure under relevant legislation of the appointment or renewal for the mandate and the requirement for an appropriate rotation scheme for the head or collegiate body, leading to a transparent appointment process and minimising undue political influence where possible.

Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.

Maturity assessment scenarios:

#	Options <i>(Please note there may be more than one applicable response)</i>	Value
1.	Appointment of Head or collegiate body performing that function by a Parliament	5
2.	Appointment of Head or collegiate body performing that function by the Government or ministerial/governmental selection panel	2
3.	Other principle of recruitment	0.5
Additional feature		
4.	Nomination of Head or collegiate body performing that function by a President/Prime Minister/Minister following open selection procedure	1

1.2.3 Dismissal of the head or collegiate body performing that function, criteria for dismissal

Definition:

This criteria refers to the procedure under relevant legislation of the dismissal for the head or collegiate body. There is a transparency requirement to have the performance criteria stipulated and publicly available in advance as well as the statement on dismissal communicated and made publicly available if requested.

Reference:

- Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities.



Maturity assessment scenarios:

#	Options <i>(Please note there may be more than one applicable response)</i>	Value
1.	Criteria for dismissal related to performance stipulated in advance in a law	1
2.	Decision to dismiss made public in time of dismissal	1
3.	Dismissal decision taken by the Parliament	1
4.	Dismissal decision taken by other body than appointing, other, e.g., restructuring of NRA	0.5

1.2.4 Terms in office as head or collegiate body performing that function

Definition:

There is no specific legal guidance on the criteria. The general practice is to provide a limited number of terms in the office, potentially staggered to ensure transfer of knowledge among the members of decision making body and continuous decision making process.

Reference:

None.

Maturity assessment scenarios:

#	Options <i>(Please note there may be more than one applicable response)</i>	Value
1.	Set number of years with one term for renewal	4
2.	Set number of years only	3
3.	Renew number without restrictions	2
4.	Other, e.g. lifelong appointment	0
Additional feature		
5.	Restrictions to take positions in regulated industries after office	1

1.3 Appeal and Dispute Resolution

It is an essential right of those affected by decision making of the NRA to have rights to appeal against the decision. The EU framework provides for efficient mechanisms to be ensured on national level under which any user or provider of electronic communications services provider affected shall have right to appeal.

It is important to note that, that the decision, pending outcome and unless interim measures are granted shall remain in force. Only appeal bodies setup in accordance with EU regulatory framework may suspend or overturn decisions taken by the NRAs.

Pursuant to the EU regulatory framework following a request from any of the parties providing electronic communications services or benefitting from regulatory obligations imposed, NRAs shall issue binding decision to resolve the dispute in a shortest timeframe possible.

1.3.1 Appeal procedures

Definition:

This criteria refers to the appeal mechanism and procedure under electronic communications regulatory legislation on the rights of appeal against the NRA decisions. Every entity affected by the decision, shall have right to appeal against the decision to a body which is independent of parties to process.

Reference:

- *Directive 2002/21/EC (Framework Directive): Article 3 – National regulatory authorities; Article 4 - Right of appeal.*



Maturity assessment scenarios:

#	Options	Value
1.	Any NRA's decision may be appealed against	5
2.	Limited to only cases prescribed by legislation	3
3.	Only in cases allowed by external instructions, such as order of other governmental bodies	1
4.	Other	0.5

1.3.2 Powers of resolve disputes between undertakings

Definition:

This criteria refers to the ability of NRA to solve disputes between electronic communication service or network providers, or those benefiting from the regulatory obligations imposed.

Reference:

- *Directive 2002/21/EC (Framework Directive): Article 20 - Dispute resolution between undertakings.*

Maturity assessment scenarios:

#	Options	Value
1.	As stipulated by the law and based on NRA's Regulations	3
2.	Only in cases allowed by external instructions, such as order of other governmental bodies	2
3.	No powers	0
4.	Other	0.5



2 Power and obligations

2.1 General

Regulation is one of the primary ways in which government can achieve its policy. Thus, regulators shall be granted with some general powers enabling them to carry out their functions in an efficient and expeditious manner.

The NRAs shall be able to engage in policy implementation and have the authority to impose regulatory decisions. In this context, it is also important that regulators have the ability to ensure freedom to provide electronic communications networks and services as well enhance competition between mobile operators.

Scope of NRA functions shall also include information collection and monitoring of markets as well as quality of services provided to end-users. Furthermore, the NRAs shall be also responsible for organising public hearings and associated councils or consulting bodies – to take into account the views prior to taking regulatory actions.

2.1.1 Powers of enforcement of regulation

Definition:

This criterion refers to ability of NRA to implement regulatory decisions effectively and to deliver on objectives of regulatory policy.

Reference:

- Directive 2002/20/EC (Authorisation Directive) Article 10 - Compliance with the conditions of the general authorisation or of rights of use and with specific obligations

Maturity assessment scenarios:

#	Options <i>(Please note there may be more than one applicable response)</i>	Value
1.	Enforcement powers of NRA stipulated by the law	2
2.	NRA may apply administrative penalties to undertakings	1
3.	NRA is allowed to execute any enforcement actions together with other prosecutors, e.g., visit premises of undertakings, confiscate equipment, etc.	1
4.	Other	1

2.1.2 Powers to collect information

Definition:

This criterion refers to ability of NRA to collect information on permanent or ad hoc basis for monitoring of markets and to set objectives and consistent ex ante regulatory decisions.

Reference:

- Directive 2002/21/EC (Framework Directive) Article 5 - Provision of information.
- Directive 2002/20/EC (Authorisation Directive) Article 10 - Compliance with the conditions of the general authorisation or of rights of use and with specific obligations; Article 11 - Information required under the general authorisation, for rights of use and for the specific obligations.

Maturity assessment scenarios:

#	Options	Value
1.	Any information with explanation of reason	3
2.	Only stipulated by the law	2
3.	No powers	0
4.	Other	0.5



2.1.3 Powers to regulate market entry

Definition:

This criterion refers to ability of NRA to ensure freedom to provide electronic communications networks and services and to enhance competition by developing policy for minimising barriers to market entry.

Reference:

- *Directive 2002/20/EC (Authorisation Directive) Article 3 - General authorisation of electronic communications networks and services.*

Maturity assessment scenarios:

#	Options	Value
1.	General authorisation ¹¹ (with notification only)	3
2.	Individual licensing and general authorization	2
3.	Individual licensing only	1
4.	Other	0.5

2.1.4 Powers to regulate national and/or international roaming

Definition:

This criterion refers to ability of NRA to encourage effective roll-out of mobile networks and enhance competition between mobile operators through providing benefits for travelling customers.

Reference:

- *Directive 2002/21/EC (Framework Directive) Article 5 - Article 14 – Undertakings with significant market power.*
- *Directive 2002/19/EC (Access Directive) Article 8 - Imposition, amendment or withdrawal of obligations; Article 12 - Obligations of access to, and use of, specific network facilities.*
- *Regulation (EU) No 531/2012 of the European Parliament and of the Council, of 13 June 2012 on roaming on public mobile communications networks within the Union.*
- *Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union.*
- *Regulation (EU) 2017/920 of the European Parliament and of the Council of 17 May 2017 amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets.*

Maturity assessment scenarios:

#	Options	Value
1.	Based on international Regulations and/or agreements	3
2.	Based on national law	2
3.	No powers	0
4.	Other	0.5

2.1.5 Powers to regulate net neutrality

Definition:

This criterion refers to ability of NRA to safeguard equal and non-discriminatory treatment of traffic in the provision of internet access services by electronic communications service providers and related end-user's rights to freely use services and applications of their choice.

¹¹ Authorisation Directive – Article 2 general authorisation' means a legal framework established by the Member State ensuring rights for the provision of electronic communications networks or services and laying down sector specific obligations that may apply to all or to specific types of electronic communications networks and services, in accordance with this Directive



Reference:

- Regulation (EU) No 531/2012 of the European Parliament and of the Council, of 13 June 2012 on roaming on public mobile communications networks within the Union.
- Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union.

Maturity assessment scenarios:

#	Options	Value
1.	As stipulated by the law and based on NRA's Regulations	3
2.	Initiated by external order	2
3.	No powers	0
4.	Other	0.5

2.1.6 Powers to control quality of service requirements

Definition:

This criterion refers to ability of NRA to monitor the quality of electronic communications services provided to end-users on the basis of criteria allowing comparability and requesting providers to inform their consumers accordingly.

Reference:

- Directive 2002/22/EC (Universal Service Directive) Article 22 - Quality of service.

Maturity assessment scenarios:

#	Options	Value
1.	As stipulated by the law and based on NRA's Regulations	3
2.	Initiated by external order	2
3.	No powers	0
4.	Other	0.5

2.1.7 Powers to supervise EU Broadband Cost Reduction Directive implementation from 2014

Definition:

This criterion refers to ability of NRA pursuant to the legislation based on Directive 2014/61/EU to encourage the deployment of high-speed broadband networks by *inter alia* coordinating necessary civil engineering works to make broadband roll-out more cost-effective.

Reference:

- Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks.

Maturity assessment scenarios:

#	Options	Value
1.	Dispute settlement body and Single Information Point	3
2.	Dispute settlement body responsibilities only	2
3.	No powers	0
4.	Other	0.5

2.1.8 Powers to organise public hearings

Definition:

This criterion refers to ability of NRA to take into account the views of interested parties in order to appropriately address the interests of citizens before taking regulatory decisions.



Reference:

- Directive 2002/21/EC (Framework Directive) Article 6 - Consultation and transparency mechanism.

Maturity assessment scenarios:

#	Options	Value
1.	As stipulated by the law and based on NRA's Regulations	3
2.	Initiated by external order	2
3.	No powers	0
4.	Other	0.5

2.1.9 Powers to organise associated councils or consulting bodies

Definition:

This criterion refers to ability of NRA to allow other national competent authorities and interested parties to make their views known prior to targeted regulatory actions.

Reference:

None.

Maturity assessment scenarios:

#	Options	Value
1.	As stipulated by the law	3
2.	Initiated by external order	2
3.	No powers	0
4.	Other	0.5

2.1.10 Powers for international cooperation

Definition:

This criterion refers to ability of NRA to freely within merits of the relevant legislation or powers interact with international partner institutions by arranging cooperation agreements of different kinds.

Reference:

None.

Maturity assessment scenarios:

#	Options	Value
1.	As stipulated by the law	3
2.	Initiated by external order	2
3.	No powers	0
4.	Other	0.5

2.1.11 Powers to be represented in international regulatory bodies

Definition:

This criterion refers to ability of NRA to cooperate with other NRAs through established international regulatory institutions like BEREC, EaPeReg, etc.

Reference:

None, for EU NRAs – BEREC.

Maturity assessment scenarios:

#	Options	Value
1.	As stipulated by the law	3
2.	Initiated by external order	2



3.	No powers	0
4.	Other	0.5

2.2 Market Analysis

Under the EU regulatory framework, it is recommended that NRAs shall carry out an analysis of the regulated market as they usually collect wealth of information on electronic communications sector.

On the basis of their market analysis based on several assessment factors (e.g. prices, profitability or the relationship between price and costs) NRAs shall be able to determine the extent to which competition is effective in relevant market, so as to avoid any abuse of a dominant position, in particular to the detriment of consumers.

