



EU4Digital

EU4Digital: supporting digital economy
and society in the Eastern Partnership

Framework law on Electronic Communications for Armenia

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TITLE I NRA GOVERNANCE

CHAPTER II NRA legal nature and purpose

The articles below this box cover the following criteria:

- Powers to develop NRA's own strategy (1.1.3.)
- Legislative initiative powers of NRA (1.1.9.)
- Powers of enforcement of regulation (2.1.1.)

Article 6 Regulatory objectives

1. The objectives of electronic communications regulation to be pursued by the NRA are:
 - a) To promote competition in the provision of electronic communications networks, electronic communications services and associated facilities and services;
 - b) To promote the interests of citizens, pursuant to the present law.
2. In respect of point a) of the preceding paragraph, the NRA is charged with:
 - a) Ensuring that users, including users with disabilities, derive maximum benefit in terms of choice, price and quality;
 - b) Ensuring that there is no distortion or restriction of competition in the electronic communications sector;
 - c) Encouraging efficient infrastructure investment, and promoting innovation;
 - d) Incentivising the efficient use of radio frequencies and numbering resources and ensuring their effective management.
3. In respect of point c) of paragraph 1, the NRA is charged with:
 - a) Ensuring that all citizens have access to the universal service as defined in the present law;
 - b) Ensuring that consumers enjoy a high level of protection in their relationship with providers of electronic communications services and networks, in particular through the establishment of procedures for the resolution of disputes, which procedures shall be simple and inexpensive and directed by bodies that are independent of the parties in dispute;
 - c) Contributing to the guarantee of a high level of protection of personal data and privacy;
 - d) Promoting the provision of clear information, and requiring in particular that tariffs and conditions for using publicly available electronic communications services are transparent;
 - e) Addressing the needs of specific social groups, in particular users with disabilities;
 - f) Ensuring that the integrity and security of public communications networks are maintained.
4. All decisions and measures taken by the NRA shall be reasonable and proportionate to the regulatory objectives established in the present article.



5. The NRA is charged with adopting all reasonable and proportionate measures which are necessary to ensure that any undertaking is able to provide electronic communications services or to establish, extend or provide electronic communications networks.
6. The decisions and measures taken by the NRA shall, at all times, have basis in the provisions of the preceding paragraphs.
7. In the performance of its regulatory remit as specified in this law, and in particular with respect to ensuring effective competition, the NRA shall seek to ensure the technological neutrality of regulation, without prejudice to the adoption of suitable measures for the promotion of specific services, where such measures are necessary for the pursuit of the regulatory objectives stipulated in this article.
8. The NRA may contribute, within the scope of its remit, to ensuring the implementation of policies aimed at the promotion of cultural and linguistic diversity, as well as pluralism, in particular in respect of the media.
9. Every public entity and authority shall, within the scope of its respective remit, likewise contribute to achieving the objectives of electronic communications regulation.

Article 7 Strategy

1. Electronic communications policy development is defined in the strategy for the development of electronic communications adopted by the Parliament/Government for the period of five years.
2. The strategy referred to in paragraph 1 of the Article hereof shall define long-term development goals and guidelines for the development of electronic communications and meeting the interests of consumers, taking into account technological and economic criteria, in accordance with environmental protection principles, measures for shared use of electronic communications network and promotion of competitiveness in the electronic communications market.
3. For the purpose of attaining the goals defined in the strategy for the development of electronic communications, the NRA in charge of electronic communications shall adopt its own strategy and defines annual programmes plans for its implementation.
4. Upon the expiry of the period for which the programme and/or business plan was adopted, the NRA shall report to the Parliament on the implementation thereof.

Article 8 Legislative and advisory powers

1. NRA will pronounce itself on all matters within its area of responsibilities that are submitted to it by the Parliament or the Government and may, on its own initiative, suggest or propose political or legislative measures in matters pertinent to its responsibilities to the Parliament or the Government.
2. NRA will respond within a maximum of 60 days to consultations addressed to it by authorised entities on matters within its jurisdiction.

Article 9 Regulatory and supervisory procedures

In the scope of its powers of regulation and supervision, NRA may adopt, under terms of the law, the following procedures:

- a) The elaboration of regulations in cases anticipated by law and when shown to be indispensable for the exercise of its responsibilities;



- b) Accompany activities of the entities subject to its oversight and the functioning of communications markets;
- c) Monitor compliance with the law and applicable regulations in the communications sector;
- d) Approval of acts anticipated by law;
- e) Effect registration as anticipated by law;
- f) The initiation and accompaniment of cases involving sanctions, and the punishment of infractions within its jurisdiction;
- g) Give orders and formulate tangible recommendations;
- h) Disseminate information;
- i) Publish studies;
- j) Others anticipated by law.

CHAPTER III NRA organisation

The articles below this box cover the following criteria:

- Ability to set remuneration for Board members and employees (1.1.8.)

