



EU4Digital

EU4Digital: supporting digital economy
and society in the Eastern Partnership

Framework law on Electronic Communications for Georgia

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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.)

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.

CHAPTER III NRA organisation

The article below the following criteria:

- Cooperation setup with other competent authorities (1.1.12.)

Article 17 Cooperation

1. The NRA and national competition authority shall cooperate with each other in matters related with the application of the legal regime of competition in the electronic communications sector.
2. In the cases set out in articles DDD and DDD, the NRA shall request the prior opinion of The Competition Authority.
3. Where, within the scope of cooperation as provided for in the preceding paragraphs, the NRA and other competent entities exchange information, particularly in respect of competition matters, the entity in receipt of such information shall ensure the same level of confidentiality as authority from which it was obtained is bound to provide; the NRA and the national competition authority may use said information in the exercise of their respective powers.

CHAPTER IV Management of finances and assets of the NRA

The articles below this box cover the following criteria:

- Sources of NRA's financing (1.1.5.)



Article 18 General rules

In case there is a budgetary surplus, the funds shall be returned to the payers in a proportionate manner, based on the procedure established by the NRA.

CHAPTER VII Transparency of the NRA

The articles below this box cover the following criteria:

- Consultation and transparency requirements (1.1.11.)
- Powers to organise public hearings (2.1.8.)

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 to collect information (2.1.2.)

Article 36 Obligations of operators

The authorised entities, operators and other registered service providers must provide NRA with all co-operation solicited by same for the comprehensive fulfilment of its duties, namely concerning requested documents and information, which should be furnished within a timeframe specified by the NRA.

Article 37 Provision of information

1. Entities subject to obligations pursuant to the present law shall submit to the NRA all information, including financial information, in respect of their activity, in order that the NRA may pursue all assignments provided for in the law.
2. For the purposes of the preceding paragraph, entities shall identify, in a substantiated manner, the information deemed confidential and shall attach, where appropriate, a nonconfidential copy of documents comprising such information.
3. The requests for information made by the NRA shall comply with the principles of proportionality, shall be appropriate to their intended aims and shall be duly substantiated.
4. The requested information shall be submitted within the time limits, and in the form and to the level of detail required by the NRA, which may establish the situations and periodicity governing the submission of such information.

Article 38 Purposes of the information request

1. The NRA may request information in particular for the following purposes:
 - a) Procedure and assessment of applications for the assignment of rights of use;
 - b) Market analysis;
 - c) Verification, on a case-by-case basis, of compliance with the conditions established in articles DDD, DDD and DDD, (complaints) whether following a complaint or upon its own initiative;
 - d) Systematic or case-by-case verification of compliance with the conditions established by this law;
 - e) Publication of comparable reports on quality and pricing of services for the benefit of consumers;
 - f) Clearly defined statistical purposes.
2. The information referred to in points b) to f) of the preceding paragraph shall not be requested prior to or as a condition of the exercise of the activity.



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 7 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 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 obligations¹ 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 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 services, having regard to the relevant recommendation², 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;

² 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.

The article below the following criteria:

- Cooperation setup with other competent authorities (1.1.12.)

**Article 47
Cooperation with the Competition Authority**

The draft measures of the NRA in respect of the analysis of the market and the determination of whether or not an undertaking holds significant market power are subject to the prior opinion of the national competition authority, with opinion shall be issued within 30 days of the respective request.

SECTION II Market definition and analysis

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 48
Market definition**

1. The NRA is charged with defining the relevant markets of 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 European Union that identifies, in accordance with the principles of competition law, the relevant 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 of the European Union, following the procedure referred to in guidelines.
4. The market definition may be reviewed in the event that the relevant recommendation 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.

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;
 - 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.



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 manage numbering plans (2.3.3.)

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.

Article 78

Numbering

1. Suitable numbering resources shall be available for all publicly available electronic communications services.
2. The NRA is charged with:
 - a) Defining the guidelines and general principles of the National Numbering Plan;
 - b) Managing the National Numbering Plan according to the principles of transparency, efficiency, equality and non-discrimination, including the establishment of conditions for the allocation and assignment of national numbering resources;
 - c) Allocating rights of use of numbering resources according to objective, transparent and non-discriminatory assigning procedures;



- d) Publishing the guidelines, general principles and principle components of the National Numbering Plan, as well as all subsequent additions or amendments thereto, allocation and retrieval procedures, which publication shall be subject only to limitations imposed on the grounds of national security;
- e) Ensuring that an undertaking which has been allocated a range of numbers does not discriminate against other providers of electronic communications services in respect of the number sequences used to allow access to their services;
- f) Supporting the harmonisation of numbering resources within the European Union where such is necessary for facilitating the development of pan European services, and coordinating its position with the other competent bodies of the Union in respect of international organisations and forums in which decisions are taken on issues related to numbering, where such is appropriate in order to ensure full and global interoperability of services;
- g) The allocation of numbering resources to electronic communications services which are not publicly available, where this is necessary and without prejudice to the guarantee of availability of numbering resources for publicly available services pursuant to the preceding paragraphs;
- h) Entities responsible for the allocation of names and addresses of electronic communications networks and services shall coordinate their positions with the other competent bodies of the European Union in international organisations and forums in which decisions are taken on these issues, where such is appropriate in order to ensure full global interoperability of services.

