NINETY-SIXTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Freetown, 16 – 17 July 2026

DIRECTIVE C/DIR.1/7/26 GOVERNING ELECTRONIC COMMUNICATIONS

THE COUNCIL OF MINISTERS,

MINDFUL of the ECOWAS Revised Treaty as amended, particularly articles 10, 11 and 12, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of the said Treaty, particularly article 3, relating to the harmonization and co-ordination of national policies and the promotion of integration programmes, projects and activities, particularly in the communications and technology matters;

MINDFUL of the ECOWAS Revised Treaty, particularly article 4, relating to fundamental principles, which notably states the adherence of Member States to the respect, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and People's Rights;

MINDFUL of the aforementioned Treaty, particularly article 32, which prescribes that, in order to ensure harmonious integration and to encourage and facilitate the movement of persons, goods and services within the Community, Member States undertake to develop a common communications policy as well as related laws and regulations;

MINDFUL of the Revised Treaty, particularly article 33 which provides that Member States shall undertake, in the field of telecommunications, to develop, modernize, coordinate and standardize national telecommunications networks in order to allow reliable interconnection among Member States and to coordinate their efforts to mobilize financial resources at the national and international level through the participation of the private sector in the provision of telecommunications services;

CONCERNED with the harmonious and balanced development of the Community territory in the field of electronic communications;

CONSIDERING that the Community is resolutely committed to the process of liberalizing electronic communications services and infrastructures, and that this liberalization creates growth markets, which require a framework that is favourable and attractive for investment as well as facilitates access to these markets for new electronic communications operators, in particular by granting licenses or authorizations to establish and/or operate networks or use frequencies or through an appropriate declaration system;

CONSIDERING ALSO the need to define identical types of regime for each electronic communications activity in the Member States;

CONCERNED with ensuring an appropriate level of international and regional harmonization, also for the sake of ensuring that best regulatory practices on relevant issues are widely disseminated, and with adapting the regulatory framework to the level of digital culture and readiness in each Member State;

CONCERNED ALSO with increasing the readability of the rules applicable to operators and guaranteeing the free game of competition between undertakings in the electronic communications sector in the ECOWAS within the framework of the establishment of the common market;

RECOGNIZING that, in order to shape the digital economy, the promotion of competition is a central regulatory issue, that, in particular, the conditions of access to markets, the rules of the game and above all the measures for regulating dominant positions must be such as to facilitate the dynamism of innovative companies;

NOTING that, due to the need to combine mobile and fixed technologies to be able to realistically deploy new generation networks, there is a need to lift the exclusivity that incumbent operators still enjoy in several Member States, including in relation to optical fiber;

RECOGNIZING that technology-neutral spectrum licensing is essential to enable consumers and businesses to have the best possible mobile broadband experience;

CONSIDERING that the direct interconnection of modern electronic communications systems between Member States is a prerequisite for regional economic integration;

RECOGNIZING the need for interconnection of all public networks and interoperability of networks and services in order to build a national network open to all customers;

CONSIDERING that alternative infrastructures and civil engineering assets that can host an electronic communications network are essential for the successful deployment of new networks;

NOTING that the strong growth in users of electronic communications services is likely to lead to a real deficit in numbering resources;

CONVINCED that, in order to effectively support the free movement of goods, services and persons within the Community, it should be possible to use certain national numbering resources, in particular certain non-geographic numbers, in an extraterritorial manner, that is to say outside the territory of the assigning Member State;

AWARE of the need to guarantee to the entire population of the Community, regardless of their geographical location, economic and social conditions, a set of minimum electronic communications services of good quality and at affordable price conditions;

RECOGNIZING that the concept of universal service is bound to evolve in line with technological progress, market development and user needs;

NOTING that, despite all the progress that has been made in recent years, many people in the ECOWAS space are still either not connected, or connected by unaffordable or unreliable infrastructure;

CONSIDERING the need to lay down common principles between Member States that makes it possible to supervise and regulate costs and tariffs of electronic communications services in line with users' expectations;

NOTING that divergent implementation of the rules on consumer protection has created significant internal market barriers affecting both operators and consumers, and that those barriers should be reduced by the applicability of the same rules ensuring a high common level of protection across the Community;

CONVINCED that harmonious strengthening of the consumer rights should considerably increase legal certainty for both consumers and operators, and should significantly lower entry barriers and unnecessary compliance burden stemming from the fragmentation of the rules;

CONSIDERING the significant progress made in the fields of information and communication technologies (ICT), with the advent of new digital technologies as well as the internet, the inappropriate use of which in everyday life poses problems relating to the private and professional life of users;

NOTING the need to establish common rules intended to ensure equal and non-discriminatory treatment of traffic in the provision of internet access services and the corresponding rights of consumers, thereby ensuring, at the same time, the continued functioning of the internet ecosystem as a driver of innovation;

CONSIDERING the need for a periodic review of the provisions of Community legal acts, which constitute the regulatory framework in force and governing the electronic communications sector;

NOTING that the dominant trend is that of a clear transfer of responsibility from the ministries in charge of the electronic communications sector to independent national regulatory authorities, as a way of strengthening the mandates of the national regulatory authority and their institutional capacity to be able to meet the challenges raised by technological advances and the changes that this brings about;

DESIRING to update the framework for managing electronic communications within ECOWAS and to strengthen free competition in an environment undergoing significant technological changes;

ON THE RECOMMENDATION of the meeting of the Ministers in charge of Telecommunications/ICT and Digitalisation held in Freetown on 27th March 2026;

UPON THE OPINION of the ECOWAS Parliament at its First Ordinary Session held in Abuja from the 4-17 May 2026.