Article 10 Organisation of the NRA

1. The NRA has the following bodies: a collegiate decision-making body in form of a board and an executive body.
2. The board is the body responsible for the definition and implementation of the regulatory activity of NRA, as well as for the direction of its respective services. The board takes decisions on behalf of the NRA.
3. The board comprises a chairman and two or four board members.
4. The members of the board are appointed by resolution of the Parliament, upon proposal by the Government.
5. The members of the board are appointed for a once renewable period of five years, except for the case as set out in this article; the members remain in office until their effective replacement or declaration of cessation of functions.
6. The chairman and a member of the board shall be appointed to office by ensuring appropriate rotation so that in a period of 12 calendar months the term of office would end for not more than two members of the board or the chairman and one member of the board.
7. If, upon appointing the chairman or a member of the board to office for the term specified in in this article, appropriate rotation cannot be ensured, the chairman or a member of the board shall be appointed to office for a term of office which is not less than five years and does not exceed seven years, ensuring appropriate rotation.
8. The NRA shall have the Statute which shall define, in particular: the manner of performing activities which are in public interest, in accordance with the law, competences and scope of activities of the bodies and expert services of the NRA, manner of adoption of enactments and other regulations, rights and



responsibilities of the board, internal organisation and other matters relevant for the NRA operation, in accordance with the law.

9. The Statute of the NRA shall be adopted by the board, following a public consultation procedure.
10. Any legislation concerning state civil service as well as any non-NRA adopted provision on setup of the NRA and remuneration framework for members of the board and staff of the executive body shall not be applicable to the NRA.

CHAPTER IV Management of finances and assets of the NRA

The articles below this box cover the following criteria:

- Possibilities to execute (spend) NRA's budget (1.1.6.)

Article 21 Expenditures

1. The expenditures of NRA consist of those undertaken in the context of exercising its incumbent responsibilities and powers, which concern the duties inherent to its activities and the acquisition of immoveable goods.
2. The NRA shall publish an annual financial statement shall contain financial indicators of NRA operation.
3. The financial statement of the NRA shall be subject to annual audit by an independent authorised auditor.
4. Expenses of the audit shall be covered by the NRA.
5. The financial statement shall be submitted to the President of the Parliament.

CHAPTER V Services and personnel

The articles below this box cover the following criteria:

- Recruitment of personnel and experts (1.1.7.)

Article 22 Services

NRA is endowed with technical and administrative support services, approved by the board and dependent on approval of the activities plan and budget.

Article 23 Personnel regime

1. NRA personnel are subject to the legal regime for individual work contracts and are covered by the general regime for social security.
2. NRA may be a party to collective labour regulation instruments.
3. The hiring of personnel will be preceded by public announcement and carried out according to objective selection criteria, to establish by regulation of NRA.



4. Conditions with respect to discipline and the provision of work are defined in a regulation specific to NRA, with observance of the necessary legal provisions of the regime for individual work contracts.

The articles below this box cover the following criteria:

- Ability to set remuneration for Board members and employees (1.1.8.)

Article 24 Status

1. The members of the board enjoy the status of public manager in all that does not derive from these statutes, with their remuneration system established by NRA, following a public consultation procedure, taking into account comparable remuneration frameworks within the regulated undertakings.
2. The general regime for social security is applicable to members of the board, except when they are on the public service rolls, in which case the specific regime of their post of origin will be applied.
3. The members of the board may not, during their mandate, exercise any other public function or professional activity, except with regard to part-time teaching activities in higher education.
4. The members of the board are subject to the incompatibilities and impediments regarding holders of high public office.

CHAPTER VI Composition and appointment and dismissal of the board

The articles below this box cover the following criteria:

- Procedure and conditions set for recruitment of head or collegiate body performing that function (1.2.1.)

Article 25 Composition and appointment

1. The members of the board are nominated from among people of recognised capacity, independence and technical and professional competence.
2. Ineligible for nomination are those who have been members of the managing bodies of companies in the communications sector for the past two years, i.e., who have worked with or been permanent collaborators of same with directorial or leadership duties during that same period of time.
3. The members of the board may not retain interests of a financial nature or shares in regulated companies in the sectors of communications.
4. The members of the board are appointed for a once renewable period of five years; the members remain in office until their effective replacement or declaration of cessation of functions.

CHAPTER VII Transparency of the NRA

The articles below this box cover the following criteria:

- Consultation and transparency requirements (1.1.11.)



Article 27

Consultation procedure

1. Where the NRA, in the exercise of the powers as set forth by the present law, intends to take measures which have a significant impact on the relevant market, it shall publish the respective draft of said measure and give interested parties the opportunity to comment on it, for which purpose a fixed period, of not less than 30 days, shall be provided. In addition to consultation, at the discretion of the NRA, a public hearing process may take place.
2. A written report on the results of public consultation shall be made publicly available and shall include an explanation of the NRA attitudes in relation to the proposals that were submitted during the consultation.
3. For the purpose of implementation of the paragraphs 1 and 2 of this Article, the NRA shall adopt a regulation on consultation procedure.



TITLE II NRA POWERS AND OBLIGATIONS

CHAPTER I Supervision and monitoring

The articles below this box cover the following criteria:

- Powers of enforcement of regulation (2.1.1.)

Article 34 Exercise of oversight

1. Under terms of the law, NRA may proceed with inquiries and tests at any site or entity within the scope of those functions.
2. For effects of the aforementioned paragraph, the NRA may accredit especially skilled or qualified persons or entities.

Article 35 Procedures for sanctions

1. NRA is responsible for initiation legal cases and punishing administrative infractions of the laws and regulations whose implementation or supervision is within its jurisdiction, as well as those resulting from non-fulfilment of its own determinations.
2. The sanction procedures respect the principle of hearing for the interested parties, the contesting party and the other divers principles contained in the Code of Administrative Procedure, and, when appropriate, the regime for offences.
3. It is also incumbent upon NRA to report to the proper authorities when it learns of infractions during the performance of its duties.