In case a market is considered not to be effectively competitive as a result of an undertaking having significant market power on that market, NRAs must impose obligations on this undertaking, or maintain/amend such obligations where they already exist.

2.2.1 Powers to define and analyse relevant markets

Definition:

This criterion refers to ability of NRA to analyse whether a given product or service market is effectively competitive in a given geographical area and whether lack of effective competition in this market is foreseeable for the review period. Market analysis shall serve as the exclusive means to impose any type of ex ante regulatory obligations.

Reference:

- Directive 2002/21/EC (Framework Directive) Article 15 - Procedure for the identification and definition of markets; Article 14 - Undertakings with significant market power; Article 16 - Market analysis procedure.

Maturity assessment scenarios:

#	Options	Value
1.	In cases prescribed by the law, including own initiative	3
2.	No powers	0
3.	Other	0.5

2.2.2 Powers to implement ex-ante obligations

Definition:

This criterion refers to ability of NRA to ensure benefits for end-users by promoting sustainable effective competition in retail and/or wholesale markets by imposing relevant obligations on market participants enjoying significant market power as a result of market definition and analysis process.

Reference:

- Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure.

Maturity assessment scenarios:

#	Options	Value
1.	Based on market analysis and SMP designation	3
2.	In cases prescribed by the law	2
3.	No powers	0
4.	Other	0.5

2.2.3 Powers to regulate interconnection and access

Definition:

This criterion refers to ability of NRA to secure adequate access and interconnection and interoperability of services in cases where commercial negotiation between undertakings fails.



Reference:

- Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure.
- Directive 2002/19/EC (Access Directive) Article 8 - Imposition, amendment or withdrawal of obligations; Article 9 - Obligation of transparency; Article 10 - Obligation of non-discrimination; Article 11 - Obligation of accounting separation; Article 12 - Obligations of access to, and use of, specific network facilities; Article 13 - Price control and cost accounting obligations; Article 13a - Functional separation.

Maturity assessment scenarios:

#	Options	Value
1.	Regulation based on SMP designation, including rights to set requirements for reference interconnection offers	3
2.	Powers to impose one or more remedies missing	2
3.	No powers	0
4.	Other	0.5

2.2.4 Powers to regulate access to ducts and/or other network infrastructure

Definition:

This criterion refers to ability of NRA to impose obligations to active, passive or virtual network elements of undertakings, particularly in areas where business cases for alternative infrastructure rollout would be economically inefficient or physically impossible.

Reference:

- Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure.
- Directive 2002/19/EC (Access Directive) Article 8 - Imposition, amendment or withdrawal of obligations; Article 9 - Obligation of transparency; Article 10 - Obligation of non-discrimination; Article 11 - Obligation of accounting separation; Article 12 - Obligations of access to, and use of, specific network facilities; Article 13 - Price control and cost accounting obligations.

Maturity assessment scenarios:

#	Options	Value
1.	Based on SMP designation	3
2.	Powers to impose one or more remedies missing	2
3.	No powers	0
4.	Other	0.5

2.2.5 Powers to regulate termination and/or origination and/or transit tariffs

Definition:

This criterion refers to ability of NRA to impose ex ante obligations as the most appropriate means of regulatory intervention for avoiding potential competition problems in interconnection markets, following market analysis process.

Reference:

- Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure.
- Directive 2002/19/EC (Access Directive) Article 8 - Imposition, amendment or withdrawal of obligations; Article 13 - Price control and cost accounting obligations.

Maturity assessment scenarios:

#	Options	Value
1.	Based on SMP designation	3
2.	In cases prescribed by laws and/or Regulations	2
3.	No powers	0



4.	Other	0.5
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2.2.6 Powers to set tariffs and/or prices

Definition:

This criteria refers to ability of NRA where appropriate to require prices of predefined undertakings to be adjusted when obligation regarding cost orientation to undertaking is applied, in justified cases to amend rates charged by providers of voice termination services and whilst promoting efficient competition in retail services markets apply retail price cap measures, measures to control individual tariffs or measures to orient tariffs towards costs or prices in order to protect end-user interests.

Reference:

- Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure.
- Directive 2002/19/EC (Access Directive) Article 13 - Price control and cost accounting obligations.
- Directive 2002/22/EC (Universal Service Directive) Article 17 - Regulatory controls on retail services.

Maturity assessment scenarios:

#	Options	Value
1.	In cases based on SMP obligations	2
2.	Based on cases prescribed by laws and/or Regulations	1
3.	No powers	0
4.	Other	0.5

2.2.7 Powers to apply cost accounting and allocation methodologies

Definition:

This criterion refers to ability of NRA to impose on predefined undertakings an obligation to implement a cost accounting system in order to support price controls of provided services.

Reference:

- Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure.
- Directive 2002/19/EC (Access Directive) Article 13 - Price control and cost accounting obligations.
- Directive 2002/22/EC (Universal Service Directive) Article 17 - Regulatory controls on retail services.

Maturity assessment scenarios:

#	Options	Value
1.	In cases based on SMP obligations	2
2.	Based on cases prescribed by laws and/or Regulations	1
3.	No powers	0
4.	Other	0.5

2.2.8 Powers to set Weighted Average Cost of Capital

Definition:

This criterion refers to ability of NRA to allow for undertakings the appropriate cost recovery when taking into account the need to provide efficiency and sustainable competition in service markets.

Reference:

- Commission Recommendation of 20 September 2010 on regulated access to Next Generation Access Networks (NGA).
- Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure.
- Directive 2002/19/EC (Access Directive) Article 13 - Price control and cost accounting obligations.
- Directive 2002/22/EC (Universal Service Directive) Article 17 - Regulatory controls on retail services.



Maturity assessment scenarios:

#	Options	Value
1.	In cases based on SMP obligations	2
2.	Based on cases prescribed by laws and/or Regulations	1
3.	No powers	0
4.	Other	0.5

2.3 Scarce Resource Management

It is essential to ensure that services and devices do not cause harmful interference to each other. For this purpose, scarce resource regulation could serve as a basis for efficient use of spectrum and a level playing field for all market players.

Therefore, allocation and management of radiofrequency spectrum and numbering shall be administered by NRAs, with the aim of transparent, objective and more flexible access by public and private users.

2.3.1 Powers to grant scarce resources (radio frequencies and numbering)

Definition:

This criterion refers to ability of NRA to allocate and assign efficiently scarce public resources (radiofrequency spectrum and numbering) with an important public and market value in objective, transparent and non-discriminatory manner.

Reference:

- *Directive 2002/21/EC (Framework Directive) Article 9 - Management of radio frequencies for electronic communications services; Article 10 - Numbering, naming and addressing.*

Maturity assessment scenarios:

#	Options	Value
1.	All resources	3
2.	Resources for limited set of applicants (e.g., only for commercial use)	2
3.	No powers	0
4.	Other	0.5

2.3.2 Powers to manage radio frequencies

Definition:

This criterion refers to ability of NRA to ensure effective and efficient use of radio spectrum on national and cross-country level and to ensure that service providers comply with terms and conditions prescribed in rights of use of radio spectrum.

Reference:

- *Directive 2002/21/EC (Framework Directive) Article 9 - Management of radio frequencies for electronic communications services.*



Maturity assessment scenarios:

#	Options	Value
1.	Full management including National radiofrequency plan	3
2.	Granting of rights of use only	2
3.	No powers	0
4.	Other	0.5

2.3.3 Powers to manage numbering plans

Definition:

This criterion refers to ability of NRA to manage numbering resources by providing access to the numbers on the basis of transparent, objective and non-discriminatory criteria which is essential for undertakings to compete in the electronic communications sector.

Reference:

- Directive 2002/21/EC (Framework Directive) Article 10 - Numbering, naming and addressing.

Maturity assessment scenarios:

#	Options	Value
1.	Full management including National numbering plan	3
2.	Granting of rights of use only	2
3.	No powers	0
4.	Other	0.5

2.4 Consumer Protection

One of objectives of regulation is to benefit and protect interests of current and future end-users in regulated markets. Thus, NRAs shall have an ability to ensure, together with other relevant authorities, that end-user protection measures are effective and enforced, so as to avoid any detriment of consumers.

NRA shall also have an ability to act as an alternative dispute settlement authority in respect of any complaint submitted by end-users. The regulatory authority's decision shall have binding effect unless and until overruled on appeal.

2.4.1 Powers to set requirements for contracts

Definition:

This criterion refers to ability of NRA to enforce service providers to ensure content and transparency of information and legal certainty for end-users in customer contracts.

Reference:

- Directive 2002/22/EC (Universal Service Directive) Article 20 – Contracts.

Maturity assessment scenarios:

#	Options	Value
1.	Monitoring of contract requirements stipulated by laws	3
2.	Limited powers	2
3.	No powers	0
4.	Other	0.5

2.4.2 Powers to solve customer complaints

Definition:

This criterion refers to ability of NRA to act as an alternative dispute resolution entity for fast and cost-efficient enforcement of end-user's rights.



Reference:

- Directive 2002/22/EC (Universal Service Directive) Article 34 - Out-of-court dispute resolution.

Maturity assessment scenarios:

#	Options	Value
1.	As stipulated by the law and based on NRA's Regulations	3
2.	Initiated by external order	2
3.	No powers	0
4.	Other	0.5

2.5 Universal Service

Pursuant to the EU regulatory framework NRAs shall have sufficient powers to ensure, that every user can access basic communications services (e.g. broadband internet access and voice communications services) at a reasonable quality and an affordable price, even if it is not satisfactorily met by the market.

2.5.1 Powers to set universal service obligations

Definition:

This criterion refers to ability of NRA to exceptionally designate different service providers in different parts of national territory to support availability of services of adequate quality to certain categories of end-users at an affordable price.

Reference:

- Directive 2002/22/EC (Universal Service Directive) Article 3 - Availability of universal service.

Maturity assessment scenarios:

#	Options	Value
1.	As required by law, including decision making on funding of net cost compensation	3
2.	Setting universal service obligations only	2
3.	No powers	0
4.	Other	0.5

2.5.2 Powers to define universal service's baskets

Definition:

This criterion refers to ability of NRA to monitor the list of services to be provided by designated universal service providers, such as access to adequate broadband internet access and voice communications services.

Reference:

- Directive 2002/22/EC (Universal Service Directive) Article 3 - Availability of universal service; Article 4 - Provision of access at a fixed location and provision of telephone services; Article 5 - Directory enquiry services and directories; Article 6 - Public pay telephones and other public voice telephony access points; Article 7 - Measures for disabled end-users.

Maturity assessment scenarios:

#	Options	Value
1.	Based on NRA's own decision as delegated by the law	3
2.	Prescribed by other governmental institutions or bodies	2
3.	No powers	0
4.	Other	0.5



Annex 1 – Questionnaire to support information collection for the purpose of assessment of the independence and NRA powers criteria



Annex 1 -
Information collecti



Annex 2 – Criteria mapping with relevant EU regulatory frameworks

No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
1. GOVERNANCE			
1.1. Setup of the National Regulatory Authority			
1.1.1.	Status of NRA – legally distinct and functionally independent	<p>Directive 2002/21/EC (Framework Directive)</p> <p>Article 3 – National regulatory authorities</p>	<p>2. Member States shall guarantee the independence of national regulatory authorities by ensuring that they are legally distinct from and functionally independent of all organisations providing electronic communications networks, equipment or services.</p> <p>3a. Without prejudice to the provisions of paragraphs 4 (publication of tasks) and 5 (cooperation with competition authorities), national regulatory authorities responsible for ex ante market regulation or for the resolution of disputes between undertakings in accordance with Article 20 (dispute resolution between undertakings provisions) or 21 (cross-border dispute resolution provisions) of Framework Directive shall act independently and shall not seek or take instructions from any other body in relation to the exercise of these tasks assigned to them under national law implementing Community law. This shall not prevent supervision in accordance with national constitutional law. Only appeal bodies set up in accordance with Article 4 (appeal mechanism) shall have the power to suspend or overturn decisions by the national regulatory authorities.</p>
1.1.2.	Decision making powers, prohibition to seek or take instructions	<p>Directive 2002/21/EC (Framework Directive):</p> <p>Article 3 - National regulatory authorities</p>	<p>3. Member States shall ensure that national regulatory authorities exercise their powers impartially, transparently and in a timely manner.</p> <p>3a. Without prejudice to the provisions of paragraphs 4 (publication of tasks) and 5 (cooperation with competition authorities), national regulatory authorities responsible for ex ante market regulation or for the resolution of disputes between undertakings in accordance with Article 20 (dispute resolution between undertakings provisions) or 21 (cross-border dispute resolution provisions) of Framework Directive shall act independently and shall not seek or take instructions from any other body in relation to the exercise of these tasks assigned to them under national law implementing Community law. This shall not prevent supervision in accordance with national constitutional law. Only appeal bodies set up in accordance with Article 4 (appeal mechanism) shall have the power to suspend or overturn decisions by the national regulatory authorities.</p>
1.1.3.	Powers to develop NRA's own strategy	<p>Directive 2002/21/EC (Framework Directive):</p> <p>Article 3 - National regulatory authorities</p>	<p>3. Member States shall ensure that national regulatory authorities exercise their powers impartially, transparently and in a timely manner.</p>
1.1.4.	Formation of NRA's budget	<p>Directive 2002/21/EC (Framework Directive):</p>	<p>3. Member States shall ensure that national regulatory authorities exercise their powers impartially, transparently and in a timely manner.</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		Article 3 - National regulatory authorities	3a. - Member States shall ensure that national regulatory authorities referred to in the first subparagraph have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC)
1.1.5.	Sources of NRA's financing	Directive 2002/21/EC (Framework Directive): Article 3 - National regulatory authorities	3. Member States shall ensure that national regulatory authorities exercise their powers impartially, transparently and in a timely manner. 3a. - Member States shall ensure that national regulatory authorities referred to in the first subparagraph have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC)
		Directive 2002/20/EC (Authorisation Directive) Article 12 - Administrative charges ¹²	1. Any administrative charges imposed on undertakings providing a service or a network under the general authorisation or to whom a right of use has been granted shall: (a) in total, cover only the administrative costs which will be incurred in the management, control and enforcement of the general authorisation scheme and of rights of use and of specific obligations as referred to in Article 6(2) (conditions attached to the general authorisation and to the rights of use for radio frequencies and for numbers, and specific obligations), which may include costs for international cooperation, harmonisation and standardisation, market analysis, monitoring compliance and other market control, as well as regulatory work involving preparation and enforcement of secondary legislation and administrative decisions, such as decisions on access and interconnection; and (b) be imposed upon the individual undertakings in an objective, transparent and proportionate manner which minimises additional administrative costs and attendant charges. 2. Where national regulatory authorities impose administrative charges, they shall publish a yearly overview of their administrative costs and of the total sum of the charges collected. In the light of the difference between the total sum of the charges and the administrative costs, appropriate adjustments shall be made.

¹² Authorisation Directive (DIRECTIVE 2002/20/EC) – preamble (30) - Administrative charges may be imposed on providers of electronic communications services in order to finance the activities of the national regulatory authority in managing the authorisation system and for the granting of rights of use. Such charges should be limited to cover the actual administrative costs for those activities. For this purpose, transparency should be created in the income and expenditure of national regulatory authorities by means of annual reporting about the total sum of charges collected and the administrative costs incurred. This will allow undertakings to verify that administrative costs and charges are in balance.

Same (31) - Systems for administrative charges should not distort competition or create barriers for entry into the market. With a general authorisation system, it will no longer be possible to attribute administrative costs and hence charges to individual undertakings except for the granting of rights to use numbers, radio frequencies and for rights to install facilities. Any applicable administrative charges should be in line with the principles of a general authorisation system. An example of a fair, simple and transparent alternative for these charge attribution criteria could be a turnover related distribution key. Where administrative charges are very low, flat rate charges, or charges combining a flat rate basis with a turnover related element could also be appropriate.



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		Directive 2002/20/EC (Authorisation Directive) Article 13 - Fees for rights of use and rights to install facilities ¹³	Member States may allow the relevant authority to impose fees for the rights of use for radio frequencies or numbers or rights to install facilities on, over or under public or private property which reflect the need to ensure the optimal use of these resources. Member States shall ensure that such fees shall be objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and shall take into account the objectives in Article 8 (tasks of national regulatory authorities – policy objectives and regulatory principles) of Directive 2002/21/EC (Framework Directive).
1.1.6.	Possibilities to execute (spend) NRA's budget	Directive 2002/21/EC (Framework Directive) Article 3 - National regulatory authorities	1. Member States shall ensure that each of the tasks assigned to national regulatory authorities in this Directive and the Specific Directives is undertaken by a competent body. 3. Member States shall ensure that national regulatory authorities have adequate financial and human resources to carry out the task assigned to them. 3a. Member States shall ensure that national regulatory authorities have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC).
1.1.7.	Recruitment of personnel and experts	Directive 2002/21/EC (Framework Directive) Article 3 - National regulatory authorities	1. Member States shall ensure that each of the tasks assigned to national regulatory authorities in this Directive and the Specific Directives is undertaken by a competent body. 3. Member States shall ensure that national regulatory authorities have adequate financial and human resources to carry out the task assigned to them. 3a. Member States shall ensure that national regulatory authorities have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC).
1.1.8.	Ability to set remuneration for Board members and employees	Directive 2002/21/EC (Framework Directive) Article 3 - National regulatory authorities	1. Member States shall ensure that each of the tasks assigned to national regulatory authorities in this Directive and the Specific Directives is undertaken by a competent body. 3. Member States shall ensure that national regulatory authorities have adequate financial and human resources to carry out the task assigned to them.

¹³ Same (32) - In addition to administrative charges, usage fees may be levied for the use of radio frequencies and numbers as an instrument to ensure the optimal use of such resources. Such fees should not hinder the development of innovative services and competition in the market. This Directive is without prejudice to the purpose for which fees for rights of use are employed. Such fees may for instance be used to finance activities of national regulatory authorities that cannot be covered by administrative charges. Where, in the case of competitive or comparative selection procedures, fees for rights of use for radio frequencies consist entirely or partly of a one-off amount, payment arrangements should ensure that such fees do not in practice lead to selection on the basis of criteria unrelated to the objective of ensuring optimal use of radio frequencies. The Commission may publish on a regular basis benchmark studies with regard to best practices for the assignment of radio frequencies, the assignment of numbers or the granting of rights of way.



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			3a. Member States shall ensure that national regulatory authorities have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to actively participate in and contribute to the Body of European Regulators for Electronic Communications (BEREC).
1.1.9.	Legislative initiative powers of NRA	No direct EU legislation reference.	During the legislative process the hands-on experience of NRA may not be realised to its fullest potential via legislative proposals, should those proposals be aligned with relevant state institution or national frameworks, whereby, the inputs received may be linked to governmental or non-governmental bodies linked to the various groups stakeholders whose efforts may not be based on independent decision making or balancing the market and consumer interests simultaneously.
1.1.10.	Bodies and process for challenging NRA's decisions	Directive 2002/21/EC (Framework Directive) Article 3 - National regulatory authorities	3. Member States shall ensure that national regulatory authorities exercise their powers impartially, transparently and in a timely manner. 3a. Only appeal bodies set up in accordance with Article 4 (right of appeal) shall have the power to suspend or overturn decisions by the national regulatory authorities.
1.1.11.	Consultation and transparency requirements	Directive 2002/21/EC (Framework Directive) Article 6 - Consultation and transparency mechanism	Except in cases falling within Articles 7(9) (exceptional circumstances to safeguard competition and protect interests of users), 20 (dispute resolution between undertakings), or 21 (resolution of cross-border disputes), Member States shall ensure that, where national regulatory authorities intend to take measures in accordance with this Directive or the Specific Directives, or where they intend to provide for restrictions in accordance with Article 9(3) and 9(4) (specific cases of management of radio frequencies for electronic communications services), which have a significant impact on the relevant market, they give interested parties the opportunity to comment on the draft measure within a reasonable period. National regulatory authorities shall publish their national consultation procedures. Member States shall ensure the establishment of a single information point through which all current consultations can be accessed. The results of the consultation procedure shall be made publicly available by the national regulatory authority, except in the case of confidential information in accordance with Community and national law on business confidentiality.
1.1.12.	Cooperation with other competent authorities	Directive 2002/21/EC (Framework Directive) Article 3 – National regulatory authorities	3. Member States shall ensure that national regulatory authorities exercise their powers impartially, transparently and in a timely manner. 4. Member States shall publish the tasks to be undertaken by national regulatory authorities in an easily accessible form, in particular where those tasks are assigned to more than one body. Member States shall ensure, where appropriate, consultation and cooperation between those authorities, and between those authorities and national authorities entrusted with the implementation of competition law and national authorities entrusted with the implementation of consumer law, on matters of common interest.
1.2. Setup of decision making body			



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
1.2.1.	Procedure and conditions set for recruitment of head or collegiate body performing that function	Directive 2002/21/EC (Framework Directive) Article 3 - National regulatory authorities	1. Member States shall ensure that each of the tasks assigned to national regulatory authorities in this Directive and the Specific Directives is undertaken by a competent body. 3. Member States shall ensure that national regulatory authorities have adequate financial and human resources to carry out the task assigned to them.
1.2.2.	Appointment of the head or collegiate body performing that function	Directive 2002/21/EC (Framework Directive) Article 3 - National regulatory authorities	1. Member States shall ensure that each of the tasks assigned to national regulatory authorities in this Directive and the Specific Directives is undertaken by a competent body. 3. Member States shall ensure that national regulatory authorities have adequate financial and human resources to carry out the task assigned to them.
1.2.3.	Dismissal of the head or collegiate body performing that function, criteria for dismissal	Directive 2002/21/EC (Framework Directive) Article 3 - National regulatory authorities	3a. Member States shall ensure that the head of a national regulatory authority, or where applicable, members of the collegiate body fulfilling that function within a national regulatory authority or their replacements may be dismissed only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law. The decision to dismiss the head of the national regulatory authority concerned, or where applicable members of the collegiate body fulfilling that function shall be made public at the time of dismissal. The dismissed head of the national regulatory authority, or where applicable, members of the collegiate body fulfilling that function shall receive a statement of reasons and shall have the right to request its publication, where this would not otherwise take place, in which case it shall be published.
1.2.4.	Terms in Office as head or collegiate body performing that function	N/A	N/A
1.3. Appeal and Dispute Resolution			
1.3.1.	Appeal procedures	Directive 2002/21/EC (Framework Directive) Article 4 - Right of appeal	1. Member States shall ensure that effective mechanisms exist at national level under which any user or undertaking providing electronic communications networks and/or services who is affected by a decision of a national regulatory authority has the right of appeal against the decision to an appeal body that is independent of the parties involved. This body, which may be a court, shall have the appropriate expertise to enable it to carry out its functions effectively. Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism. 2. Where the appeal body referred to in paragraph 1 is not judicial in character, written reasons for its decision shall always be given. Furthermore, in such a case, its decision shall be subject to review by a court or tribunal within the meaning of Article 234 of the Treaty (Court of European Union).



