

Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (repealed)

CHAPTER II

UNIVERSAL SERVICE OBLIGATIONS INCLUDING SOCIAL OBLIGATIONS

Article 3

Availability of universal service

1 Member States shall ensure that the services set out in this Chapter are made available at the quality specified to all end-users in their territory, independently of geographical location, and, in the light of specific national conditions, at an affordable price.

2 Member States shall determine the most efficient and appropriate approach for ensuring the implementation of universal service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. They shall seek to minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest.

[^{F1} Article 4

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

1 Member States shall ensure that all reasonable requests for connection at a fixed location to a public communications network are met by at least one undertaking.

2 The connection provided shall be capable of supporting voice, facsimile and data communications at data rates that are sufficient to permit functional Internet access, taking into account prevailing technologies used by the majority of subscribers and technological feasibility.

3 Member States shall ensure that all reasonable requests for the provision of a publicly available telephone service over the network connection referred to in paragraph 1 that allows for originating and receiving national and international calls are met by at least one undertaking.]

Textual Amendments

- F1** Substituted by [Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation \(EC\) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws \(Text with EEA relevance\).](#)

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Article 5

Directory enquiry services and directories

- 1 Member States shall ensure that:
- a at least one comprehensive directory is available to end-users in a form approved by the relevant authority, whether printed or electronic, or both, and is updated on a regular basis, and at least once a year;
 - b at least one comprehensive telephone directory enquiry service is available to all end-users, including users of public pay telephones.

[^{F12} The directories referred to in paragraph 1 shall comprise, subject to the provisions of Article 12 of Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)⁽¹⁾, all subscribers of publicly available telephone services.]

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

Textual Amendments

- F1** Substituted by [Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation \(EC\) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws \(Text with EEA relevance\).](#)

Article 6

[^{F1}Public pay telephones and other public voice telephony access points

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

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

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

Textual Amendments

- F1** Substituted by [Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation \(EC\) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws \(Text with EEA relevance\).](#)

[^{F1}Article 7

Measures for disabled end-users

1 Unless requirements have been specified under Chapter IV which achieve the equivalent effect, Member States shall take specific measures to ensure that access to, and affordability of, the services identified in Article 4(3) and Article 5 for disabled end-users is equivalent to the level enjoyed by other end-users. Member States may oblige national regulatory authorities to assess the general need and the specific requirements, including the extent and concrete form of such specific measures for disabled end-users.

2 Member States may take specific measures, in the light of national conditions, to ensure that disabled end-users can also take advantage of the choice of undertakings and service providers available to the majority of end-users.

3 In taking the measures referred to in paragraphs 1 and 2, Member States shall encourage compliance with the relevant standards or specifications published in accordance with Articles 17 and 18 of Directive 2002/21/EC (Framework Directive).]

Textual Amendments

- F1** Substituted by [Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation \(EC\) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws \(Text with EEA relevance\).](#)

Article 8

Designation of undertakings

1 Member States may designate one or more undertakings to guarantee the provision of universal service as identified in Articles 4, 5, 6 and 7 and, where applicable, Article 9(2) so that the whole of the national territory can be covered. Member States may designate different undertakings or sets of undertakings to provide different elements of universal service and/or to cover different parts of the national territory.

2 When Member States designate undertakings in part or all of the national territory as having universal service obligations, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no undertaking is a priori excluded from being designated. Such designation methods shall ensure that universal service is provided

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in a cost-effective manner and may be used as a means of determining the net cost of the universal service obligation in accordance with Article 12.

[^{F23} When an undertaking designated in accordance with paragraph 1 intends to dispose of a substantial part or all of its local access network assets to a separate legal entity under different ownership, it shall inform in advance the national regulatory authority in a timely manner, in order to allow that authority to assess the effect of the intended transaction on the provision of access at a fixed location and of telephone services pursuant to Article 4. The national regulatory authority may impose, amend or withdraw specific obligations in accordance with Article 6(2) of Directive 2002/20/EC (Authorisation Directive).]

Textual Amendments

- F2** Inserted by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance).

Article 9

Affordability of tariffs

[^{F11} National regulatory authorities shall monitor the evolution and level of retail tariffs of the services identified in Articles 4 to 7 as falling under the universal service obligations and either provided by designated undertakings or available on the market, if no undertakings are designated in relation to those services, in particular in relation to national consumer prices and income.