CHAPTER II General regime of authorisation

The articles below this box cover the following criteria:

- Powers to regulate market entry (2.1.3.)

Article 39 Procedure

1. Undertakings which intend to provide electronic communications networks and services shall previously submit to the NRA a short description of the network or service they wish to initiate and shall give notice of the date upon which the activity is estimated to commence, submitting also such details as are necessary for their full identification under terms to be defined by the NRA.
2. Without prejudice to other items required by the NRA pursuant to the final part of the preceding paragraph, undertakings shall provide notification of the respective address which is to be used for notifications and other communications to be carried out by the NRA, and also to provide notification of any alteration to said address within 30 days of such alteration.



3. Undertakings referred to in paragraph 1 shall obtain proof of said notification, via any legally acknowledged receipt, including postal or electronic.
4. Following said notification, undertakings may immediately commence activity, subject to the limitations resulting from the allocation of rights to use frequencies and numbers.
5. The NRA shall, within 5 days of the receipt of said notification, issue a declaration confirming its delivery, which declaration shall describe in detail the rights provided for in the present law in respect of access and interconnection and of instalment of resources, which presentation is intended to facilitate the exercise of such rights.
6. The provisions of the preceding paragraphs shall be applicable whenever there is any alteration to the elements previously submitted.
7. Undertakings which cease the provision of electronic communication networks or services shall notify the NRA of such.

CHAPTER III

Access to open internet and quality of service

The articles below this box cover the following criteria:

- Powers to regulate net neutrality (2.1.5.)

Article 40

Access to open internet

The NRA shall have necessary powers and obligations¹ to ensure access to open internet. To this extent the NRA shall adopt relevant regulations and/or decisions within the scope of its competence.

The articles below this box cover the following criteria:

- Powers to supervise EU Broadband Cost Reduction Directive implementation from 2014 (2.1.7.)

Article 42

On measures to reduce cost of rollout of broadband networks

The NRA shall have necessary powers and obligations² to ensure reduction of costs of broadband networks. To this extent, the NRA shall adopt relevant regulations and/or decisions within the scope of its competence.

¹ 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 related to access to open internet and Articles 3, 4 and 5 thereof in particular.

² 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 related to dispute settlement body and single information point and Articles 4, 6 and 7 thereof in particular



CHAPTER IV Market analysis and regulatory controls

SECTION I Market analysis procedure and imposition of obligations

The articles below this box cover the following criteria:

- Powers to define and analyse relevant markets (2.2.1.)
- Powers to implement *ex-ante* obligations (2.2.2.)
- Powers to regulate interconnection and access (2.2.3.)

Article 45

Scope and general principles

1. The present title applies to undertakings providing publicly available networks and services.
2. Market analysis and the imposition of specific regulatory obligations shall comply with the principles of full reasoning for the application of specific regulatory obligations.
3. In establishing the grounds for decisions to apply specific regulatory obligations, the NRA shall cumulatively prove that the imposed obligation:
 - a) is appropriate to the identified problem, and is proportional and justified in the light of the objectives set forth in article (DDD Article on Targets of Law) of the present law;
 - b) is objectively justified in respect of the networks, services or infrastructure to which it refers;
 - c) does not result in undue discrimination in respect of any other entity;
 - d) is transparent in regard to its purposes.

Article 46

Scope of Task

The NRA is charged, according to the rules provided for in this article, with:

- a) Identifying the relevant markets of products and services, having regard to the relevant recommendation³, as well as other relevant markets not mentioned therein;
- b) determining whether or not a relevant market is effectively competitive;
- c) designating undertakings with significant market power in the relevant markets;
- d) imposing, maintaining, amending or withdrawing obligations in respect of undertakings with or without significant market power, including the imposition of technical and operational conditions on the provider and/or beneficiaries of access.
- e) performing the tasks as identified in the paragraph d) within three years from the adoption of a previous measure relating to that market;

³ Recommendation of the European Commission issued pursuant to Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002



- f) performing the tasks as identified in the paragraph d) within two years from the adoption of a revised recommendation on relevant markets, for markets previously not reviewed;
- g) performing the tasks as identified in the paragraph d) within two years from their accession to the European Union.

SECTION II

Market definition and analysis

Article 48

Market definition

1. The NRA is charged with defining the relevant markets of products and services within the electronic communications sector, including the relevant geographic markets, in accordance with the principles of competition law.
2. In the course of market definition, the NRA, having regard to national circumstances, shall take utmost account of the recommendation of the that identifies, in accordance with the principles of competition law, the relevant product and service markets, the characteristics of which may be such as to justify the imposition of specific regulatory obligations and shall also take due account of the “Guidelines for market analysis and assessment of significant market power”, hereinafter referred to as the guidelines.
3. The NRA may define markets that differ from those mentioned in the recommendation, following the procedure referred to in guidelines.
4. The market definition may be reviewed in the event that the relevant recommendation is amended or where the NRA deems that there are grounds for such a review.