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		Directive 2002/21/EC (Framework Directive) Article 3 - National regulatory authorities	3a. Only appeal bodies set up in accordance with Article 4 (right of appeal) shall have the power to suspend or overturn decisions by the national regulatory authorities.
1.3.2.	Powers of resolve disputes between undertakings	Directive 2002/21/EC (Framework Directive) Article 20 - Dispute resolution between undertakings	1. In the event of a dispute arising in connection with existing obligations under this Directive or the Specific Directives between undertakings providing electronic communications networks or services in a Member State, or between such undertakings and other undertakings in the Member State benefiting from obligations of access and/or interconnection arising under this Directive or the Specific Directives, the national regulatory authority concerned shall, at the request of either party, and without prejudice to the provisions of paragraph 2 (right to decline resolution in light of mediation availability), issue a binding decision to resolve the dispute in the shortest possible time frame and in any case within four months, except in exceptional circumstances. The Member State concerned shall require that all parties cooperate fully with the national regulatory authority.
2. POWERS AND OBLIGATIONS			
2.1. General			
2.1.1.	Powers of enforcement regulation of	Directive 2002/20/EC (Authorisation Directive) Article 10 - Compliance with the conditions of the general authorisation or of rights of use and with specific obligations	1. National regulatory authorities shall monitor and supervise compliance with the conditions of the general authorisation or of rights of use and with the specific obligations referred to in Article 6(2) (Specific obligations on providers), in accordance with Article 11 (Information required under the general authorisation, for rights of use and for the specific obligations). National regulatory authorities shall have the power to require undertakings providing electronic communications networks or services covered by the general authorisation or enjoying rights of use for radio frequencies or numbers to provide all information necessary to verify compliance with the conditions of the general authorisation or of rights of use or with the specific obligations referred to in Article 6(2) (Specific obligations on providers), in accordance with Article 11 (Information required under the general authorisation, for rights of use and for the Specific obligations). 2. Where a national regulatory authority finds that an undertaking does not comply with one or more of the conditions of the general authorisation or of rights of use, or with the specific obligations referred to in Article 6(2) (Specific obligations on providers), it shall notify the undertaking of those findings and give the undertaking the opportunity to state its views, within a reasonable time limit. 3. The relevant authority shall have the power to require the cessation of the breach referred to in paragraph 2 either immediately or within a reasonable time limit and shall take appropriate and proportionate measures aimed at ensuring compliance. In this regard, Member States shall empower the relevant authorities to impose:



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>(a) dissuasive financial penalties where appropriate, which may include periodic penalties having retroactive effect; and</p> <p>(b) orders to cease or delay provision of a service or bundle of services which, if continued, would result in significant harm to competition, pending compliance with access obligations imposed following a market analysis carried out in accordance with Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive).</p> <p>The measures and the reasons on which they are based shall be communicated to the undertaking concerned without delay and shall stipulate a reasonable period for the undertaking to comply with the measure.</p> <p>4. Notwithstanding the provisions of paragraphs 2 and 3, Member States shall empower the relevant authority to impose financial penalties where appropriate on undertakings for failure to provide information in accordance with the obligations imposed under Article 11(1)(a) (Systematic or case-by-case verification of compliance with conditions) or (b) (Case-by-case verification of compliance with conditions as set out in the Annex of Directive 2002/20/EC) of this Directive and Article 9 (Obligation of transparency) of Directive 2002/19/EC (Access Directive) within a reasonable period stipulated by the national regulatory authority.</p> <p>5. In cases of serious or repeated breaches of the conditions of the general authorisation or of the rights of use, or specific obligations referred to in Article 6(2) (Specific obligations on providers), where measures aimed at ensuring compliance as referred to in paragraph 3 of this Article have failed, national regulatory authorities may prevent an undertaking from continuing to provide electronic communications networks or services or suspend or withdraw rights of use. Sanctions and penalties which are effective, proportionate and dissuasive may be applied to cover the period of any breach, even if the breach has subsequently been rectified.</p> <p>6. Irrespective of the provisions of paragraphs 2, 3 and 5, where the relevant authority has evidence of a breach of the conditions of the general authorisation rights of use or of the specific obligations referred to in Article 6(2) (Specific obligations on providers) that represents an immediate and serious threat to public safety, public security or public health or will create serious economic or operational problems for other providers or users of electronic communications networks or services or other users of the radio spectrum, it may take urgent interim measures to remedy the situation in advance of reaching a final decision. The undertaking concerned shall thereafter be given a reasonable opportunity to state its views and propose any remedies. Where appropriate, the relevant authority may confirm the interim measures, which shall be valid for a maximum of 3 months, but which may, in circumstances where enforcement procedures have not been completed, be extended for a further period of up to three months.</p> <p>7. Undertakings shall have the right to appeal against measures taken under this Article in accordance with the procedure referred to in Article 4 (Right of appeal) of Directive 2002/21/EC (Framework Directive).</p>
2.1.2.	Powers to collect information	Directive 2002/21/EC (Framework Directive) Article 5 - Provision of information	1. Member States shall ensure that undertakings providing electronic communications networks and services provide all the information, including financial information, necessary for national regulatory authorities to ensure conformity with the provisions of, or decisions made in accordance with, this Directive and the Specific Directives. In particular, national regulatory authorities shall have the power to require those undertakings to submit information concerning future network or service developments that could have an impact on the wholesale services that they make available



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>to competitors. Undertakings with significant market power on wholesale markets may also be required to submit accounting data on the retail markets that are associated with those wholesale markets.</p> <p>Undertakings shall provide such information promptly upon request and in conformity with the timescales and level of detail required by the national regulatory authority. The information requested by the national regulatory authority shall be proportionate to the performance of that task. The national regulatory authority shall give the reasons justifying its request for information and shall treat the information in accordance with paragraph 3.</p> <p>3. Where information is considered confidential by a national regulatory authority in accordance with Community and national rules on business confidentiality, the Commission and the national regulatory authorities concerned shall ensure such confidentiality.</p> <p>4. Member States shall ensure that, acting in accordance with national rules on public access to information and subject to Community and national rules on business confidentiality, national regulatory authorities publish such information as would contribute to an open and competitive market.</p> <p>5. National regulatory authorities shall publish the terms of public access to information as referred to in paragraph 4, including procedures for obtaining such access.</p>
		<p>Directive 2002/20/EC (Authorisation Directive)</p> <p>Article 10 - Compliance with the conditions of the general authorisation or of rights of use and with specific obligations</p>	<p>1. National regulatory authorities shall monitor and supervise compliance with the conditions of the general authorisation or of rights of use and with the specific obligations referred to in Article 6(2) (Specific obligations on providers), in accordance with Article 11 (Information required under the general authorisation, for rights of use and for the specific obligations).</p> <p>National regulatory authorities shall have the power to require undertakings providing electronic communications networks or services covered by the general authorisation or enjoying rights of use for radio frequencies or numbers to provide all information necessary to verify compliance with the conditions of the general authorisation or of rights of use or with the specific obligations referred to in Article 6(2) (Specific obligations on providers), in accordance with Article 11 (Information required under the general authorisation, for rights of use and for the specific obligations).</p>
		<p>Directive 2002/20/EC (Authorisation Directive)</p> <p>Article 11 - Information required under the general authorisation, for rights of use and for the specific obligations</p>	<p>1. Without prejudice to information and reporting obligations under national legislation other than the general authorisation, national regulatory authorities may only require undertakings to provide information under the general authorisation, for rights of use or the specific obligations referred to in Article 6(2) (Specific obligations on providers) that is proportionate and objectively justified for:</p> <p>(a) systematic or case-by-case verification of compliance with conditions 1 and 2 of Part A, conditions 2 and 6 of Part B and conditions 2 and 7 of Part C of the Annex of Directive 2002/20/EC and of compliance with obligations as referred to in Article 6(2) (Specific obligations on providers);</p> <p>(b) case-by-case verification of compliance with conditions as set out in the Annex of Directive 2002/20/EC where a complaint has been received or where the national regulatory authority has other reasons to believe that a condition is not complied with or in case of an investigation by the national regulatory authority on its own initiative;</p> <p>(c) procedures for and assessment of requests for granting rights of use;</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>(d) publication of comparative overviews of quality and price of services for the benefit of consumers;</p> <p>(e) clearly defined statistical purposes;</p> <p>(f) market analysis for the purposes of Directive 2002/19/EC (Access Directive) or Directive 2002/22/EC (Universal Service Directive);</p> <p>(g) safeguarding the efficient use and ensuring the effective management of radio frequencies;</p> <p>(h) evaluating future network or service developments that could have an impact on wholesale services made available to competitors.</p> <p>The information referred to in points (a), (b), (d), (e), (f), (g) and (h) of the first subparagraph may not be required prior to, or as a condition for, market access.</p> <p>2. Where national regulatory authorities require undertakings to provide information as referred to in paragraph 1, they shall inform them of the specific purpose for which this information is to be used.</p>
2.1.3.	Powers to regulate market entry	<p>Directive 2002/20/EC (Authorisation Directive)</p> <p>Article 3 - General authorisation of electronic communications networks and services</p>	<p>1. Member States shall ensure the freedom to provide electronic communications networks and services, subject to the conditions set out in this Directive. To this end, Member States shall not prevent an undertaking from providing electronic communications networks or services.</p> <p>2. The provision of electronic communications networks or the provision of electronic communications services may, without prejudice to the specific obligations referred to in Article 6(2) (Specific obligations on providers) or rights of use referred to in Article 5 (Rights of use for radio frequencies and numbers), only be subject to a general authorisation. The undertaking concerned may be required to submit a notification but may not be required to obtain an explicit decision or any other administrative act by the national regulatory authority before exercising the rights stemming from the authorisation. Upon notification, when required, an undertaking may begin activity, where necessary subject to the provisions on rights of use in Articles 5 (Rights of use for radio frequencies and numbers), 6 (Conditions attached to the general authorisation and to the rights of use for radio frequencies and for numbers, and specific obligations) and 7 (Procedure for limiting the number of rights of use to be granted for radio frequencies).</p> <p>Undertakings providing cross-border electronic communications services to undertakings located in several Member States shall not be required to submit more than one notification per Member State concerned.</p> <p>3. The notification referred to in paragraph 2 shall not entail more than a declaration by a legal or natural person to the national regulatory authority of the intention to commence the provision of electronic communication networks or services and the submission of the minimal information which is required to allow the national regulatory authority to keep a register or list of providers of electronic communications networks and services. This information must be limited to what is necessary for the identification of the provider, such as company registration numbers, and the provider's contact persons, the provider's address, a short description of the network or service, and an estimated date for starting the activity.</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
2.1.4.	Powers to regulate national and/or international roaming	Directive 2002/21/EC (Framework Directive) Article 14 – Undertakings with significant market power	<p>1. Where the Specific Directives require national regulatory authorities to determine whether operators have significant market power in accordance with the procedure referred to in Article 16 (Market analysis procedure), paragraphs 2 (Determination of obligations on undertakings) and 3 (Effective competition in market) of this Article shall apply.</p> <p>2. An undertaking shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.</p> <p>In particular, national regulatory authorities shall, when assessing whether two or more undertakings are in a joint dominant position in a market, act in accordance with Community law and take into the utmost account the guidelines on market analysis and the assessment of significant market power published by the Commission pursuant to Article 15 (Procedure for the identification and definition of markets). Criteria to be used in making such an assessment are set out in Annex II of the Directive 2002/21/EC.</p> <p>3. Where an undertaking has significant market power on a specific market (the first market), it may also be designated as having significant market power on a closely related market (the second market), where the links between the two markets are such as to allow the market power held in the first market to be leveraged into the second market, thereby strengthening the market power of the undertaking. Consequently, remedies aimed at preventing such leverage may be applied in the second market pursuant to Articles 9 (Obligation of transparency), 10 (Obligation of non-discrimination), 11 (Obligation of accounting separation) and 13 (Price control and cost accounting obligations) of Directive 2002/19/EC (Access Directive), and where such remedies prove to be insufficient, remedies pursuant to Article 17 (Regulatory controls on retail services) of Directive 2002/22/EC (Universal Service Directive) may be imposed.</p>
		Directive 2002/19/EC (Access Directive) Article 8 - Imposition, amendment or withdrawal of obligations	<p>1. Member States shall ensure that national regulatory authorities are empowered to impose the obligations identified in Articles 9 to 13a (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations, Article 13a - Functional separation).</p> <p>2. Where an operator is designated as having significant market power on a specific market as a result of a market analysis carried out in accordance with Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive), national regulatory authorities shall impose the obligations set out in Articles 9 to 13 (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations) of this Directive as appropriate.</p>
		Directive 2002/19/EC (Access Directive) Article 12 - Obligations	<p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations on operators to meet reasonable requests for access to, and use of, specific network elements and associated facilities, inter alia in situations where the national regulatory authority considers that denial of access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level, or would not be in the end-user's interest.</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		of access to, and use of, specific network facilities	<p>Operators may be required inter alia:</p> <ul style="list-style-type: none"> (a) to give third parties access to specified network elements and/or facilities, including access to network elements which are not active and/or unbundled access to the local loop, to, inter alia, allow carrier selection and/or pre-selection and/or subscriber line resale offers; (b) to negotiate in good faith with undertakings requesting access; (c) not to withdraw access to facilities already granted; (d) to provide specified services on a wholesale basis for resale by third parties; (e) to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services; (f) to provide co-location or other forms of associated facilities sharing; (g) to provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks; (h) to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services; (i) to interconnect networks or network facilities; (j) to provide access to associated services such as identity, location and presence service. <p>National regulatory authorities may attach to those obligations conditions covering fairness, reasonableness and timeliness.</p> <p>2. When national regulatory authorities are considering the obligations referred in paragraph 1, and in particular when assessing how such obligations would be imposed proportionate to the objectives set out in Article 8 (Policy objectives and regulatory principles) of Directive 2002/21/EC (Framework Directive), they shall take account in particular of the following factors:</p> <ul style="list-style-type: none"> (a) the technical and economic viability of using or installing competing facilities, in the light of the rate of market development, taking into account the nature and type of interconnection and/or access involved, including the viability of other upstream access products such as access to ducts; (b) the feasibility of providing the access proposed, in relation to the capacity available; (c) the initial investment by the facility owner, taking account of any public investment made and the risks involved in making the investment; (d) the need to safeguard competition in the long term, with particular attention to economically efficient infrastructure-based competition; (e) where appropriate, any relevant intellectual property rights; (f) the provision of pan-European services.