2 Member States may, in the light of national conditions, require that designated undertakings provide to consumers tariff options or packages which depart from those provided under normal commercial conditions, in particular to ensure that those on low incomes or with special social needs are not prevented from accessing the network referred to in Article 4(1) or from using the services identified in Article 4(3) and Articles 5, 6 and 7 as falling under the universal service obligations and provided by designated undertakings.]

3 Member States may, besides any provision for designated undertakings to provide special tariff options or to comply with price caps or geographical averaging or other similar schemes, ensure that support is provided to consumers identified as having low incomes or special social needs.

4 Member States may require undertakings with obligations under Articles 4, 5, 6 and 7 to apply common tariffs, including geographical averaging, throughout the territory, in the light of national conditions or to comply with price caps.

5 National regulatory authorities shall ensure that, where a designated undertaking has an obligation to provide special tariff options, common tariffs, including geographical averaging, or to comply with price caps, the conditions are fully transparent and are published and applied in accordance with the principle of non-discrimination. National regulatory authorities may require that specific schemes be modified or withdrawn.

Textual Amendments

- F1** Substituted by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance).

Article 10

Control of expenditure

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

Article 11

Quality of service of designated undertakings

- 1 National regulatory authorities shall ensure that all designated undertakings with obligations under Articles 4, 5, 6, 7 and 9(2) publish adequate and up-to-date information concerning their performance in the provision of universal service, based on the quality of service parameters, definitions and measurement methods set out in Annex III. The published information shall also be supplied to the national regulatory authority.
 - 2 National regulatory authorities may specify, *inter alia*, additional quality of service standards, where relevant parameters have been developed, to assess the performance of undertakings in the provision of services to disabled end-users and disabled consumers. National regulatory authorities shall ensure that information concerning the performance of undertakings in relation to these parameters is also published and made available to the national regulatory authority.
 - 3 National regulatory authorities may, in addition, specify the content, form and manner of information to be published, in order to ensure that end-users and consumers have access to comprehensive, comparable and user-friendly information.
- [^{F14} National regulatory authorities shall be able to set performance targets for undertakings with universal service obligations. In so doing, national regulatory authorities shall take account of views of interested parties, in particular as referred to in Article 33.]

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5 Member States shall ensure that national regulatory authorities are able to monitor compliance with these performance targets by designated undertakings.

6 Persistent failure by an undertaking to meet performance targets may result in specific measures being taken in accordance with Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)⁽²⁾. National regulatory authorities shall be able to order independent audits or similar reviews of the performance data, paid for by the undertaking concerned, in order to ensure the accuracy and comparability of the data made available by undertakings with universal service obligations.

Textual Amendments

- F1** Substituted by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance).

Article 12

Costing of universal service obligations

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

For that purpose, national regulatory authorities shall:

- a calculate the net cost of the universal service obligation, taking into account any market benefit which accrues to an undertaking designated to provide universal service, in accordance with Annex IV, Part A; or
- b make use of the net costs of providing universal service identified by a designation mechanism in accordance with Article 8(2).

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

Article 13

Financing of universal service obligations

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

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

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

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

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

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

Article 14

Transparency

1 Where a mechanism for sharing the net cost of universal service obligations as referred to in Article 13 is established, national regulatory authorities shall ensure that the principles for cost sharing, and details of the mechanism used, are publicly available.

2 Subject to Community and national rules on business confidentiality, national regulatory authorities shall ensure that an annual report is published giving the calculated cost of universal service obligations, identifying the contributions made by all the undertakings involved, and identifying any market benefits, that may have accrued to the undertaking(s) designated to provide universal service, where a fund is actually in place and working.

Article 15

Review of the scope of universal service

1 The Commission shall periodically review the scope of universal service, in particular with a view to proposing to the European Parliament and the Council that the scope be changed or redefined. A review shall be carried out, on the first occasion within two years after the date of application referred to in Article 38(1), second subparagraph, and subsequently every three years.

2 This review shall be undertaken in the light of social, economic and technological developments, taking into account, *inter alia*, mobility and data rates in the light of the prevailing technologies used by the majority of subscribers. The review process shall be undertaken in accordance with Annex V. The Commission shall submit a report to the European Parliament and the Council regarding the outcome of the review.

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- (1) [^{F1}OJ L 201, 31.7.2002, p. 37.]
- (2) See page 21 of this Official Journal.

Textual Amendments

- F1** Substituted by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance).