

## SCHEDULE

### ARTICLES 4(1), 7, 8(1), 8(2) AND THE ANNEX TO THE LICENSING DIRECTIVE AND ASSOCIATED INTERPRETATION PROVISIONS

#### “ Article 4

##### **Conditions attached to general authorizations**

1. Where Member States subject the provision of telecommunications services to general authorizations, the conditions which, where justified, may be attached to such authorizations are set out in points 2 and 3 of the Annex. Such authorizations shall entail the least onerous system possible consistent with enforcing the relevant essential requirements and relevant other public interest requirements set out in points 2 and 3 of the Annex.”.

#### “ Article 7

##### **Scope**

1. Member States may issue individual licences for the following purposes only:

- (a) to allow the licensee access to radio frequencies or numbers;
- (b) to give the licensee particular rights with regard to access to public or private land;
- (c) to impose obligations and requirements on the licensee relating to the mandatory provision of publicly available telecommunications services and/or public telecommunications networks, including obligations which require the licensee to provide universal service and other obligations under ONP legislation;
- (d) to impose specific obligations, in accordance with Community competition rules, where the licensee has significant market power, as defined in Article 4(3) of the Interconnection Directive in relation to the provision of public telecommunications networks and publicly available telecommunications services.

2. Notwithstanding paragraph 1, the provision of publicly available voice telephony services, the establishment and provision of public telecommunications networks as well as other networks involving the use of radio frequencies may be subject to individual licences.”.

#### “ Article 8

##### **Conditions attached to individual licences**

1. The conditions which, in addition to those set out for general authorizations, may, where justified, be attached to individual licences are set out in points 2 and 4 of the Annex.

Such conditions shall relate only to the situations justifying the grant of such a licence, as defined in Article 7.

2. Member States may incorporate the terms of the applicable general authorizations in the individual licence by attaching to the individual licence conditions set out in the Annex.

The rights given under and the conditions attached to any general authorizations must not be restricted or complemented by the granting of an individual licence, except in objectively justified cases and in a proportionate manner, in particular to reflect obligations relating to the provision of

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universal service and/or the control of significant market power, or obligations corresponding to offers in the course of a comparative bidding process.”.

## “ ANNEX

### **Conditions which may be attached to Authorizations**

1. Any conditions which are attached to authorizations must be consistent with the competition rules of the Treaty.

2. Conditions which may be attached to all authorizations, where justified and subject to the principle of proportionality:

(2) conditions intended to ensure compliance with the relevant essential requirements;

(2) conditions linked to the provision of information reasonably required for the verification of compliance with applicable conditions and for statistical purposes;

(2) conditions intended to prevent anti-competitive behaviour in telecommunications markets, including measures to ensure that tariffs are non-discriminatory and do not distort competition;

(2) conditions relating to the effective and efficient use of the numbering capacity.

3. Specific conditions which may be attached to general authorizations for the provision of publicly available telecommunications services and of public telecommunications networks that are required for the provision of such services, where justified and subject to the principle of proportionality:

(3) conditions relating to the protection of users and subscribers in relation particularly to:

—the prior approval by the national regulatory authority of the standard subscriber contract;

—the provision of detailed and accurate billing;

—the provision of a procedure for the settlement of disputes;

—publication and adequate notice of any change in access conditions, including tariffs, quality and the availability of services;

(3) financial contributions to the provision of universal service, in accordance with Community law;

(3) communication of customer database information necessary for the provision of universal directory information;

(3) provision of emergency services;

(3) special arrangements for disabled people;

(3) conditions relating to interconnection of telecommunication networks and the interoperability of services, in accordance with the Interconnection Directive and obligations under Community law.