CHAPTER IX Universal Service

SECTION I Scope of the universal service

The articles below this box cover the following criteria:

- Powers to set universal service obligations (2.5.1.)
- Powers to define universal service's baskets (2.5.2.)

Article 81 Concept

1. The universal service consists of a minimum set of services, as defined in the present law, of specified quality which is available to all users regardless of their geographical location and at an affordable price.
2. The scope of the universal service shall evolve in line with advances in technology, market developments and changes in user demand, which scope shall be modified where justified by such evolution.
3. It is incumbent upon the Government or the NRA, in the pursuit of their respective assignments:
 - a) To determine the most efficient and appropriate solutions for ensuring the implementation of the universal service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality;
 - b) To minimise market distortions, in particular the provision of services made at prices or under other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest.



Article 82

Scope of the universal service

1. The provision of a minimum set of services made available in the scope of the universal service shall be limited:
 - 1.1. Connection at a fixed location to the public telephone network and access to publicly available telephone services at a fixed location;
 - 1.2. Provision of a comprehensive directory and of a comprehensive telephone directory enquiry service;
 - 1.3. Adequate provision of public pay telephones.
2. The specific scope of universal services shall be determined by the NRA, following a consultation procedure, taking into account provisions of this law.

Article 83

Network connection and access to telephone services at a fixed location

1. The providers of the universal service shall meet all reasonable requests for connection to the public telephone network at a fixed location and for access to publicly available telephone services at a fixed location.
2. The connection and access referred to in the preceding paragraph shall allow end-users to make and receive local, national and international telephone calls, facsimile communications and data communications, at data rates that are sufficient to permit functional Internet access, taking into account prevailing technologies used by the majority of subscribers and technological feasibility.

Article 84

Directory and enquiry services

1. The following universal service obligations shall be comprised in the scope of directory and enquiry services:
 - a) To draw up, publish and make available to end-users a comprehensive directory, which shall be printed and/or electronic and which comprises all subscribers of publicly available telephone services, without prejudice to provisions on protection of personal data and privacy;
 - b) To update and make available every year the directory referred to in the preceding point;
 - c) To provide end-users with an enquiry service, through a short number, involving the disclosure of data in the directory referred to in point a);
 - d) To apply the principle of non-discrimination to the treatment and presentation of information that has been provided, including information submitted by other undertakings.
2. For the purpose of the preceding paragraph, undertakings providing publicly available telephone services shall agree with the providers of the universal service on the format and conditions for the provision of relevant information on the respective subscribers, on terms which are fair, objective, cost oriented and non-discriminatory.
3. In the absence of an agreement and in the event of non-compliance with the terms agreed or with the obligation established in the preceding paragraph, the NRA may demand that undertakings providing publicly available telephones services submit the information referred to in the preceding paragraph, determining, where necessary, the format and conditions for the provision thereof, in order to render it available to the providers of the universal service, aiming at complying with the obligations laid down in points a) and c) of paragraph 1.



4. The NRA is hereby empowered to create and manage, directly or through an appointed independent body, a database comprising the information received pursuant to the preceding paragraph, approving for this purpose the respective functioning conditions, following the prior opinion of the NCDP.
5. The NRA shall approve and disclose the form of directories referred to in the present article and the conditions by which such directories are to be made available to end-users.

Article 85

Public pay telephones

1. The NRA shall define, following consultation under the terms of article DDD, the obligations applicable to the providers of universal service in respect of the provision of public pay telephones, in order to ensure that the reasonable needs of populations, including users with disabilities, are met.
2. The obligations defined by the NRA shall take into account the possible availability of facilities or comparable services and take account of the needs of end-users in terms of geographical dispersion, population density and quality of services, including in particular the determination of different means of payment.
3. Public pay telephones of universal service providers shall allow:
 - a) Access, without charge, to the various emergency systems, using the single European emergency number “112” and other emergency and assistance numbers defined in the National Numbering Plan, without the need to use coins, cards or any other means of payment;
 - b) Access to the comprehensive directory enquiry services under the terms defined in point c) of paragraph 1 of article DDD.
4. Pre-payment telephone cards for access to publicly available telephone services by means of public pay telephones operated by universal service providers shall be of one type only, so that the use thereof shall be viable on any public pay telephone operated by such providers.
5. Universal service providers shall comply with the technical rules of access to urban buildings, in accordance with the specific legislation, in order to ensure that end-users with disabilities have access to the service.