Article 49

Market analysis

1. The NRA is charged with carrying out an analysis of the relevant markets defined pursuant to the preceding article, taking account of the guidelines.
2. Within the scope of market analysis, the NRA shall determine whether or not a relevant market is effectively competitive, for the purposes of imposing, maintaining, amending or suppressing obligations set forth in the present title.
3. Where the NRA concludes that the market is effectively competitive, it shall not impose any specific regulatory obligation and it shall remove any existing obligations, giving an appropriate period of notice to parties affected by such removal.
4. Where the NRA determines that a relevant market is not effectively competitive, it shall identify undertakings with significant market power in that market and impose appropriate and specific regulatory obligations, or maintain or amend such obligations where they already exist.
5. Where the NRA identifies transnational markets, by means of a decision taken pursuant to requirements of this law, the NRA shall, jointly with the other national regulatory authorities concerned, conduct an analysis of the market or markets concerned, taking account of the guidelines, in order to formulate a position in respect of on any imposition, maintenance, amendment or withdrawal of obligations provided for in this title.
6. The analysis of the market shall be reviewed in the event that a new definition of the markets is established or where NRA deems that there are grounds for such a review.



Article 50 **Significant market power**

1. For the purposes of the present law, 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 consumers.
2. The NRA, when assessing whether two or more undertakings have a joint dominant position in a market, shall act in accordance with competition law and take the guidelines into account.
3. The NRA may consider that two or more undertakings are in a joint dominant position if, even in the absence of structural or other links between them, they operate in a market whose structure is considered to be conducive to coordinated effects.
4. Where an undertaking has significant market power in a specific market, it may also be deemed to have significant market power in an adjacent market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the undertaking.

CHAPTER V **Access and interconnection**

SECTION I **General provisions**

The articles below this box cover the following criteria:

- Powers to regulate interconnection and access (2.2.3.)
- Powers to set tariffs and/or prices (2.2.6.)

Article 51 **Freedom of negotiation**

Undertakings providing electronic communications networks and services are entitled to negotiate and agree between themselves technical and commercial arrangements for access and interconnection, without prejudice to the competence of the NRA provided for in the present chapter.

Article 52 **Competence of the national regulatory authority**

1. In exercising the powers set out in the present chapter, the NRA shall, acting in pursuit of the regulatory objectives set out in article DDD, encourage and, where appropriate, ensure suitable access and interconnection, as well as interoperability of services, aiming at promoting efficiency and sustainable competition, and at providing maximum benefit to end-users.
2. The NRA is charged with:
 - a) Imposing obligations in matters of access and interconnection on undertakings providing electronic communications networks and services;
 - b) Intervening upon its own initiative whenever justified or, in the absence of an agreement between undertakings, at the request of either of the parties involved pursuant to articles DDD and DDD, in order to secure the objectives established in article DDD, in accordance with the provisions of the present law.
3. Operators shall comply with obligations in the form, way and time to be determined by the NRA.



Article 53

Access and interconnection conditions

1. The terms and conditions of access and interconnection provision shall be consistent with obligations imposed by the NRA in such respect.
2. Operators shall have a right and, when requested by other undertakings, an obligation to negotiate interconnection with each other for the purpose of providing publicly available electronic communications services, in order to ensure provision and interoperability of services.
3. Traffic shall remain the property of the undertaking operating the network or providing the service where the traffic is originated, unless otherwise agreed, and the respective conveyance, as well as the delivery point, may be freely negotiated between the parties.
4. In the case of transnational agreements, the undertaking requesting access or interconnection does need to be covered by the general authorisation laid down in the present law, provided that it does not provide electronic communications networks and services within the national territory.

Article 54

Confidentiality

1. Undertakings shall respect the confidentiality of information received, transmitted or stored, before, during or after the process of negotiating and making agreement in respect of access or interconnection, and shall use that information solely for the purpose for which it was supplied.
2. The received information shall not be passed on to any other party, in particular other departments, subsidiaries or partners, for whom such information could constitute a competitive advantage.
3. The provision of the preceding paragraphs does not prejudice the exercise of the supervisory and monitoring powers of the NRA, particularly in respect of information requested pursuant to article DDD.

SECTION II

Obligations applicable to undertakings with significant market power

Article 55

Imposition, maintenance, amendment or withdrawal of obligations

1. The NRA is charged with determining the imposition, maintenance, amendment or withdrawal of the following obligations, in respect of access or interconnection applicable to undertakings designated as having significant market power:
 - a) Obligation of transparency in relation to the publication of information, including reference offers, pursuant to articles DDD to DDD;
 - b) Obligation of non-discrimination, in relation to the provision of access and interconnection and the respective provision of information, pursuant to article DDD;
 - c) Obligation for accounting separation in respect of specific activities related to access and interconnection, pursuant to article DDD;
 - d) Obligation to respond to reasonable requests for access, pursuant to article DDD;
 - e) Obligation of price control and cost accounting, pursuant to article DDD to DDD;
 - f) Obligation of functional separation.



2. For the purposes of the preceding paragraph, the NRA shall impose the appropriate obligations, having regard to the nature of the problem identified, which obligations shall be proportionate and justified according to the objectives set out in article DDD.
3. The obligations set out in paragraph 1 shall not be imposed on undertakings which have not been designated as having significant market power, except in the cases where such imposition is necessary to comply with international commitments.

Article 56

Obligation of transparency

1. The obligation of transparency consists of the requirement to publish appropriate information in respect of the provision of access and interconnection by an operator, including accounting information, technical specifications, network characteristics and terms and conditions for supply and use, including prices.
2. For the purposes of the preceding paragraph, the NRA is charged with specifying the information to be published, and the form and manner of its publication.