PRESCRIBES:

Chapter I DEFINITIONS, OBJECTIVES AND SCOPE

Article 1 Definitions

Terms and expressions contained in this Directive and which are not defined in this Article shall have the meanings assigned to them in the ECOWAS Revised Treaty and, where applicable, those assigned to them by the ITU:

1. **‘’Charter’’**: the African Charter on Human and Peoples’ Rights

2. **“ITU”**: International Telecommunications Union;

3. **“Minister or Ministry”**: Minister or Ministry in charge of the electronic communications sector within the Member State;

4. **“National regulatory authority(ies)”**: Body(ies) entrusted by a Member State with any of the regulatory missions of the electronic communications sector provided for by this Directive;

5. “**Regulatory rules and procedures**”: All rules and procedures adopted and implemented by Member States with a view to contributing to the objectives of this Directive;

6. **“Digital economy”**: All activities based on the use of digital technologies, including the electronic supply of goods or services, data processing, the operation of digital platforms and the use of electronic communications infrastructure and services;

7. **“Information Society service” or “Digital service”**: Any service provided at a distance, by electronic means and at the individual request of a recipient of services. This definition encompasses a wide range of economic activities that take place online. Some of these activities are completely unrelated to electronic communications, for example, the sale of goods online, collaborative platforms, or hosting platforms, and are therefore not covered by this Directive. Others, on the other hand, consist in transmitting signals or information by means of a communication network or providing access to a communication network;

8. **“Communication”**: Any exchange or transmission of information between a finite number of parties by means of a publicly available electronic communications service. This does not include any information conveyed as part of a broadcasting service to the public over an electronic communications network except to the extent that the information can be related to the identifiable user receiving the information;

9. **“Electronic communication”**: Any transmission, emission or reception of signs, signals, written documents, images, sounds, of any kind by wire, optics, radioelectricity or other electromagnetic systems;

10. **“Electronic communications network”**: Transmission systems, which permit the conveyance of signals or other information by wire, radio, optical or other electromagnetic means, between the network termination points. These systems may be based or not on a permanent infrastructure or centralized administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active. In this sense, the following types of networks can be distinguished:

    a. fixed (circuit- and packet-switched, including internet) networks;

    b. mobile networks;

    c. satellite networks;

    d. electricity cable systems, to the extent that they are used for the purpose of transmitting signals, with the exception of those that only allow one-way broadcasting of content without the possibility of exchange between users;

    e. networks used for radio and television broadcasting; and

    f. cable television networks, irrespective of the type of information conveyed;

11. **“Public electronic communications network” or “public network”**: Electronic communications network used wholly or mainly for the provision of electronic communications services to the public;

12. **“Independent network”**: Electronic communications network reserved for private or shared use:

    a. it is for private use when it is reserved for the internal use of the natural or legal person that establishes it;

    b. it is for shared use when it is reserved for the use of several natural or legal persons organized into one or more closed user groups, with a view to exchanging internal communications within the same group;

13. **“Internal network”**: Independent network entirely established on a single property, without making use neither the public domain, including spectrum resources, nor a third-party property;

14. **“Electronic communications equipment”**: Equipment, including hardware and software, used to provide electronic communications services;

15. **“Installation”**: Any equipment, apparatus, cable, radio or optical system, any item of infrastructure, or technical device that can be used for electronic communications or any other operation directly related thereto;

16. **“Local loop”:** Physical path used by electronic communications signals connecting the network termination point to a distribution frame or equivalent facility in the fixed public electronic communications network;

17. **“Telephone station”**: Device or terminal that allows remote voice transmission through a wired or radio network;

18. **“Submarine cable”**: Any physical signal medium, which uses the marine environment as an installation space and intended to carry electronic communications;

19. **“Submarine cable landing station or Cable landing station** (CLS)**”**: All technical installations for receiving and operating the submarine cable with a view to providing electronic communications or electric power transmission services;

20. “**Alternative infrastructure**”: refers to all facilities and infrastructure that do not belong to an operator but can be used to deploy electronic communications networks;

21. **“Transnational networks**”: Electronic communications networks covering the Community or a substantial part thereof located in more than one Member State;

22. **“Associated facilities”**: Associated services, physical infrastructures and other facilities or elements associated with an electronic communications network or an electronic communications service, which enable or support the provision of services via that network or service, or have the potential to do so, and include buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, poles, aerial cables, masts, ducts, conduits, manholes, and cabinets;

23. **“Associated service”**: Service associated with an electronic communications network or an electronic communications service which enables or supports the provision, self-provision or automated-provision of services via that network or service, or has the potential to do so, and includes number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides (EPGs), as well as other services such as identity, location and presence service;

24. **“Electronic communications service”**: A service normally provided for remuneration via electronic communications networks, which encompasses the following types of services:

a. internet access;

b. interpersonal communications; and

c. services consisting wholly or mainly in the conveyance of signals such as transmission services used for the provision of machine-to-machine services and for broadcasting;

Excluded from this term are services consisting in provision of content transmitted using electronic communications networks and services or in exercising editorial responsibility for such content;

25. **“Public electronic communications service”**: Electronic communications service accessible to the public, that is to say, made available to the public. These services can also be provided through public access centers such as post offices and community access centres.