Article 86

Specific measures for disabled users

1. Universal service providers shall make available specific provisions in order to ensure that end-users with disabilities enjoy access that is equivalent to that enjoyed by other end-users, to publicly available telephone services, including access to emergency services, directory enquiry services and directories.
2. The specific provisions may, in particular, consist of:
 - a) The provision of telephones and/or public text telephones or equivalent measures for people who are deaf or who have speech-impairment;
 - b) The provision of services such as directory enquiry services or equivalent measures free of charge for blind or visually impaired people;
 - c) The provision of itemised bills in alternative formats upon the request of a blind or visually impaired person.
3. It is incumbent upon the NRA, following the general consultation procedure laid down in article DDD, to define the terms and conditions by which such provisions are to be made available.
4. The NRA may take specific measures to ensure that end-users with disabilities may also benefit from the choice of service providers which is available to the majority of end-users.



Article 87 **Quality of service**

1. Universal service providers shall make available to end-users as well as to the NRA, appropriate and up-to-date information on their performance in the provision of the universal service, based on quality service parameters, definitions and measurement methods established in the annex.
2. The NRA may specify, in particular, additional rules in respect of quality of service in order to assess the performance of universal service providers as regards the provision of services to end-users and consumers with disabilities, where relevant parameters have been defined.
3. Information on the performance of the universal service providers as regards the parameters referred to in the preceding paragraph shall be made available to end-users and likewise to the NRA.
4. The NRA may further specify the content, form and manner in respect of which the information referred to in the preceding paragraphs shall be provided, in order to ensure that end-users and consumers have access to clear, comprehensive and comparable information.
5. Without prejudice to the provision of the preceding paragraphs, the NRA, following the general consultation procedure laid down in article DDD, may set performance objectives applicable to the different obligations of the universal service.
6. The NRA may order independent audits or mechanisms by which the performance of the universal service providers may be verified, which shall be at the expense of such providers and which shall have the aim of ensuring the accuracy and comparability of the data made available by providers.

SECTION II **Pricing framework**

Article 88 **Price regime**

1. The NRA shall take all necessary steps to ensure that affordability of access to universal service is guaranteed, having regard in particular to national consumer prices and national income.
2. For the purposes of the preceding paragraph, the NRA shall assess and decide on the most suitable means by which affordable access may be guaranteed, whereby it may determine:
 - a) The availability of tariff options or packages which are different from those provided under normal commercial conditions, in particular to ensure that consumers on low incomes or with special social needs are not prevented from accessing or using the publicly available telephone service;
 - b) The imposition of price caps and the application of common tariffs, including geographical averaging of prices, throughout the territory;
 - c) Other similar schemes.
3. Where any of the measures referred to in the preceding paragraph have been imposed, the NRA shall ensure that the implemented conditions are fully transparent and are published and that such conditions are applied in accordance with the principle of non-discrimination.
4. The NRA may require that specific conditions practised by universal service providers be modified or withdrawn at any time.
5. Without prejudice to the provisions of the preceding paragraphs, other measures may be implemented, as an alternative or cumulatively, in order to support consumers identified as having low incomes or special social needs.



Article 89

Control of expenditure

1. In order to allow subscribers to verify and control the charges incurred in using the public telephone network at a fixed location and related publicly available telephone services, the universal service providers shall make available the following minimum set of facilities and mechanisms:
 - a) Itemised billing;
 - b) Selective and free of charge barring of outgoing calls of defined types or to defined types of numbers, upon the request of the subscriber, without prejudice to the provision of article DDD;
 - c) Pre-payment systems for access to the public telephone network and use of publicly available telephone services;
 - d) Phased payment of fees for the connection to the public telephone network;
 - e) Measures applicable to the non-payment of telephone bills, pursuant to article DDD.
2. For the purposes of point a) of the preceding paragraph, the following minimum level of detail shall be ensured, without charge and without prejudice to legislation applicable in matters of protection of personal data and privacy:
 - a) Initial price of the connection to the telephone service, where applicable;
 - b) Subscription price, where applicable;
 - c) Price of use, identifying the different traffic categories, indicating each call and the respective charge;
 - d) Periodical equipment rental prices, where applicable;
 - e) Price for the installation of additional material and equipment requested subsequent to the commencement of service provision;
 - f) Subscriber's debts;
 - g) Compensation resulting from reimbursement.
3. Universal service providers may offer, at the request of the subscriber, additional levels of detail, at reasonable tariffs or at no charge, and shall not include calls that are free of charge to the calling subscriber, including calls to helplines.
4. For the purposes of point b) of article DDD, the NRA, having heard the universal service providers, shall define the types of calls which are may be barred.
5. The NRA shall waive the application of paragraph 1 where it is satisfied that the interests protected through the availability of facilities and mechanisms provided therein are duly safeguarded.
6. Where universal service providers offer facilities and services additional to those referred to in article DDD or in point a) of paragraph DDD of article DDD, they shall establish terms and conditions whereby the subscriber is not obliged to pay for facilities or services which are not necessary for the service requested.