Article 57

Reference offer

1. The NRA may, on a case by case basis, determine, in particular to operators which have obligations of non-discrimination, that access or interconnection reference offers be published, which offers shall:
 - a) Be sufficiently unbundled to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested;
 - b) Give a description of the relevant offerings broken down into components according to market needs;
 - c) Give a description of the associated terms and conditions, including prices.
2. For the purposes of the preceding paragraph, the NRA may determine the components which as a minimum shall be included in the reference offers, specifying the precise information to be made available, the level of detail required and the manner of publication.
3. The NRA may further determine:
 - a) Changes to published reference offers, at any time and where necessary with retroactive effect, to give effect to obligations imposed under the provision of article DDD;
 - b) The immediate inclusion of the imposed changes in the agreements concluded, provided that such changes have specific and sufficient content.

Article 58

Reference offer for access to the local loop

1. Where an operator is subject to the obligation to offer unbundled access to the local loop, it shall publish the respective reference offer for access to the local loop including as a minimum the following list of components, without prejudice to the provision of paragraph 2 of the Article DDD:
 - a) Conditions for unbundled access to the local loop;
 - b) Co-location;
 - c) Information systems;
 - d) Supply conditions.



2. For the purposes of point a) of paragraph 1, the following items shall be specified:
 - a) Network components to which access is offered, covering in particular access to local loops and access to non-voice band frequency spectrum of a local loop, in the case of shared access to the local loop;
 - b) Information concerning the location of physical access sites, the availability of which may be restricted to interested parties, in order to avoid public security concerns, as well as availability of local loops in specific parts of the access network;
 - c) Technical conditions related to access and use of local loops, including the technical characteristics of the twisted metallic pair in the local loop;
 - d) Ordering and provisioning procedures and usage restrictions.
3. For the purposes of point b) of paragraph 1, the following items shall be specified:
 - a) Information on the notified operator's relevant sites, the availability of which may be restricted to interested parties, in order to avoid public security concerns;
 - b) Co-location options at the sites indicated in the preceding point, including physical colocation and, as appropriate, distant co-location and virtual co-location;
 - c) Equipment characteristics, including restrictions, if any, on equipment that may be installed under the regime of co-location;
 - d) Security issues, including measures put in place by notified operators to ensure the security of their locations;
 - e) Access conditions for staff of competing operators;
 - f) Safety standards;
 - g) Rules for the allocation of co-location space where this is limited;
 - h) Conditions whereby beneficiaries may visit the locations at which physical co-location is available, or sites where co-location has been refused on grounds of lack of capacity.
4. For the purposes of point c) of paragraph 1, the conditions governing access to the notified operator's operational support systems, information systems or databases for pre-ordering, provisioning, ordering, maintenance and repair requests and billing shall be specified.
5. For the purposes of point d) of paragraph 1, the following items shall be specified:
 - a) Time needed to respond to requests for supply of services and facilities; service level agreements, fault resolution, procedures to return to a normal level of service and quality of service parameters;
 - b) Standard contract terms, including, where appropriate, compensation provided for failure to meet the time limit applicable for replying to requests;
 - c) Prices or pricing formulae for each feature, function and facility provided for.

Article 59

Obligation of non-discrimination

The imposition of the obligation of non-discrimination consists particularly of the requirement for an undertaking to apply equivalent conditions in equivalent circumstances to other undertakings providing equivalent services and to provide services and information to third parties under the same conditions and with the same quality as the services and information provided to its own departments or to those of its subsidiaries or partners.



Article 60

Obligation of accounting separation

1. The imposition of the obligation for accounting separation in relation to specified activities related to access and interconnection consists, particularly, of the requirement that operators, and especially those that are vertically integrated, present their wholesale and internal transfer prices in a form that has transparency in order to ensure, inter alia, compliance with the obligation of non-discrimination where applicable or, where necessary, to prevent unfair cross-subsidy.
2. For the purposes of the provision of the preceding paragraph, the NRA may specify the format and accounting methodology to be used.
3. Operators shall make available to the NRA, upon request, their accounting records, including data on revenues received from third parties, in order that compliance with obligations of transparency and non-discrimination may be verified.
4. The NRA may publish the information made available pursuant to the preceding paragraph, to the extent that is necessary to contribute to an open and competitive market, while respecting the commercial confidentiality of such information.

Article 61

Obligations of access to, and use of, specific network facilities

1. The NRA may impose obligations on operators to respond to reasonable requests for access to and use of specific network components and associated facilities, including passive infrastructure such as but not limited to ducts, masts, poles, particularly in situations where the denial of access or the setting of unreasonable conditions would hinder the emergence of a sustainable competitive market at the retail level or harm the interests of end-users.
2. In exercising the competence provided for in the preceding paragraph, the NRA may, in particular, impose the following obligations on operators:
 - a) To give third parties access to specified network components and/or facilities, including unbundled access to the local loop;
 - b) Not to withdraw access to facilities where access has been already granted;
 - c) To interconnect networks or network facilities;
 - d) To provide co-location or other forms of facility sharing, including duct, building or mast sharing;
 - e) 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;
 - f) To grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services;
 - g) To provide specified services on a wholesale basis for resale by third parties;
 - h) To provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;
 - i) To negotiate in good faith with undertakings requesting access.
3. The NRA may attach conditions in respect of fairness, reasonableness and timeliness to the imposition of obligations provided for in the preceding paragraph.