26. **“Internet access service”**: A type of publicly available electronic communications service that provides access to the internet, and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used;

27. **“Value-added services”**: Any service that involves obtaining from an operator the right to use its electronic communications network or services or associated services, or that uses frequency or numbering resources, offering end-users functionality, content or use additional electronic communications networks or services, for example telephone directory enquiry services or digital financial services;

28. **“Interpersonal communications service”**: Type of electronic communications service that enables direct interpersonal and interactive exchange of information via electronic communications networks between a finite number of persons, whereby the persons initiating or participating in the communication determine its recipient(s). There are two categories:

a. **“Number-based”** services: Category of interpersonal communications service, which connects with publicly assigned numbering resources, namely, a number or numbers in national or international numbering plans, or which enables communication with a number or numbers in national or international numbering plans;

b. **“Number-independent”** services: Category of interpersonal communications service, which does not connect with publicly assigned numbering resources, namely, a number or numbers in national or international numbering plans, or which does not enable communication with a number or numbers in national or international numbering plans;

Excluded are services, which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.

29. **“Call”**: Connection established by means of a publicly available interpersonal communications service allowing two-way communication in real time;

30. **“Voice communications service”**: Type of publicly available electronic communications service for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international numbering plan;

31. “**Mobile radio communication services**”: mobile electronic communications services provided using radio frequencies subject to prior authorization for use;

32. **“Emergency service”**: Service, recognized as such by the Member State, that provides immediate and rapid assistance in situations where there is, in particular, a direct risk to life or limb, to individual or public health or safety, to private or public property, or to the environment, in accordance with national law;

33. **“Resale”**: The act of reselling public electronic communications services or traffic;

34. **“Carrier Selection”**: Mechanism that allows an end-user to choose between a set of operators to route some or all of their calls;

35. **“Subscriber”** or **“User”**: Any natural or legal person using or requesting a publicly available electronic communications service, for private or business purposes;

36. **“End-user”**: Any user who is not an operator;

37. **“Consumer”**: Any natural or legal person who acquires or uses, for the satisfaction of their non-professional needs, goods or electronic communications services;

38. **“Roaming customer”**: User of an operator on a public terrestrial electronic communications network located in the Community, whose contract or agreement with this operator authorizes it to use mobile roaming services in the ECOWAS space;

39. **“Radio frequencies or radio frequency spectrum”**: Frequencies or spectrum of electromagnetic waves propagated naturally in the band range of 3 kilohertz to 300 Gigahertz, which are used for the transmission and reception of electronic communications signals;

40. **“Low frequencies”**: Frequencies strictly less than 1 Gigahertz (GHz);

41. **“High frequencies”**: Frequencies between 1 Gigahertz (GHz) inclusive and 6 Gigahertz (GHz) inclusive;

42. **“Very high frequencies”** or **“millimeter frequencies”**: Frequencies strictly greater than 6 Gigahertz (GHz);

43. **“Radiocommunication”**: Any emission, transmission or reception of radio waves for specific purposes of electronic communications;

44. **“Radio broadcasting”**: Any radiocommunication, the broadcasts of which are intended for reception by the public;

45. **“Radio frequency spectrum management”**: All administrative and technical actions aimed at ensuring optimized use of the radio frequency spectrum by users, in accordance with applicable international standards;

46. **“Allocation of a frequency band”**: Entry in the table of frequency allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radiocommunication services or the radio astronomy service under specified conditions. This term shall also be applied to the frequency band concerned;

47. **“Assignment of a radio frequency or radio frequency channel”**: Authorization given by an administration of a radio frequency or determined radio frequency channel under specified conditions;

48. **“Shared use of radio spectrum”**: Access by two or more users to use the same radio spectrum bands under a defined sharing arrangement, authorized on the basis of a general authorization, individual rights of use for radio spectrum or a combination thereof, including regulatory approaches such as licensed shared access aiming to facilitate the shared use of a radio spectrum band, subject to a binding agreement of all parties involved, in accordance with sharing rules as included in their rights of use for radio spectrum in order to guarantee to all users predictable and reliable sharing arrangements, and without prejudice to the application of competition law;

49. **“Number”**: Series of digits that uniquely indicate the public network termination point. This number contains the information necessary to route interpersonal communication to this termination point. This number may be in a national or an international format. The international format is known as the international public telecommunication number, consisting of the country code and subsequent digits;

50. **“Geographic number”**: A Number in a national numbering plan in which part of the digital structure has a geographic significance used to route calls to the physical location of the network termination point (NTP);

51. **“Non-geographic number”**: A Number in a national numbering plan, which is not a geographic number. These are primarily mobile numbers, free phone numbers and premium rate numbers;

52. **“National numbering plan”**: Resource consisting of all the numbers that can be used in particular to identify the fixed or mobile termination points of telephone networks and services, to route calls and to access internal resources from the networks. This plan corresponds to a segment of the international numbering plan (E164). It establishes procedures and conditions for reserving and allocating numbering resources;

53. **“Allocation of a numbering resource”**: Decision taken by the national regulatory authority, after examining the application file, to grant an operator the right to use the designated resource for its own account or that of its customers under the conditions of use specified in this Directive or recalled by award decision;

54. **“Assignment of numbering resource”**: Provision, according to contractual clauses, of a number or a series of numbers to end-users by the holder of a numbering resource that has been assigned to it;

55. **“Reservation of a numbering resource”**: Decision taken by the national regulatory authority, following examination of the corresponding application, to grant an operator, for a specified period, an option with respect to a numbering resource;

56. **“Number portability”**: Possibility for a user to use the same subscription number, independently of the operator that provides them with services, and even if they change operator;

57. “**Unstructured Supplementary Service Data**” or “**USSD**”: A feature specific to mobile telephone networks that enables real-time data exchange between the mobile network operator and the user, without the data being stored on the user’s device;

58. “**Aggregator**”: An entity whose activity consists in purchasing USSD capacity from one or more operators and reselling it to value-added service providers;

59. **“Authorization”**: Administrative act (individual license or general authorization) conferring on an undertaking a set of specific rights and obligations, by virtue of which this undertaking is entitled to establish, operate networks or provide electronic communications services. This term includes the individual license and the general authorization;

60. **“General authorization”**: Type of authorization which guarantees any undertaking meeting the pre-established conditions applicable in an identical manner to the electronic communications services and/or networks offered the right to operate these networks or to provide these services, and which sets the sector-specific obligations that may apply to all types of electronic communications networks and services, or to some of them;

61. **“Declaration”**: Act of prior notification made by an operator to the national regulatory authority, in accordance with the requirements of the present Directive, which does not require the operator to obtain an explicit decision from the national regulatory authority before exercising the rights arising from this act;

62. **“Individual license”**: A type of authorization granted to an undertaking which confers specific rights on it and/or subject its activities to specific obligations;

63. **“Exclusive rights”**: Prerogatives granted by a Member State to a single undertaking, by means of a legislative, regulatory or administrative instrument, which reserves specific advantages or rights in the electronic communications sector to which other undertakings in equivalent conditions are not entitled;

64. **“Special rights”**: Prerogatives granted by a Member State to one or more undertakings, by means of a legislative, regulatory or administrative instrument, which reserves specific advantages or rights in the electronic communications sector on the basis of criteria that are not objective, proportional and non-discriminatory;

65. “**Operator**”: Any service provider and/or network operator;

66. **“Network operator”**: A natural or legal person operating or authorized to operate a public electronic communications network;

67. **“Service provider”**: Any natural or legal person providing or authorized to provide an electronic communications service to the public;

68. “**Alternative infrastructure operator**” means any person who deploys, owns or operates alternative infrastructure;

69. **“Access”**: Service offered by an operator allowing another operator to access its resources or services, in particular its physical infrastructure, under defined conditions, for the provision of electronic communications services. This also applies in cases where the provision of such resources or services serves the provision of information society services or broadcast content services. As such, access includes, among others:

   a. access to network elements and associated facilities, for example the connection of equipment by fixed or non- fixed means, in particular access to the local loop and to facilities and services necessary to provide services over the local loop;

   b. access to physical infrastructure including buildings, ducts and masts;

   c. access to relevant software systems including operational support systems;

   d. access to information systems or databases for ordering preparation, provisioning, ordering, maintaining and repair requests, and billing;

   e. access to number translation or systems offering equivalent functionality;

   f. access to fixed and mobile networks, in particular for roaming;

   g. access to conditional access systems for digital television services;

   h. network access for hosting mobile virtual network operators;

   i. network access for the provision of value-added services including USSD codes, SMS;

70. **“Interconnection”**: Physical and logical linking of public electronic communications networks used by the same operator or a different operator, in order to allow users of one operator to communicate with users of the same operator or another operator, or to access services provided by another operator. Services may be provided by the parties involved or by other parties who have access to the network. Interconnection constitutes a specific type of access implemented between operators;

71. **“Provision of interconnection”**: Facility provided by an operator to another operator, which permits all users to communicate freely with each other regardless of the networks to which they are attached or the services they use.

72. **“Network termination point (NTP)”**: Physical point at which an end-user accesses a public electronic communications network. In the case of networks using switching and routing, the NTP is identified by a specific network address, which can be linked to the number or name of the end-user;

73. **“Interconnection point”**: Place where an operator establishes the interface equipment allowing interconnection to its network. Interconnection points with operators may be distinct from the sites where the interface equipment is located;

74. “**Interoperability**”: The ability of equipment and networks to function, communicate, exchange data and use services with one another, on the one hand, with existing networks and, on the other hand, with other equipment, including terminal equipment, in a transparent manner and based on common standards and protocols;

75. “**Infrastructure sharing**”: the provision of passive physical infrastructure including ducts, galleries, conduits, façade routing, manholes, poles, pylons, buildings, premises, cabinets, technical chambers or other structuresor active infrastructure or alternative infrastructure by an operator or an alternative infrastructure operator, with a view to facilitating or supporting the deployment, access or operation of an electronic communications network or the provision of electronic communications services;

76. **“Unbundling of local loop”**: A facility, which also includes the associated facilities, in particular that of co-location, provided by an operator, to enable a third-party operator of a public electronic communications network to access all the elements of the local loop of the first operator in order to directly serve its users;

77. **“Co-location”**: Facility offered by an operator consisting in making infrastructure available to other operators in a space, including premises, and technical resources associated with the hosting and connection of the other operator’s networks and/or equipment so that they can install and, if necessary, operating their equipment there, in particular for interconnection purposes. Co-location is said to be physical when the service is provided in the building or operating centre where the networks and equipment to which the operator benefiting from the service wishes to connect are located; it is said to be remote when it is carried out outside; and it is said to be virtual when the equipment is installed and maintained by the operator offering this service;

78. “**National roaming**”: A form of active infrastructure sharing that allows an operator to access, in areas it does not cover, the network and mobile services offered by another

operator in order to provide, in these areas, mobile electronic communications services to its users;

79. **"Community roaming"**: Use of mobile communications services by a roaming customer within the ECOWAS area, when he is in a Member State other than that in which his home network is located, due to agreements between the operator of the home network and the operator of the visited network;

80. **"Home network"**: Public terrestrial mobile electronic communications network located in a Member State and to which a Community roaming customer is a subscriber;

81. **"Visited network"**: Public terrestrial mobile electronic communications network located in a Member State other than that of the roaming customer's home network and on which the latter is hosted for Community roaming;

82. "**Catalogue**" or "**Reference Offer**": All technical and pricing offers for access, interconnection, infrastructure sharing and/or access to alternative infrastructure developed and published in accordance with the provisions of this Directive;

83. "**Relevant market**": All products or services considered substitutable by the user, in particular because of their characteristics, prices and intended use, in a geographical area where the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different there;

84. **"Powerful operator"**: Operator which, either individually or jointly with others, enjoys a position equivalent to a dominant position (dominance), namely a position of economic strength affording it the power to behave to an appreciable extent independently of its competitors, customers and end-users;

85. **"Essential requirements"**: The requirements necessary to ensure objectives of general interest, in particular the following:

    a. The safety of users and staff operating electronic communications networks;

    b. The protection of networks and in particular of the exchange of control and management information pertaining to networks;

    c. The interoperability of services and networks and that of terminal equipment as well as data protection;

d. Environmental protection and issues relating to town planning and regional development;

e. Where appropriate, the proper and efficient utilization of the radio spectrum;

86. **"One-stop shop procedure"**: Procedure referred to in **Error! Reference source not found.** of this Directive;

87. "**Universal access**": the right of the public to access basic electronic communications services under reasonable conditions;

88. **"Universal service"**: The provision of basic electronic communications services to any interested person at their place of establishment;

89. **"Minimum set of electronic communications services"**: Includes the services referred to in Article 151 of this Directive;

90. "**Access gaps"**: Intangible boundaries between the following two areas:

a. on the one hand, areas where a given service is currently available or where market conditions should allow the provision of a service on a cost-effective and commercially sustainable basis, and

b. on the other hand, areas where, without any form of subsidy or other public incentives, access is unlikely to be fully provided in the short or medium term by the market. These areas may be covered under the universal access framework and financed, in whole or in part, through universal service funds;

91. **"Universal service fund"**: Resources intended to finance the universal service, as stipulated in the present Directive and implemented within each Member State;

92. **"Community access centre"**: A place where a minimum set of electronic communications services is made available to the public in a public place or open to the public, in particular a telephone station for voice, a device for transmitting and receiving a fax, a short message service (SMS), a multimedia messaging service (MMS) and/or a computer or device connected to the internet or to a broadband data network;

93. **"Data protection authority"**: Authority responsible for ensuring that the processing of personal data takes place in accordance with the relevant provisions of this Directive. This is a department of the national regulatory authority, or, depending on national regulations, another competent authority;

94. **“Personal data”**: Any information relating to an identified or identifiable natural person. Such a person is referred to as a “data subject” as defined in this Article. The “directly or indirectly identifiable” variant will be established when a natural person can be identified, in particular, by reference to an identifier as follows:

a. a name, an identification number, location data, an online identifier; or

b. one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

95. **“Processing of personal data”**: Any operation or set of operations, which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. For the purpose of this Directive, the operations referred to above are only considered when they are carried out in relation to the operation of an electronic communications network or the provision of electronic communications services;