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>3. When imposing obligations on an operator to provide access in accordance with the provisions of this Article, national regulatory authorities may lay down technical or operational conditions to be met by the provider and/or beneficiaries of such access where necessary to ensure normal operation of the network. Obligations to follow specific technical standards or specifications shall be in compliance with the standards and specifications laid down in accordance with Article 17 (Standardisation) of Directive 2002/21/EC (Framework Directive).</p> <p>Regulation (EU) No 531/2012 of the European Parliament and of the Council, of 13 June 2012 on roaming on public mobile communications networks within the Union, Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union, Regulation (EU) 2017/920 of the European Parliament and of the Council of 17 May 2017 amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets.</p>
2.1.5.	Powers to regulate net neutrality		<p>Regulation (EU) No 531/2012 of the European Parliament and of the Council, of 13 June 2012 on roaming on public mobile communications networks within the Union, Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union</p>
2.1.6.	Powers to control quality of service requirements	<p>Directive 2002/22/EC (Universal Service Directive)</p> <p>Article 22 - Quality of service</p>	<p>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 networks and/or services to publish comparable, adequate and up-to-date information for end-users on the quality of their services and on measures taken to ensure equivalence in access for disabled end-users. That information shall, on request, be supplied to the national regulatory authority in advance of its publication.</p> <p>2. National regulatory authorities may specify, inter alia, the quality of service parameters to be measured and the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information. Where appropriate, the parameters, definitions and measurement methods set out in Annex III of Directive 2002/22/EC may be used.</p>
2.1.7.	Powers to supervise EU Broadband Cost Reduction Directive implementation from 2014	<p>Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks</p>	-



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
2.1.8.	Powers to organise public hearings	Directive 2002/21/EC (Framework Directive) Article 6 - Consultation and transparency mechanism	<p>Except in cases falling within Articles 7(9) (Immediate adoption of proportionate and provisional measures), 20 (Dispute resolution between undertakings), or 21 (Resolution of cross-border disputes), Member States shall ensure that, where national regulatory authorities intend to take measures in accordance with this Directive or the Specific Directives, or where they intend to provide for restrictions in accordance with Article 9(3) (Provision of proportionate and non-discriminatory restrictions to the radio network or wireless access technology used for electronic communications services) and 9(4) (Measures that require an electronic communications service to be provided in a specific band available for electronic communications services), which have a significant impact on the relevant market, they give interested parties the opportunity to comment on the draft measure within a reasonable period.</p> <p>National regulatory authorities shall publish their national consultation procedures.</p> <p>Member States shall ensure the establishment of a single information point through which all current consultations can be accessed.</p> <p>The results of the consultation procedure shall be made publicly available by the national regulatory authority, except in the case of confidential information in accordance with Community and national law on business confidentiality.</p>
2.1.9.	Powers to organise associated councils or consulting bodies	N/A	N/A
2.1.10.	Powers for international cooperation	N/A	N/A
2.1.11.	Powers to be represented in international regulatory bodies	None, for European Union NRAs - BEREC	N/A
2.2. Market Analysis			
2.2.1.	Powers to define and analyse relevant markets	Directive 2002/21/EC (Framework Directive): Article 15 - Procedure for the identification and definition of markets	3. National regulatory authorities shall, taking the utmost account of the Recommendation and the Guidelines, define relevant markets appropriate to national circumstances, in particular relevant geographic markets within their territory, in accordance with the principles of competition law. National regulatory authorities shall follow the procedures referred to in Articles 6 (Consultation and transparency mechanism) and 7 (Consolidating the internal market for electronic communications) before defining the markets that differ from those identified in the Recommendation.
		Directive 2002/21/EC (Framework Directive):	2. An undertaking shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		<p>Article 14 - Undertakings with significant market power</p> <p>Directive 2002/21/EC (Framework Directive):</p> <p>Article 16 - Market analysis procedure</p>	<p>1. National regulatory authorities shall carry out an analysis of the relevant markets taking into account the markets identified in the Recommendation and taking the utmost account of the Guidelines. Member States shall ensure that this analysis is carried out, where appropriate, in collaboration with the national competition authorities.</p> <p>2. Where a national regulatory authority is required under paragraphs 3 or 4 of this Article, Article 17 (Regulatory controls on retail services) of Directive 2002/22/EC (Universal Service Directive), or Article 8 (Imposition, amendment or withdrawal of obligations) of Directive 2002/19/EC (Access Directive) to determine whether to impose, maintain, amend or withdraw obligations on undertakings, it shall determine on the basis of its market analysis referred to in paragraph 1 of this Article whether a relevant market is effectively competitive.</p> <p>3. Where a national regulatory authority concludes that the market is effectively competitive, it shall not impose or maintain any of the specific regulatory obligations referred to in paragraph 2 of this Article. In cases where sector specific regulatory obligations already exist, it shall withdraw such obligations placed on undertakings in that relevant market. An appropriate period of notice shall be given to parties affected by such a withdrawal of obligations.</p> <p>4. Where a national regulatory authority determines that a relevant market is not effectively competitive, it shall identify undertakings which individually or jointly have a significant market power on that market in accordance with Article 14 (Undertakings with significant market power) and the national regulatory authority shall on such undertakings impose appropriate specific regulatory obligations referred to in paragraph 2 of this Article or maintain or amend such obligations where they already exist.</p> <p>5. In the case of transnational markets identified in the Decision referred to in Article 15(4) (Adoption of a decision identifying transnational markets), the national regulatory authorities concerned shall jointly conduct the market analysis taking the utmost account of the Guidelines and, in a concerted fashion, shall decide on any imposition, maintenance, amendment or withdrawal of regulatory obligations referred to in paragraph 2 of this Article.</p> <p>6. Measures taken in accordance with the provisions of paragraphs 3 and 4 shall be subject to the procedures referred to in Articles 6 (Consultation and transparency mechanism) and 7 (Consolidating the internal market for electronic communications). National regulatory authorities shall carry out an analysis of the relevant market and notify the corresponding draft measure in accordance with Article 7 (Consolidating the internal market for electronic communications):</p> <p>(a) within three years from the adoption of a previous measure relating to that market. However, exceptionally, that period may be extended for up to three additional years, where the national regulatory authority has notified a reasoned proposed extension to the Commission and the Commission has not objected within one month of the notified extension;</p> <p>(b) within two years from the adoption of a revised Recommendation on relevant markets, for markets not previously notified to the Commission; or</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>(c) within two years from their accession, for Member States which have newly joined the Union.</p> <p>7. Where a national regulatory authority has not completed its analysis of a relevant market identified in the Recommendation within the time limit laid down in paragraph 6, BEREC shall, upon request, provide assistance to the national regulatory authority concerned in completing the analysis of the specific market and the specific obligations to be imposed. With this assistance, the national regulatory authority concerned shall within six months notify the draft measure to the Commission in accordance with Article 7 (Consolidating the internal market for electronic communications).</p>
2.2.2.	Powers to implement <i>ex-ante</i> obligations	Directive 2002/21/EC (Framework Directive): Article 16 - Market analysis procedure	4. Where a national regulatory authority determines that a relevant market is not effectively competitive, it shall identify undertakings which individually or jointly have a significant market power on that market in accordance with Article 14 (Undertakings with significant market power) and the national regulatory authority shall on such undertakings impose appropriate specific regulatory obligations referred to in paragraph 2 of this Article 16 of Directive 2002/21/EC or maintain or amend such obligations where they already exist.
2.2.3.	Powers to regulate interconnection and access	Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure	4. Where a national regulatory authority determines that a relevant market is not effectively competitive, it shall identify undertakings which individually or jointly have a significant market power on that market in accordance with Article 14 (Undertakings with significant market power) and the national regulatory authority shall on such undertakings impose appropriate specific regulatory obligations referred to in paragraph 2 of Article 16 of Directive 2002/21/EC or maintain or amend such obligations where they already exist.
		Directive 2002/19/EC (Access Directive) Article 8 - Imposition, amendment or withdrawal of obligations	1. Member States shall ensure that national regulatory authorities are empowered to impose the obligations identified in Articles 9 to 13a (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations, Article 13a - Functional separation). 2. Where an operator is designated as having significant market power on a specific market as a result of a market analysis carried out in accordance with Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive), national regulatory authorities shall impose the obligations set out in Articles 9 to 13 (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations) of this Directive as appropriate.
		Directive 2002/19/EC (Access Directive) Article 9 - Obligation of transparency	1. National regulatory authorities may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations for transparency in relation to interconnection and/or access, requiring operators to make public specified information, such as accounting information, technical specifications, network characteristics, terms and conditions for supply and use, including any conditions limiting access to and/or use of services and applications where such conditions are allowed by Member States in conformity with Community law, and prices.