4. In considering whether or not to impose the obligations set forth in the preceding paragraphs, the NRA shall take special account of the following factors, particularly when assessing whether such obligations would be proportionate to the regulatory objectives set out in article DDD:
 - a) The technical and economic viability of using or installing competing facilities, in the light of the rate of market development and taking into account the nature and type of interconnection and access involved;
 - b) The feasibility of providing the proposed access, in relation to the available capacity;
 - c) The initial investment by the facility owner, taking into account the risks involved in making such investment;
 - d) The need to safeguard competition over the long term;
 - e) Any relevant intellectual property rights, where appropriate.

Article 62

Technical and operational conditions

1. Where necessary and to ensure the normal functioning of the network, the NRA may, when imposing the obligations provided for in paragraphs 1 and 2 of the preceding article, impose technical or operational conditions on the provider and/or beneficiaries of access.
2. The conditions imposed pursuant to the preceding paragraph shall be objective, transparent, proportionate and non-discriminatory, and where they refer to the application of technical rules or specifications, shall comply with rules on standardization, in accordance with the terms of article DDD.

Article 63

Obligation of price control and cost accounting

1. Where a market analysis indicates that, as a result of a lack of effective competition, the operator concerned might sustain prices at an excessively high level or apply a price squeeze to the detriment of end-users, the NRA may impose obligations in respect of 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 access or interconnection.
2. In imposing the obligations referred to in the preceding paragraph, the NRA shall:
 - a) Take into account the investment made by the operator and allow said operator a reasonable rate of return on the capital invested, taking the risks involved into account;
 - b) Ensure that any mandatory cost recovery mechanism or pricing methodology promotes efficiency and sustainable competition and maximises benefits for consumers; further account may also be taken of prices available in comparable competitive markets.

Article 64

Demonstration of cost orientation

1. Operators subject to the obligation of cost orientation of prices shall demonstrate that charges are based on costs, including a reasonable rate of return on the investments made.
2. The NRA may require an operator to provide full justification for its prices, and may, where appropriate, require such prices to be adjusted.
3. The NRA may use cost accounting methods independent of those used by the undertaking, for the purpose of calculating the cost of efficient provision of services.



Article 65

Verification of the cost accounting system

1. The NRA, or another independent body appointed by the NRA, shall, in order to ensure compliance, undertake an annual audit of the cost accounting system intended to allow the control of prices, and shall, in addition, issue and publish the respective statement.
2. Operators upon whom the NRA imposes the obligation of implementing cost accounting systems shall make public the respective description, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs.

SECTION III

Obligations applicable to all undertakings

Article 66

Imposition of access and interconnection obligations

1. The NRA is charged with imposing obligations of access and interconnection on any undertaking, as far as such obligations may be necessary, regardless of whether or not it holds significant market power, under the following terms:
 - a) On undertakings that control access to end-users, in particular those that operate cable networks, including, in justified cases, the obligation to interconnect their networks;
 - b) To provide access to APIs (application program interfaces) and EPGs (electronic programme guides), on fair, reasonable and non-discriminatory terms, in order to ensure that digital radio and television broadcasting services as specified by the competent authorities under the law are accessible to end-users.
2. When imposing the obligations provided for in the preceding paragraph, the NRA may establish technical or operational conditions pursuant to article DDD.
3. Obligations imposed in accordance with the preceding paragraphs shall be objective, transparent, proportionate and non-discriminatory.

Article 67

Provision of conditional access

1. All operators of conditional access services which, irrespective of the means of transmission, provide access services to digital television and radio services, whereby broadcasters depend on such services in order to reach any group of potential viewers or listeners, shall:
 - a) Offer technical services to all broadcasters, on a fair, reasonable and non-discriminatory basis compatible with Community competition law, enabling the digitally-transmitted services of broadcasters to be received by viewers or listeners duly authorised by means of decoders administered by the service operators, and comply with Community competition law;
 - b) Keep separate financial accounts regarding their activity as conditional access providers.
2. Having regard to the provision of point a) of the preceding paragraph, the conditions of provision, including prices, disclosed by broadcasters of digital television shall specify whether or not material related to conditional access is supplied.
3. Operators referred to in paragraph 1 shall notify the NRA of the technical procedures adopted to ensure the interoperability of the different conditional access systems, within five days from the implementation thereof.



4. For the purposes of the preceding paragraph the NRA is charged with publishing the reference to the applicable technical specifications, through a notice in national official publication and in a digital format on the Internet.

Article 68

Transfer of control

1. Operators providing conditional access services shall adopt systems with suitable technical capability for a cost-effective transfer of control, to be agreed with the support network operators.
2. The transfer referred to in the preceding paragraph shall allow the full control by network operators, at local or regional level, of services using such conditional access systems.

Article 69

Industrial property rights

1. Without prejudice to applicable legislation, holders of industrial property rights in respect of conditional access products and systems are to ensure that licences to manufacturers of consumer equipment are granted on fair, reasonable and non-discriminatory terms.
2. The granting of licences referred to in the preceding paragraph, which shall also take into account technical and commercial factors, shall not be subject to conditions prohibiting, deterring or discouraging the inclusion in the same product of:
 - a) A common interface allowing connection with other conditional access systems than that of the holder of the industrial property right;
 - b) Means specific to another conditional access system, provided that the licensee complies with the relevant and reasonable conditions ensuring, as far as he is concerned, the security of transactions of conditional access system operators.