96. **“Consent of the data subject’’**: Any freely given, specific, informed and unambiguous indication of the data subject’s wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;

97. **“Data subject”**: Any natural person who is the subject of personal data processing as described in this Directive;

98. **“Controller of personal data”**: Natural or legal person, public or private, any other body or association which, alone or jointly with others, takes the decision to process personal data and determines the purposes and means of the processing;

99. **“Processor of personal data”**: Any natural or legal person, public or private, public authority, agency, any other body or association, which processes data on behalf of the data controller;

100. **“Third party of personal data”**: Any natural or legal person, public or private, public authority, agency, any other body or association other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorized to process personal data;

101. **“Location data or Location information”**: All data processed in an electronic communications network indicating the geographic position of the terminal equipment of an end-user of a publicly available electronic communications service. In the case of a public fixed network, the data are those relating to the physical address of the network termination point;

102. **“Traffic data”**: Any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof;

103. **“Message”**: Any communication in the form of speech, sound, data, text, visual image, signal or code, or any other form or combination of forms;

104. **“Electronic message”**: Any information generated, sent, received or stored by electronic, including, but not limited to, electronic data interchange (EDI) and electronic mailing;

105. **“Electronic mail or E-mail”**: Any text, voice, sound or image message sent over a public electronic communications network, which can be stored in the network, in a network server for example, or in the terminal equipment of the recipient, until it is collected by the latter;

106. **“Electronic data interchange (EDI)”**: Any electronic transfer of information from one electronic system to another using an agreed standard to structure the information;

107. **“Durable medium”**: Any instrument, which enables the user to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

108. **“Direct prospecting”**: Any message sent, on whatever medium and of whatever nature, in particular a commercial, political or charitable message, aimed at promoting, directly or indirectly, goods, services or the image of a person selling goods or providing services;

109. “**Net neutrality**”: Principle guaranteeing equal treatment of all data flows on the Internet, except in duly justified cases. In particular, this principle prohibits any form of discrimination based on the source, destination or content of data flows.

Article 2 Objectives

1. The main objectives of this Directive are to:

a. create a harmonized framework for the policy and regulation of electronic communications networks and services with a view to promoting the blossoming of the digital economy in the Community;

b. work towards the creation of an internal market in electronic communications networks and services in the Community that promotes the deployment and take-up of very high capacity networks, sustainable competition, interoperability of electronic communications services, accessibility, security of networks and services and end-user benefits;

c. establish responsibilities of Member States and in particular their respective national regulatory authorities by setting out the guiding principles of the electronic communications sector policy and the guidelines for the regulation of this sector;

d. establish a series of procedures aimed at ensuring the harmonized application of the regulatory framework in all Member States;

e. harmonize the legal regimes that apply to the activities of operators and specify the procedures for granting individual licenses and general authorizations and for making declarations as well as the conditions applicable to these different regimes;

f. establish an accessible, transparent, fair and common regulatory environment for Member States:

    i. with regard to access and interconnection, and infrastructure sharing in the field of electronic communications,

    ii. establish sustainable competition guaranteeing the interoperability of networks and services,

    iii. define the objectives assigned to the national regulatory authorities in this area, and

iv. set the rights and obligations for operators and undertakings wishing to obtain access, interconnection and infrastructure sharing;

g. constitute a common framework for Member States for determining the pricing principles for services relating to publicly available electronic communications networks and services and for the exercise of related control by the national regulatory authorities;

h. harmonize the procedures applicable to the management of numbering plans within ECOWAS;

i. harmonize the rules applicable to universal access/service, in particular the conditions enabling all citizens to connect to electronic communications networks, including broadband services, accessible to everyone at affordable prices. This involves addressing, among others, the following aspects:

   i. the minimum services which fall within the scope of the universal service;

   ii. the conditions for implementing these services;

   iii. the methods of financing these services;

   iv. the terms of supply of these services as well as the quality conditions to be respected.

   v. the handling of cases where users' needs are not adequately met by the market, in particular with regard to the needs of people with disabilities, so that they can access the services on an equal basis with other users;

j. harmonize the policies and procedures applicable to the management of radio frequency spectrum by Member States in order to ensure coordination and, where appropriate, harmonization of the conditions relating to the availability and efficient use of the radio spectrum necessary for the establishment and functioning of the internal market in the field of electronic communications in ECOWAS countries, in accordance with ITU standards and recommendations;

k. establish procedures aimed at:

   i. facilitating the definition of policies for strategic planning and harmonization of radio spectrum use in the ECOWAS area, taking into account, in particular, the economic, security, health, public interest, freedom of expression, cultural, scientific, social and technical aspects of Community policies, as well as the various interests of radio spectrum user communities, with a view to optimizing the use of radio spectrum and avoiding harmful interference;

   ii. ensuring the effective implementation of radio spectrum policy in the ECOWAS and, in particular, establish a general methodology to ensure harmonization of conditions relating to the availability and efficient use of radio spectrum;

   iii. ensuring the coordinated and timely dissemination of information on the allocation, availability and use of radio spectrum in ECOWAS;

l. encourage Member States without access to the coastline to obtain redundant access to international capacity from different countries;

m. promote establishment of common rules to safeguard equal and non-discriminatory treatment of traffic in the provision of internet access services and related users' rights in Member State;

n. lay down the necessary user and consumer rights;

o. promote the establishment of effective, fair, transparent, non-discriminatory and sustainable competition for the benefit of users, extended to the entire electronic communications sector;

p. promote development of technical, economic and legal expertise to best respond to market developments in the sector;

q. promote the development of innovation, competitiveness and employment, taking particular account of regional planning;

r. promote the provision of electronic communications services throughout the territory of Member States and to all segments of the population;

s. promote private investment in the sector;

t. adapt the regulatory framework to technological advancements and enable the electronic communications sector to better respond to the major challenges of the digital economy.