4. Specific conditions which may be attached to individual licences, where justified and subject to the principle of proportionality:

(4) specific conditions linked to the allocation of numbering rights (compliance with national numbering schemes); M

(4) specific conditions linked to the effective use and efficient management of radio frequencies;

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(4) specific environmental and specific town and country planning requirements, including conditions linked to the granting of access to public or private land and conditions linked to collocation and facility sharing;

(4) maximum duration, which shall not be unreasonably short, in particular in order to ensure the efficient use of radio frequencies or numbers or to grant access to public or private land, without prejudice to other provisions concerning the withdrawal or the suspension of licences;

(4) provision of universal service obligations in accordance with the Interconnection Directive and Directive 95/62/EC of the European Parliament and of the Council of 13 December 1995 on the application of open network provision (ONP) to voice telephony <sup>M1</sup>;

(4) conditions applied to operators having significant market power, as notified by Member States under the Interconnection Directive, intended to guarantee interconnection or the control of significant market power;

(4) conditions concerning ownership which comply with Community law and the Community's commitments >vis-à-vis third countries;

(4) requirements relating to the quality, availability and permanence of a service or network, including the financial, managerial and technical competence of the applicant and conditions setting a minimum period of operation and including, where appropriate and in accordance with Community law, the mandatory provision of publicly available telecommunications services and public telecommunications networks;

(4) specific conditions relating to the provision of leased lines in accordance with Council Directive 92/44/EEC of 5th June 1992 on the application of open network provision to leased lines <sup>M2</sup>.

This list of conditions shall be without prejudice to:

—any other legal conditions which are not specific to the telecommunications sector;

—measures taken by Member States in accordance with public interest requirements recognised by the Treaty, in particular Articles 36 and 56, specifically in relation to public morality, public security, including the investigation of criminal activities, and public policy.

5. Interpretation provisions referred to in Article 2.1 of the Licensing Directive applying to the Articles and Annex set out above.

“authorizations ” means any permission setting out rights and obligations specific to the telecommunications sector and allowing undertakings to provide telecommunications services and, where applicable, to establish and/or operate telecommunications networks for the provision of such services, in the form of a “general authorization ” or “individual licence ”, as defined below:

— “general authorization ” means an authorization, regardless of whether it is regulated by a “class licence ” or under general law and whether such regulation requires registration, which does not require the undertaking concerned to obtain an explicit decision by the national regulatory authority before exercising the rights stemming from the authorization,

— “individual licence ” means an authorization which is granted by a national regulatory authority and which gives an undertaking specific rights or which subjects that undertaking's operations to specific obligations supplementing the general authorization where applicable, where the undertaking is not entitled to exercise the rights concerned until it has received the decision by the national regulatory authority;

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“national regulatory authority ” means the body or bodies, legally distinct and functionally independent of the telecommunications organisations, charged by a Member State with the elaboration of, and supervision of compliance with, authorizations;

“essential requirements ” means the non-economic reasons in the public interest which may cause a Member State to impose conditions on the establishment and/or operation of telecommunications networks or the provision of telecommunications services. Those reasons shall be the security of network operations, the maintenance of network integrity and, where justified, the interoperability of services, data protection, the protection of the environment and town and country planning objectives, as well as the effective use of the frequency spectrum and the avoidance of harmful interference between radio-based telecommunications systems and other space-based or terrestrial technical systems. Data protection may include the protection of personal data, the confidentiality of information transmitted or stored, and the protection of privacy;

“public telecommunications network ” means a telecommunications network used, wholly or in part, for the provision of publicly available telecommunications services;

“telecommunications network ” means transmission systems and, where applicable, switching equipment and other resources which permit the conveyance of signals between defined termination points by wire, by radio, by optical or by other electromagnetic means;

“telecommunications services ” means services the provision of which consists wholly or partly in the transmission and routing of signals on telecommunications networks, with the exception of radio and television broadcasting.”.

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**Marginal Citations**

**M1** O.J. No. L321, 30.12.95, p.6.

**M2** O.J. No. L165, 19.6.92, p.27. Directive as amended by Commission Decision 94/439/EC (O.J. No. L181, 15.7.94, p.40).

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**Changes and effects yet to be applied to :**

- [Regulations revoked by S.I. 2023/1143 Sch. 2 Pt. 1](#)