Article 70

Amendment or removal of conditional access obligations

1. The NRA may carry out a market analysis under the terms set out in the present law, in order to decide whether or not to amend or remove the conditional access obligations provided for in articles DDD to DDD.
2. Where, as a result of the market analysis, the NRA finds that one or more operators do not have significant market power, it may determine the amendment or removal of the conditional access obligations with respect to those operators, provided that there is no adverse effect on:
 - a) Accessibility for end-users to radio and television broadcasts and to broadcasting channels and services specified in accordance with article DDD;
 - b) The prospects for effective competition in the markets for retail digital television and radio broadcasting services and conditional access systems and other associated facilities.
3. The NRA shall give an appropriate period of notice to parties affected by such amendment or removal of obligations.
4. The provisions of this article are without prejudice to the possibility of imposing obligations in respect of the presentation of electronic programme guides and similar listing and navigation facilities, under the law.



CHAPTER VI Control on retail markets

Article 71

Minimum set of leased lines

1. The NRA shall impose obligations on undertakings with significant market power regarding the provision of the minimum set of leased lines, defined in article DDD, as well as the conditions for such provision set out in the following article, with reference to the full minimum set or specific components thereof, in all or part of the national territory.
2. The NRA is charged with:
 - a) Defining appropriate objectives for the established conditions of supply, where it considers that the achieved performance for the provision of the minimum set of leased lines does not meet the needs of users;
 - b) Authorising the amendment of conditions governing provision in a specific case, where, faced with a particular request, an undertaking has grounds for considering the provision of a leased line in the minimum set under its published tariffs and supply conditions to be unreasonable.

Article 72

Conditions for the provision of leased lines

1. The provision of the minimum set of leased lines by undertakings identified as having significant market power shall follow the basic principles of non-discrimination, cost orientation and transparency.
2. The principle of non-discrimination makes mandatory the application of similar conditions in similar circumstances to organisations providing similar services, and where applicable, the provision of leased lines to others under the same conditions and of the same quality as they provide to their own services, or to those of their subsidiaries or partners.
3. For the purposes of the principle of cost-orientation, undertakings shall draw up and implement a suitable cost accounting system.
4. The principle of transparency makes disclosure of the following information on the minimum set of leased lines mandatory:
 - a) Technical characteristics, including the physical and electrical characteristics as well as the detailed technical and performance specifications which apply at the network termination point;
 - b) Tariffs, including the initial connection charges, the periodic rental charges and other charges; where tariffs are differentiated, this must be indicated;
 - c) Supply conditions, including, in particular and obligatorily, information concerning the ordering procedure, the typical delivery period, the contractual period, the typical repair time, and refund procedure, where such exists.
5. For the purposes of point c) of the preceding paragraph:
 - a) Typical delivery period means the period elapsing from the date when the user makes a firm request to lease a line until the time at which 95 % of all leased lines of the same type have been put through to the customers, which period shall be established on the basis of the actual delivery periods of leased lines during a recent period of reasonable duration, and which calculation may not include cases where late delivery periods were requested by users;



- b) Contractual period means the period which is in general laid down in the contract and the minimum contractual period which the user is obliged to accept;
- c) Typical repair time means the period elapsing from the time when a failure message is relayed to the responsible unit within the undertaking up to the moment at which 80 % of all leased lines of the same type have been re-established and, where appropriate, at which users have been notified of their return to operation; where different classes of quality of repair are offered for the same type of leased lines, the different typical repair times shall be indicated.

Article 73

Selection and pre-selection

1. Undertakings declared as having significant market power for the provision of connection to and use of the public telephone network at a fixed location may be required by the NRA to provide their subscribers with access to the services of any provider of publicly available telephone services with which said undertakings are interconnected:
 - a) On a call-by-call basis by dialling a selection code of the undertaking;
 - b) By means of pre-selection, with a facility to override any pre-selected choice on a call-by-call basis by dialling the selection code of the undertaking.
2. The NRA shall assess and decide on user requirements for the inclusion of facilities provided for in the preceding paragraph on other networks or in other ways, in accordance with the market analysis procedure set out in article DDD and under the terms of article DDD.
3. The NRA shall ensure that pricing for access and interconnection related to the provision of the facilities in paragraph 1 complies with the principle of cost orientation and that direct charges to subscribers, if any, do not act as a disincentive for the use of these facilities.
4. The NRA shall, following the general consultation procedure provided for in article DDD, in determining the rules necessary for the performance of selection and pre-selection.

Article 74

Other controls

1. The NRA shall impose appropriate regulatory obligations on undertakings identified as having significant market power in a given retail market, previously defined and analysed pursuant to the present law, where cumulatively:
 - a) It determines a lack of effective competition in that retail market;
 - b) It concludes that the imposition of obligations laid down in chapter III of the present title or in article DDD would not result in the achievement of the regulatory objectives set out in article DDD.
2. The regulatory obligations imposed under the preceding paragraph shall be based on the nature of the problem identified and be proportionate and justified in respect of the objectives laid set out article DDD, and may require in particular that the identified undertakings:
 - a) Do not charge excessive prices;
 - b) Do not inhibit market entry or restrict competition by setting predatory prices;
 - c) Do not show undue preference to specific end-users;
 - d) Do not unreasonably bundle services.