2. It is supplemented by specific additional legal acts adopted as necessary by the institutions of the Community and by each Member State and relating to specific aspects of the electronic communications sector.

Article 3 Scope of application

1. This Directive is to be seen in the light of the implementation and harmonization of the regulations applicable to the electronic communications sector in order to promote the digital economy in the Community. It constitutes a minimum common reference base, which can be supplemented by national regulatory policies and legislative provisions and by decisions of national regulatory authorities, insofar as they do not conflict with the provisions of this Directive. Member States undertake not to maintain in their national legislation any provisions that are contrary to those of this Directive.

2. It establishes a harmonized framework for the regulation of electronic communications networks and services, associated facilities and associated services, and certain aspects of terminal equipment.

3. It specifies the institutional regulatory framework, setting the missions of the national regulatory authorities and, where applicable, of other competent authorities, as well as collaboration with national authorities that are in charge of other topics relevant to the digital economy.

4. It defines the framework for regulatory action at Community level and establishes a set of procedures aimed at ensuring the harmonized application of the regulatory framework throughout the Community.

5. **Error! Reference source not found.** to **Error! Reference source not found.** shall be an integral part of this Directive.

Article 4 Exclusions to the Scope of Application

1. This Directive does not cover regulation concerning the content of services delivered over electronic communications networks using electronic communications services, such as broadcasting content, financial services and those information society services that are not related to electronic communications.

2. This Directive shall not affect:

   a. National regulatory provisions and measures of the national regulatory authorities in accordance with Community law, including this Directive;

   b. measures relating to the services referred to in paragraph 1 of this article above which are taken at Community or national level, in accordance with Community law, in order to promote cultural and linguistic diversity and to guarantee the defence of media pluralism;

   c. measures taken at Community or national level, in accordance with Community law, to pursue general interest objectives, in particular relating to content regulation and audiovisual policy;

   d. specific regulations adopted by the Member States, in particular on the basis of compliance with essential requirements and other imperatives of public order, public security purposes and defence.

Chapter II Guiding principles for the regulation of the electronic communications sector

Article 5 Development and objectives of the sector policy

1. The formulation and definition of national electronic communications policy are the responsibility of each Member State and take into account all social, economic, legal and political aspects in order to set up an appropriate policy and realistic goals.

2. The national electronic communications policy shall pursue these objectives:

   a. creation of an environment conducive to the sustainable dissemination and development of digital technology and information and communication technologies (ICTs);

   b. establishment of a strong, stable and competitive electronic communications sector at national and regional levels respectively;

   c. increase in existing services and the offer of new services and infrastructures;

   d. provision of affordable, broadly available and top-quality services;

   e. provision of access to electronic communications by applying the principle of technological neutrality throughout the territory of the Member States and to all their population;

   f. development and institutionalisation of appropriate universal access policies and programs, notably through measures promoting the development of national electronic communications infrastructure and the achievement of universal access objectives including:

      i. provision of broadband capacity;

      ii. availability of services at affordable costs;

      iii. establishing international standards to address reliability and redundancy issues;

      iv. ensuring adequate capacity to provide service on demand;

      v. accessibility of services by the large majority of users;

      vi. facilitating the delivery of a wide range of value-added services;

      vii. facilitating the possibilities to access information;

   g. attracting investment in the sector;

   h. encouraging innovation and the development and use of new technologies;

i. ensuring optimal use of the country's limited resources, such as radio spectrum and numbering;

j. promoting information sharing, transparency and accountability, as well as reducing bureaucracy within and between organizations and towards the public at large;

k. attaining a specified minimum level of information and communication technology (ICT) resources for educational institutions and government agencies;

l. development of national and regional expertise in developing, establishing and managing electronic communications;

m. promotion and increase of the use of electronic communications by providing individuals and organizations with a minimum level of knowledge in the matter as well as high-quality training in this field;

n. assistance in understanding information technologies, their development and their cross-disciplinary impact;

o. promotion of development of local content.

Article 6 Need for a clear policy

Member States shall ensure that a clear electronic communications policy is put in place and regularly reviewed, by setting objectives aimed at facilitating the emergence and strengthening of a genuine digital economy, and that is implemented through legislative or regulatory instruments.