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>2. In particular where an operator has obligations of non-discrimination, national regulatory authorities may require that operator to publish a reference offer, which shall be sufficiently unbundled to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and the associated terms and conditions including prices. The national regulatory authority shall, inter alia, be able to impose changes to reference offers to give effect to obligations imposed under this Directive.</p> <p>3. National regulatory authorities may specify the precise information to be made available, the level of detail required and the manner of publication.</p> <p>4. Notwithstanding paragraph 3, where an operator has obligations under Article 12 (Obligations of access to, and use of, specific network facilities) concerning wholesale network infrastructure access, national regulatory authorities shall ensure the publication of a reference offer containing at least the elements set out in Annex II of Directive 2002/19/EC.</p>
		Directive 2002/19/EC (Access Directive) Article 10 - Obligation of non-discrimination	<p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations of non-discrimination, in relation to interconnection and/or access.</p> <p>2. Obligations of non-discrimination shall ensure, in particular, that the operator applies equivalent conditions in equivalent circumstances to other undertakings providing equivalent services and provides services and information to others under the same conditions and of the same quality as it provides for its own services, or those of its subsidiaries or partners.</p>
		Directive 2002/19/EC (Access Directive) Article 11 - Obligation of accounting separation	<p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations for accounting separation in relation to specified activities related to interconnection and/or access.</p> <p>In particular, a national regulatory authority may require a vertically integrated company to make transparent its wholesale prices and its internal transfer prices inter alia to ensure compliance where there is a requirement for non-discrimination under Article 10 (Obligation of non-discrimination) or, where necessary, to prevent unfair cross-subsidy. National regulatory authorities may specify the format and accounting methodology to be used.</p> <p>2. Without prejudice to Article 5 (Provision of information) of Directive 2002/21/EC (Framework Directive), to facilitate the verification of compliance with obligations of transparency and non-discrimination, national regulatory authorities shall have the power to require that accounting records, including data on revenues received from third parties, are provided on request. National regulatory authorities may publish such information as would contribute to an open and competitive market, while respecting national and Community rules on commercial confidentiality.</p>
		Directive 2002/19/EC (Access Directive) Article 12 - Obligations	<p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations on operators to meet reasonable requests for access to, and use of, specific network elements and associated facilities, inter alia in situations where the national regulatory authority</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		of access to, and use of, specific network facilities	<p>considers that denial of access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level, or would not be in the end-user's interest.</p> <p>Operators may be required inter alia:</p> <ul style="list-style-type: none"> (a) to give third parties access to specified network elements and/or facilities, including access to network elements which are not active and/or unbundled access to the local loop, to, inter alia, allow carrier selection and/or pre-selection and/or subscriber line resale offers; (b) to negotiate in good faith with undertakings requesting access; (c) not to withdraw access to facilities already granted; (d) to provide specified services on a wholesale basis for resale by third parties; (e) to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services; (f) to provide co-location or other forms of associated facilities sharing; (g) to provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks; (h) to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services; (i) to interconnect networks or network facilities; (j) to provide access to associated services such as identity, location and presence service. <p>National regulatory authorities may attach to those obligations conditions covering fairness, reasonableness and timeliness.</p> <p>2. When national regulatory authorities are considering the obligations referred in paragraph 1, and in particular when assessing how such obligations would be imposed proportionate to the objectives set out in Article 8 (Policy objectives and regulatory principles) of Directive 2002/21/EC (Framework Directive), they shall take account in particular of the following factors:</p> <ul style="list-style-type: none"> (a) the technical and economic viability of using or installing competing facilities, in the light of the rate of market development, taking into account the nature and type of interconnection and/or access involved, including the viability of other upstream access products such as access to ducts; (b) the feasibility of providing the access proposed, in relation to the capacity available; (c) the initial investment by the facility owner, taking account of any public investment made and the risks involved in making the investment; (d) the need to safeguard competition in the long term, with particular attention to economically efficient infrastructure-based competition; (e) where appropriate, any relevant intellectual property rights;



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>(f) the provision of pan-European services.</p> <p>3. When imposing obligations on an operator to provide access in accordance with the provisions of this Article, national regulatory authorities may lay down technical or operational conditions to be met by the provider and/or beneficiaries of such access where necessary to ensure normal operation of the network. Obligations to follow specific technical standards or specifications shall be in compliance with the standards and specifications laid down in accordance with Article 17 (Standardisation) of Directive 2002/21/EC (Framework Directive).</p>
		<p>Directive 2002/19/EC (Access Directive)</p> <p>Article 13 - Price control and cost accounting obligations</p>	<p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users. To encourage investments by the operator, including in next generation networks, national regulatory authorities shall take into account the investment made by the operator, and allow him a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.</p> <p>2. National regulatory authorities shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote efficiency and sustainable competition and maximise consumer benefits. In this regard national regulatory authorities may also take account of prices available in comparable competitive markets.</p> <p>3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, national regulatory authorities may use cost accounting methods independent of those used by the undertaking. National regulatory authorities may require an operator to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.</p> <p>4. National regulatory authorities shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall be verified by a qualified independent body. A statement concerning compliance shall be published annually.</p>
		<p>Directive 2002/19/EC (Access Directive)</p> <p>Article 13a - Functional separation</p>	<p>1. Where the national regulatory authority concludes that the appropriate obligations imposed under Articles 9 to 13 (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations) have failed to achieve effective competition and that there are important and persisting competition problems and/or market failures identified in relation to the wholesale provision of certain access product markets, it may, as an exceptional measure, in accordance with the provisions of the second subparagraph of Article 8(3) (Exceptional circumstances on imposition of obligations for access or interconnection), impose an obligation on</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>vertically integrated undertakings to place activities related to the wholesale provision of relevant access products in an independently operating business entity.</p> <p>That business entity shall supply access products and services to all undertakings, including to other business entities within the parent company, on the same timescales, terms and conditions, including those relating to price and service levels, and by means of the same systems and processes.</p> <p>2. When a national regulatory authority intends to impose an obligation for functional separation, it shall submit a proposal to the Commission that includes:</p> <ul style="list-style-type: none">(a) evidence justifying the conclusions of the national regulatory authority as referred to in paragraph 1;(b) a reasoned assessment that there is no or little prospect of effective and sustainable infrastructure-based competition within a reasonable time-frame;(c) an analysis of the expected impact on the regulatory authority, on the undertaking, in particular on the workforce of the separated undertaking and on the electronic communications sector as a whole, and on incentives to invest in a sector as a whole, particularly with regard to the need to ensure social and territorial cohesion, and on other stakeholders including, in particular, the expected impact on competition and any potential consequential effects on consumers;(d) an analysis of the reasons justifying that this obligation would be the most efficient means to enforce remedies aimed at addressing the competition problems/markets failures identified. <p>3. The draft measure shall include the following elements:</p> <ul style="list-style-type: none">(a) the precise nature and level of separation, specifying in particular the legal status of the separate business entity;(b) an identification of the assets of the separate business entity, and the products or services to be supplied by that entity;(c) the governance arrangements to ensure the independence of the staff employed by the separate business entity, and the corresponding incentive structure;(d) rules for ensuring compliance with the obligations;(e) rules for ensuring transparency of operational procedures, in particular towards other stakeholders;(f) a monitoring programme to ensure compliance, including the publication of an annual report. <p>4. Following the Commission's decision on the draft measure taken in accordance with Article 8(3) of Directive 2002/19/EC, the national regulatory authority shall conduct a coordinated analysis of the different markets related to the access network in accordance with the procedure set out in Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive). On the basis of its assessment, the national regulatory authority shall impose, maintain, amend or withdraw obligations, in accordance with Articles 6 (Consultation and transparency mechanism) and 7 (Consolidating the internal market for electronic communications) of Directive 2002/21/EC (Framework Directive).</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>5. An undertaking on which functional separation has been imposed may be subject to any of the obligations identified in Articles 9 to 13 (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations) in any specific market where it has been designated as having significant market power in accordance with Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive), or any other obligations authorised by the Commission pursuant to Article 8(3) of Directive 2002/19/EC.</p>
2.2.4.	Powers to regulate access to ducts and/or other network infrastructure	Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure	<p>4. Where a national regulatory authority determines that a relevant market is not effectively competitive, it shall identify undertakings which individually or jointly have a significant market power on that market in accordance with Article 14 (Undertakings with significant market power) and the national regulatory authority shall on such undertakings impose appropriate specific regulatory obligations referred to in paragraph 2 of Article 16 Directive 2002/21/EC of or maintain or amend such obligations where they already exist.</p>
		Directive 2002/19/EC (Access Directive) Article 8 - Imposition, amendment or withdrawal of obligations	<p>1. Member States shall ensure that national regulatory authorities are empowered to impose the obligations identified in Articles 9 to 13a (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations, Article 13a - Functional separation).</p> <p>2. Where an operator is designated as having significant market power on a specific market as a result of a market analysis carried out in accordance with Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive), national regulatory authorities shall impose the obligations set out in Articles 9 to 13 (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations) of this Directive as appropriate.</p>
		Directive 2002/19/EC (Access Directive) Article 9 - Obligation of transparency	<p>1. National regulatory authorities may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations for transparency in relation to interconnection and/or access, requiring operators to make public specified information, such as accounting information, technical specifications, network characteristics, terms and conditions for supply and use, including any conditions limiting access to and/or use of services and applications where such conditions are allowed by Member States in conformity with Community law, and prices.</p> <p>2. In particular where an operator has obligations of non-discrimination, national regulatory authorities may require that operator to publish a reference offer, which shall be sufficiently unbundled to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and the associated terms and conditions including prices. The national regulatory authority shall, inter alia, be able to impose changes to reference offers to give effect to obligations imposed under this Directive.</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>3. National regulatory authorities may specify the precise information to be made available, the level of detail required and the manner of publication.</p> <p>4. Notwithstanding paragraph 3, where an operator has obligations under Article 12 (Obligations of access to, and use of, specific network facilities) concerning wholesale network infrastructure access, national regulatory authorities shall ensure the publication of a reference offer containing at least the elements set out in Annex II of Directive 2002/19/EC.</p>
		Directive 2002/19/EC (Access Directive) Article 10 - Obligation of non-discrimination	<p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations of non-discrimination, in relation to interconnection and/or access.</p> <p>2. Obligations of non-discrimination shall ensure, in particular, that the operator applies equivalent conditions in equivalent circumstances to other undertakings providing equivalent services and provides services and information to others under the same conditions and of the same quality as it provides for its own services, or those of its subsidiaries or partners.</p>
		Directive 2002/19/EC (Access Directive) Article 11 - Obligation of accounting separation	<p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations for accounting separation in relation to specified activities related to interconnection and/or access.</p> <p>In particular, a national regulatory authority may require a vertically integrated company to make transparent its wholesale prices and its internal transfer prices inter alia to ensure compliance where there is a requirement for non-discrimination under Article 10 (Obligation of non-discrimination) or, where necessary, to prevent unfair cross-subsidy. National regulatory authorities may specify the format and accounting methodology to be used.</p> <p>2. Without prejudice to Article 5 (Provision of information) of Directive 2002/21/EC (Framework Directive), to facilitate the verification of compliance with obligations of transparency and non-discrimination, national regulatory authorities shall have the power to require that accounting records, including data on revenues received from third parties, are provided on request. National regulatory authorities may publish such information as would contribute to an open and competitive market, while respecting national and Community rules on commercial confidentiality.</p>
		Directive 2002/19/EC (Access Directive) - Obligations of access to, and use of, specific network facilities Article 12	<p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations on operators to meet reasonable requests for access to, and use of, specific network elements and associated facilities, inter alia in situations where the national regulatory authority considers that denial of access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level, or would not be in the end-user's interest.</p> <p>Operators may be required inter alia:</p> <p>(a) to give third parties access to specified network elements and/or facilities, including access to network elements which are not active and/or unbundled access to the local loop, to, inter alia, allow carrier selection and/or pre-selection and/or subscriber line resale offers;</p> <p>(b) to negotiate in good faith with undertakings requesting access;</p>