3. With specific reference to prices practised by such undertakings and in order to protect end-user interests while at the same time promoting effective competition, the NRA may apply appropriate price cap measures, measures to control individual tariffs, or measures to orient tariffs towards costs or prices in comparable markets.
4. Without prejudice to articles DDD and DDD, the NRA shall not apply retail control mechanisms under this article to geographical or user markets where it is satisfied that there is effective competition.
5. Undertakings subject to price regulation pursuant to this article or subject to other relevant retail controls shall implement analytical accounting systems which are appropriate for the application of the imposed measures.
6. The NRA, or an independent body which it has appointed, shall undertake an annual audit of the cost accounting system supporting price controls, in order to verify the compliance thereof, and shall issue and publish the respective statement.

CHAPTER VII Frequencies and numbers

The articles below this box cover the following criteria:

- Powers to monitor radio frequencies (2.3.2.)

Article 75 Responsibilities in field of radio frequencies spectrum

1. The responsibilities of the NRA in the field of radio frequencies spectrum are to assure management of the radio spectrum, including planning, the assignment of spectrum resources and their supervision, and also to oversee co-ordination between civil, military and paramilitary communications;
2. The space where radio waves may propagate constitutes a public domain of the State.

Article 76 Frequencies

1. The NRA is charged with the management of the spectrum which shall be understood as being the set of frequencies associated with radio waves.
2. The NRA shall, in respect of the management of the spectrum, plan frequencies in accordance with the following criteria:
 - a) Availability of radio spectrum;
 - b) Guarantee of conditions of effective competition in the relevant markets;
 - c) Effective and efficient use of frequencies.
3. The NRA shall allocate and assign rights of use of frequencies according to criteria which are objective, transparent, non-discriminatory and proportionate.
4. The NRA shall promote a harmonised usage of frequencies under relevant international commitments.

Article 77 National Frequency Allocation Plan

1. The NRA shall adopt and publish the National Frequency Allocation Plan (NFAP), which shall include:



- a) The frequency bands and number of channels already allocated to undertakings providing publicly available electronic communications networks and services, including the date on which each allocation is to be reviewed;
 - b) The frequency bands which are reserved and are to be made available in the following year, in respect of electronic communications networks and services, whether publicly available or not, specifying the cases where frequencies usage rights are required and the respective procedure of allocation;
 - c) The frequencies whose usage rights may be transferred, pursuant to article DDD.
2. The requirements for publication set out in preceding paragraph do not apply to frequencies which are 78 to the Armed Forces and to security forces and services.

CHAPTER VIII

End-user contracts and transparency of information

The articles below this box cover the following criteria:

- Powers to set requirements for contracts (2.4.1.)

Article 79

Obligation to publish information

1. Undertakings providing publicly available telephone networks and services shall make available to the public, and especially to all consumers, information on applicable prices and on standard terms and conditions, in respect of access to and use of publicly available telephone services, which information shall be transparent and up-to-date.
2. For the purposes of the preceding paragraph, such undertakings shall publish and provide, the following information in a form defined by the NRA:
 - a) Identification of the provider;
 - b) Scope of the publicly available telephone service, in particular the description of the services offered, the indication of what is included in the subscription charge, where this charge exists, and the periodic rental charge, including operator services, directories, directory enquiry services, selective call barring, itemised billing and maintenance;
 - c) Standard prices which shall cover access and all types of charges in respect of use, maintenance, as well as details of the standard discounts applied and special or specific tariff schemes;
 - d) Compensation or refund systems, including specific details on the respective schemes, where offered;
 - e) Types of maintenance service offered;
 - f) Standard contract conditions, including any minimum contractual period;
 - g) Mechanisms for the settlement of disputes including those mechanisms developed by the undertaking providing the service.
3. Undertakings obliged under the terms of paragraph 1 to publish and make available the information referred to in the preceding paragraph, shall communicate such information to the NRA.



Article 80 Contracts

1. Without prejudice to rules on consumer protection, services providing connection and/or access to the public telephone network shall be subject to a contract that shall compulsorily specify the following:
 - a) The identity and address of the supplier;
 - b) Services provided, the levels of service quality offered, and the time necessary for the initial connection;
 - c) The types of maintenance service offered;
 - d) Details of prices and tariffs and the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;
 - e) The duration of the contract and the conditions whereby the contract or services may be renewed, suspended or terminated;
 - f) Any compensation and the refund arrangements which apply if contracted levels of service quality are not met;
 - g) The method whereby dispute settlement procedures may be instigated in accordance with article DDD;
 - h) Conditions for the provision of itemised bills;
 - i) Explicit indication of the subscriber's willingness in respect of the inclusion or not of their respective personal information in a public directory and on its disclosure through the directory enquiry service, whether or not the transfer thereof to third parties is involved, pursuant to legislation on protection of personal data.
2. The provisions of the preceding paragraph shall also apply to contracts concluded between consumers and undertakings providing electronic communications services other than those providing connection or access to the public telephone network.
3. Where the undertaking decides to amend the contractual conditions referred to in paragraph 1, it shall give prior notice of not less than one month to subscribers, in appropriate form, and at the same time inform subscribers of their right to withdraw, without penalty, from such contracts, in the event that they do not accept the new conditions, within the time limit set out in the contract.