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			<p>(c) not to withdraw access to facilities already granted;</p> <p>(d) to provide specified services on a wholesale basis for resale by third parties;</p> <p>(e) to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services;</p> <p>(f) to provide co-location or other forms of associated facilities sharing;</p> <p>(g) to provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks;</p> <p>(h) to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;</p> <p>(i) to interconnect networks or network facilities;</p> <p>(j) to provide access to associated services such as identity, location and presence service.</p> <p>National regulatory authorities may attach to those obligations conditions covering fairness, reasonableness and timeliness.</p> <p>2. When national regulatory authorities are considering the obligations referred in paragraph 1, and in particular when assessing how such obligations would be imposed proportionate to the objectives set out in Article 8 (Policy objectives and regulatory principles) of Directive 2002/21/EC (Framework Directive), they shall take account in particular of the following factors:</p> <p>(a) the technical and economic viability of using or installing competing facilities, in the light of the rate of market development, taking into account the nature and type of interconnection and/or access involved, including the viability of other upstream access products such as access to ducts;</p> <p>(b) the feasibility of providing the access proposed, in relation to the capacity available;</p> <p>(c) the initial investment by the facility owner, taking account of any public investment made and the risks involved in making the investment;</p> <p>(d) the need to safeguard competition in the long term, with particular attention to economically efficient infrastructure-based competition;</p> <p>(e) where appropriate, any relevant intellectual property rights;</p> <p>(f) the provision of pan-European services.</p> <p>3. When imposing obligations on an operator to provide access in accordance with the provisions of this Article, national regulatory authorities may lay down technical or operational conditions to be met by the provider and/or beneficiaries of such access where necessary to ensure normal operation of the network. Obligations to follow specific technical standards or specifications shall be in compliance with the standards and specifications laid down in accordance with Article 17 (Standardisation) of Directive 2002/21/EC (Framework Directive).</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		Directive 2002/19/EC (Access Directive) Article 13 - Price control and cost accounting obligations	<p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users. To encourage investments by the operator, including in next generation networks, national regulatory authorities shall take into account the investment made by the operator, and allow him a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.</p> <p>2. National regulatory authorities shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote efficiency and sustainable competition and maximise consumer benefits. In this regard national regulatory authorities may also take account of prices available in comparable competitive markets.</p> <p>3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, national regulatory authorities may use cost accounting methods independent of those used by the undertaking. National regulatory authorities may require an operator to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.</p> <p>4. National regulatory authorities shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall be verified by a qualified independent body. A statement concerning compliance shall be published annually.</p>
2.2.5.	Powers to regulate termination and/or origination and/or transit tariffs	Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure Directive 2002/19/EC (Access Directive) Article 8 - Imposition, amendment or withdrawal of obligations	<p>4. Where a national regulatory authority determines that a relevant market is not effectively competitive, it shall identify undertakings which individually or jointly have a significant market power on that market in accordance with Article 14 (Undertakings with significant market power) and the national regulatory authority shall on such undertakings impose appropriate specific regulatory obligations referred to in paragraph 2 of Article 16 of Directive 2002/21/EC or maintain or amend such obligations where they already exist.</p> <p>1. Member States shall ensure that national regulatory authorities are empowered to impose the obligations identified in Articles 9 to 13a (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations, Article 13a - Functional separation).</p> <p>2. Where an operator is designated as having significant market power on a specific market as a result of a market analysis carried out in accordance with Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive), national regulatory authorities shall impose the obligations set out in Articles 9 to 13 (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		<p>Directive 2002/19/EC (Access Directive)</p> <p>Article 13 - Price control and cost accounting obligations</p>	<p>12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations) of this Directive as appropriate.</p> <p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users. To encourage investments by the operator, including in next generation networks, national regulatory authorities shall take into account the investment made by the operator, and allow him a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.</p> <p>2. National regulatory authorities shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote efficiency and sustainable competition and maximise consumer benefits. In this regard national regulatory authorities may also take account of prices available in comparable competitive markets.</p> <p>3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, national regulatory authorities may use cost accounting methods independent of those used by the undertaking. National regulatory authorities may require an operator to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.</p> <p>4. National regulatory authorities shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall be verified by a qualified independent body. A statement concerning compliance shall be published annually.</p>
2.2.6.	Powers to set tariffs and/or prices	<p>Directive 2002/21/EC (Framework Directive)</p> <p>Article 16 - Market analysis procedure</p> <p>Directive 2002/19/EC (Access Directive)</p> <p>Article 13 - Price control and cost accounting obligations</p>	<p>4. Where a national regulatory authority determines that a relevant market is not effectively competitive, it shall identify undertakings which individually or jointly have a significant market power on that market in accordance with Article 14 (Undertakings with significant market power) and the national regulatory authority shall on such undertakings impose appropriate specific regulatory obligations referred to in paragraph 2 of Article 16 of Directive 2002/21/EC or maintain or amend such obligations where they already exist.</p> <p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users. To encourage investments by the operator, including in next generation networks, national</p>



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			<p>regulatory authorities shall take into account the investment made by the operator, and allow him a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.</p> <p>2. National regulatory authorities shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote efficiency and sustainable competition and maximise consumer benefits. In this regard national regulatory authorities may also take account of prices available in comparable competitive markets.</p> <p>3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, national regulatory authorities may use cost accounting methods independent of those used by the undertaking. National regulatory authorities may require an operator to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.</p> <p>4. National regulatory authorities shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall be verified by a qualified independent body. A statement concerning compliance shall be published annually.</p>
		<p>Directive 2002/22/EC (Universal Service Directive)</p> <p>Article 17 - Regulatory controls on retail services</p>	<p>1. Member States shall ensure that 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 (Undertakings with significant market power) of Directive 2002/21/EC (Framework Directive) where:</p> <p>(a) as a result of a market analysis carried out in accordance with Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive), a national regulatory authority determines that a given retail market identified in accordance with Article 15 (Procedure for the identification and definition of markets) of that Directive is not effectively competitive; and</p> <p>(b) the national regulatory authority concludes that obligations imposed under Articles 9 to 13 (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations) of Directive 2002/19/EC (Access Directive) would not result in the achievement of the objectives set out in Article 8 (Policy objectives and regulatory principles) of Directive 2002/21/EC (Framework Directive).</p> <p>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 (Policy objectives and regulatory principles) 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</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>to orient tariffs towards costs or prices on comparable markets, in order to protect end-user interests whilst promoting effective competition.</p> <p>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.</p> <p>5. Without prejudice to Article 9(2) (Affordability of tariffs - Member States may, in the light of national conditions, require that designated undertakings provide to consumers tariff options or packages 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 the network referred to in Article 4(1) or from using the services identified in Article 4(3) and Articles 5, 6 and 7 as falling under the universal service obligations and provided by designated undertakings) and Article 10 (Control of expenditure), 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.</p>
2.2.7.	Powers to apply cost accounting and allocation methodologies	<p>Directive 2002/21/EC (Framework Directive)</p> <p>Article 16 - Market analysis procedure</p> <p>Directive 2002/19/EC (Access Directive)</p> <p>Article 13 - Price control and cost accounting obligations</p>	<p>4. Where a national regulatory authority determines that a relevant market is not effectively competitive, it shall identify undertakings which individually or jointly have a significant market power on that market in accordance with Article 14 (Undertakings with significant market power) and the national regulatory authority shall on such undertakings impose appropriate specific regulatory obligations referred to in paragraph 2 of Article 16 of Directive 2002/21/EC or maintain or amend such obligations where they already exist.</p> <p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users. To encourage investments by the operator, including in next generation networks, national regulatory authorities shall take into account the investment made by the operator, and allow him a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.</p> <p>2. National regulatory authorities shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote efficiency and sustainable competition and maximise consumer benefits. In this regard national regulatory authorities may also take account of prices available in comparable competitive markets.</p> <p>3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, national regulatory authorities may use cost</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>accounting methods independent of those used by the undertaking. National regulatory authorities may require an operator to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.</p> <p>4. National regulatory authorities shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall be verified by a qualified independent body. A statement concerning compliance shall be published annually.</p>
		<p>Directive 2002/22/EC (Universal Service Directive)</p> <p>Article 17 - Regulatory controls on retail services</p>	<p>1. Member States shall ensure that 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 (Undertakings with significant market power) of Directive 2002/21/EC (Framework Directive) where:</p> <p>(a) as a result of a market analysis carried out in accordance with Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive), a national regulatory authority determines that a given retail market identified in accordance with Article 15 (Procedure for the identification and definition of markets) of that Directive is not effectively competitive; and</p> <p>(b) the national regulatory authority concludes that obligations imposed under Articles 9 to 13 (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations) of Directive 2002/19/EC (Access Directive) would not result in the achievement of the objectives set out in Article 8 (Policy objectives and regulatory principles) of Directive 2002/21/EC (Framework Directive).</p> <p>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 (Policy objectives and regulatory principles) 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.</p> <p>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.</p> <p>5. Without prejudice to Article 9(2) (Affordability of tariffs - Member States may, in the light of national conditions, require that designated undertakings provide to consumers tariff options or packages which depart from those</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>provided under normal commercial conditions, in particular to ensure that those on low incomes or with special social needs are not prevented from accessing the network referred to in Article 4(1) or from using the services identified in Article 4(3) and Articles 5, 6 and 7 as falling under the universal service obligations and provided by designated undertakings) and Article 10(Control of expenditure), 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.</p>
2.2.8.	Powers to set Weighted Average Cost of Capital	<p>Commission Recommendation of 20 September 2010 on regulated access to Next Generation Access Networks (NGA)</p> <p>Directive 2002/21/EC (Framework Directive) Article 16 - Market analysis procedure</p> <p>Directive 2002/19/EC (Access Directive) Article 13 - Price control and cost accounting obligations</p>	<p>-</p> <p>4. Where a national regulatory authority determines that a relevant market is not effectively competitive, it shall identify undertakings which individually or jointly have a significant market power on that market in accordance with Article 14 (Undertakings with significant market power) and the national regulatory authority shall on such undertakings impose appropriate specific regulatory obligations referred to in paragraph 2 of Article 16 of Directive 2002/21/EC or maintain or amend such obligations where they already exist.</p> <p>1. A national regulatory authority may, in accordance with the provisions of Article 8 (Imposition, amendment or withdrawal of obligations), impose obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that a lack of effective competition means that the operator concerned may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users. To encourage investments by the operator, including in next generation networks, national regulatory authorities shall take into account the investment made by the operator, and allow him a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular new investment network project.</p> <p>2. National regulatory authorities shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote efficiency and sustainable competition and maximise consumer benefits. In this regard national regulatory authorities may also take account of prices available in comparable competitive markets.</p> <p>3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, national regulatory authorities may use cost accounting methods independent of those used by the undertaking. National regulatory authorities may require an operator to provide full justification for its prices, and may, where appropriate, require prices to be adjusted.</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		<p>Directive 2002/22/EC (Universal Service Directive)</p> <p>Article 17 - Regulatory controls on retail services</p>	<p>4. National regulatory authorities shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall be verified by a qualified independent body. A statement concerning compliance shall be published annually.</p> <p>1. Member States shall ensure that 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 (Undertakings with significant market power) of Directive 2002/21/EC (Framework Directive) where:</p> <p>(a) as a result of a market analysis carried out in accordance with Article 16 (Market analysis procedure) of Directive 2002/21/EC (Framework Directive), a national regulatory authority determines that a given retail market identified in accordance with Article 15 (Procedure for the identification and definition of markets) of that Directive is not effectively competitive; and</p> <p>(b) the national regulatory authority concludes that obligations imposed under Articles 9 to 13 (Article 9 -Obligation of transparency, Article 10 - Obligation of non-discrimination, Article 11 - Obligation of accounting separation, Article 12 - Obligations of access to, and use of, specific network facilities, Article 13 - Price control and cost accounting obligations) of Directive 2002/19/EC (Access Directive) would not result in the achievement of the objectives set out in Article 8 (Policy objectives and regulatory principles) of Directive 2002/21/EC (Framework Directive).</p> <p>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 (Policy objectives and regulatory principles) 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.</p> <p>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.</p> <p>5. Without prejudice to Article 9(2) (Affordability of tariffs - Member States may, in the light of national conditions, require that designated undertakings provide to consumers tariff options or packages 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 the network referred to in Article 4(1) or from using the services identified in Article 4(3) and Articles 5, 6 and 7 as falling under the universal service obligations and provided by designated undertakings) and Article 10 (Control of expenditure), national regulatory authorities shall not apply retail control</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			mechanisms under paragraph 1 of this Article to geographical or user markets where they are satisfied that there is effective competition.
2.3. Scarce Resource Management			
2.3.1.	Powers to grant scarce resources (radio frequencies and numbering)	Directive 2002/21/EC (Framework Directive) Article 9 - Management of radio frequencies for electronic communications services	1. Taking due account of the fact that radio frequencies are a public good that has an important social, cultural and economic value, Member States shall ensure the effective management of radio frequencies for electronic communication services in their territory in accordance with Articles 8 (Policy objectives and regulatory principles) and 8a (Strategic planning and coordination of radio spectrum policy). They shall ensure that spectrum allocation used for electronic communications services and issuing general authorisations or individual rights of use of such radio frequencies by competent national authorities are based on objective, transparent, non-discriminatory and proportionate criteria. In applying this Article, Member States shall respect relevant international agreements, including the ITU Radio Regulations, and may take public policy considerations into account.
		Directive 2002/21/EC (Framework Directive) Article 10 - Numbering, naming and addressing	1. Member States shall ensure that national regulatory authorities control the granting of rights of use of all national numbering resources and the management of the national numbering plans. Member States shall ensure that adequate numbers and numbering ranges are provided for all publicly available electronic communications services. National regulatory authorities shall establish objective, transparent and non-discriminatory procedures for granting rights of use for national numbering resources.
2.3.2.	Powers to monitor radio frequencies	Directive 2002/21/EC (Framework Directive) Article 9 - Management of radio frequencies for electronic communications services	1. Taking due account of the fact that radio frequencies are a public good that has an important social, cultural and economic value, Member States shall ensure the effective management of radio frequencies for electronic communication services in their territory in accordance with Articles 8 (policy objectives and regulatory principles) and 8a (strategic planning and coordination of radio frequency spectrum policy). They shall ensure that spectrum allocation used for electronic communications services and issuing general authorisations or individual rights of use of such radio frequencies by competent national authorities are based on objective, transparent, non-discriminatory and proportionate criteria.
2.3.3.	Powers to manage numbering plans	Directive 2002/21/EC (Framework Directive) Article 10 - Numbering, naming and addressing	1. Member States shall ensure that national regulatory authorities control the granting of rights of use of all national numbering resources and the management of the national numbering plans. Member States shall ensure that adequate numbers and numbering ranges are provided for all publicly available electronic communications services. National regulatory authorities shall establish objective, transparent and non-discriminatory procedures for granting rights of use for national numbering resources.
2.4. Consumer Protection			



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
2.4.1.	Powers to set requirements for contracts	Directive 2002/22/EC (Universal Service Directive) Article 20 - Contracts	<p>1. Member States shall ensure that, when subscribing to services providing connection to a public communications network and/or publicly available electronic communications services, consumers, and other end-users so requesting, have a right to a contract with an undertaking or undertakings providing such connection and/or services. The contract shall specify in a clear, comprehensive and easily accessible form at least:</p> <ul style="list-style-type: none"> (a) the identity and address of the undertaking; (b) the services provided, including in particular, <ul style="list-style-type: none"> — whether or not access to emergency services and caller location information is being provided, and any limitations on the provision of emergency services under Article 26 (Emergency services and the single European emergency call number), — information on any other conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law in accordance with Community law, — the minimum service quality levels offered, namely the time for the initial connection and, where appropriate, other quality of service parameters, as defined by the national regulatory authorities, — information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link, and information on how those procedures could impact on service quality, — the types of maintenance service offered, and customer support services provided, as well as the means of contacting these services, — any restrictions imposed by the provider on the use of terminal equipment supplied; (c) where an obligation exists under Article 25 (Telephone directory enquiry services), the subscriber's options as to whether or not to include his or her personal data in a directory, and the data concerned; (d) details of prices and tariffs, 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; (e) the duration of the contract and the conditions for renewal and termination of services and of the contract, including: <ul style="list-style-type: none"> — any minimum usage or duration required to benefit from promotional terms, — any charges related to portability of numbers and other identifiers, — any charges due on termination of the contract, including any cost recovery with respect to terminal equipment, (f) any compensation and the refund arrangements which apply if contracted service quality levels are not met; (g) the means of initiating procedures for the settlement of disputes in accordance with Article 34; (h) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities. <p>4. Member States may also require that the contract 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,</p>



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
			<p>privacy and personal data, referred to in Article 21(4) (Member States may require that the undertakings referred to in paragraph 3 distribute public interest information free of charge to existing and new subscribers, where appropriate, by the same means as those ordinarily used by them in their communications with subscribers. In such a case, that information shall be provided by the relevant public authorities in a standardised format and shall, inter alia, cover the following topics:</p> <p>(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 rights, and their legal consequences; and</p> <p>(b) the means of protection against risks to personal security, privacy and personal data when using electronic communications services) and relevant to the service provided.</p>
2.4.2.	Powers to solve customer complaints	Directive 2002/22/EC (Universal Service Directive) Article 34 - Out-of-court dispute resolution	1. Member States shall ensure that transparent, non-discriminatory, simple and inexpensive out-of-court procedures are available for dealing with unresolved disputes between consumers and undertakings providing electronic communications networks and/or services arising under this Directive and relating to the contractual conditions and/or performance of contracts concerning the supply of those networks and/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. Such procedures shall enable disputes to be settled impartially and shall not deprive the consumer of the legal protection afforded by national law. Member States may extend these obligations to cover disputes involving other end-users.
2.5. Universal Service			
2.5.1.	Powers to set universal service obligations	Directive 2002/22/EC (Universal Service Directive) 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.
2.5.2.	Powers to define universal service's baskets	Directive 2002/22/EC (Universal Service Directive) 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.



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		Directive 2002/22/EC (Universal Service Directive) Article 4 - Provision of access at a fixed location and provision of telephone services	<ol style="list-style-type: none"> 1. Member States shall ensure that all reasonable requests for connection at a fixed location to a public communications network are met by at least one undertaking. 2. The connection provided shall be capable of supporting voice, facsimile 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. 3. Member States shall ensure that all reasonable requests for the provision of a publicly available telephone service over the network connection referred to in paragraph 1 that allows for originating and receiving national and international calls are met by at least one undertaking.
		Directive 2002/22/EC (Universal Service Directive) Article 5 - Directory enquiry services and directories	<ol style="list-style-type: none"> 1. Member States shall ensure that: <ol style="list-style-type: none"> (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 referred to in paragraph 1 shall comprise, subject to the provisions of Article 12 (Directories of subscribers) of Directive 2002/58/EC of the European Parliament and of 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), 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.
		Directive 2002/22/EC (Universal Service Directive) Article 6 - Public pay telephones and other public voice telephony access points	<ol style="list-style-type: none"> 1. Member States shall ensure that national regulatory authorities may impose obligations on undertakings in order to ensure that public pay telephones or other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled end-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 (Consultation with interested parties). 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.
		Directive 2002/22/EC (Universal Service Directive)	<ol style="list-style-type: none"> 1. Unless requirements have been specified under Chapter IV which achieve the equivalent effect, Member States shall take specific measures to ensure that access to, and affordability of, the services identified in Article 4(3) (3). Member States shall ensure that all reasonable requests for the provision of a publicly available telephone service over the network connection referred to in paragraph 1 that allows for originating and receiving national and



No.	Criteria	Reference of the EU legislative document	Text of the relevant EU legislative document
		Article 7 - Measures for disabled end-users	<p>international calls are met by at least one undertaking) and Article 5 (Directory enquiry services and directories) for disabled end-users is equivalent to the level enjoyed by other end-users. Member States may oblige national regulatory authorities to assess the general need and the specific requirements, including the extent and concrete form of such specific measures for disabled end-users.</p> <p>2. Member States 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.</p> <p>3. In taking the measures referred to in paragraphs 1 and 2, Member States shall encourage compliance with the relevant standards or specifications published in accordance with Articles 17 (Standardisation) and 18 (Interoperability of digital interactive television services) of Directive 2002/21/EC (Framework Directive).</p>



Annex 3 – Comparative analysis of the EU electronic communications regulatory frameworks



Regulatory
Independence - Bas