Article 7 Guiding principles of regulation

1. Regulations of the electronic communications sector shall establish the manner in which the national electronic communications policy is to be applied, in particular:

   a. by detailing the basic regulatory principles, such as the right to access, and processes and conditions, such as the granting of individual licenses and general authorizations;

   b. by providing a statutory foundation and mandate for institutions involved in the management of the sector, such as consultative and regulatory bodies;

   c. by specifying the rules applicable to national regulatory authorities, which make it possible, in particular, to define their functions and independence and to develop the principles and rules governing the implementation of sector regulation.

2. National Regulatory Authorities shall exercise their powers in an independent, proportionate, impartial and transparent manner.

3. Regulatory functions in the sector are exercised by national regulatory authorities with a view to achieving the following objectives:

   a. adoption of the principle of technological neutrality of regulation, which means a prohibition against granting unjustified advantage to a particular type of technology.

   b. achievement of an open and competitive market for electronic communications networks and services:

      i. by respecting the interests of users in terms of choice, price and quality;

      ii. by ensuring that competition is neither distorted nor hampered in the electronic communications sector;

      iii. by encouraging rational investments in the infrastructure;

      iv. by ensuring the efficient allocation and assignment of scarce resources under objective, transparent and non-discriminatory conditions.

   c. Development of the internal market by:

      i. ensuring the removal of barriers to the development of the market;

      ii. facilitating the establishment and development of transnational networks and the interoperability of services within the Community;

      iii. ensuring that, in similar circumstances, there is no discrimination in the treatment of operators;

      iv. ensuring the development of the information society within the Community.

   d. Taking into account the interests of the population and fighting against poverty within the Community by:

      i. supporting the implementation of universal access to electronic communications services in accordance with the relevant provisions of this Directive relating to universal access/service;

      ii. ensuring a high level of protection of personal data and privacy in the electronic communications sector;

iii. requiring transparency in the tariffs and conditions for using electronic communications services;

iv. taking into account the needs of particular social groups, such as those with lower incomes, people living in isolated rural areas or people with disabilities.

Article 8 Governance principles for the electronic communications sector

With a view to adopting an acceptable and sustainable electronic communications policy for the entire Community, the authorities responsible for defining and developing such a policy shall take the necessary measures to ensure good governance of the sector, by means of the following:

1. Sensitization, education and capacity building of stakeholders, by:
    a. increasing the participation and involvement of stakeholders in the development of electronic communications strategies;
    b. introducing electronic communications, and in particular the internet, at the earliest possible stage in school programs.
2. ensuring broad-based stakeholder participation, by:
    a. promoting electronic communications in working groups, seminars, media events and pilot projects, to demonstrate the practical benefits of electronic communications;
    b. promoting the emergence of champions of electronic communications.
3. Political championing at local and national levels, by:
    a. ensuring communication between interested parties such as the national regulatory authority, ministries, operators, private sector, NGOs and users;
    b. ensuring the participation and buy-in of local politicians;
    c. ensuring that the electronic communications policy is tailored to market realities, in particular through analysis of the situation in advance and involving local players in the process.
4. Coordination with other policies and priorities by focusing on the policy objectives without neglecting synergy between sectors.
5. Relevance and usefulness of policies and projects, by:
    a. promoting innovation;

    b. defining targets, such as internet to municipalities, “broadband” to rural areas, and so on.

6. Transparent decision-making procedures, by:

    a. adopting transparent and collaborative decision-making and rule-making procedures relating to electronic communications policy and regulation;

    b. consulting the public to ensure a transparent decision-making and rule-making process that takes into account the views of all stakeholders, including all categories of operators, different types of users, and professional associations or those representing civil society;

    c. relying on all data from the sector and publish this data where possible in order to justify decisions;

    d. prioritizing dialogue and consultation in order to develop decisions that are tailored to the needs and constraints of stakeholders; and

    e. where necessary, ensuring the scalability of certain rules, delegate their adoption to stakeholders while ensuring effective monitoring of their development and implementation.

7. Sustainability of projects, by:

    a. ensuring sufficient training;

    b. taking account of the realities in the technologies introduced through electronic communications initiatives;

    c. having an appropriate timing.

Article 9 Transparency

1. Member States and national regulatory authorities shall ensure transparency in the sector and shall disseminate sectoral decisions, documents and information to all interested parties.

2. National regulatory authorities and other entities referred to in this Directive shall publish all documents and information referred to in this Directive on their websites, free of charge and easily accessible without any prior formalities.

Chapter III Promotion of competition

Article 10 Opening up to competition

Member States shall ensure the removal of barriers to entry into electronic communications markets no later than the date of entry into force of this Directive.

Article 11 Competition framework

1. Member States shall ensure the promotion of two-pronged competition as follows:
   a. competition in the development of electronic communications networks and associated resources, including effective infrastructure-based competition, and
   b. competition in the provision of electronic communications and related services.
2. Member States shall ensure that service-based competition does not come at the expense of deployment by new entrants.

Chapter IV Security and neutrality of technologies and services

Article 12 Principle of technology and service neutrality

1. Member States shall promote the neutrality of technologies and services in order to be able to adapt to convergence and new technologies, given that the convergence between the various electronic communications networks and services and the technologies used requires an effective regulatory mechanism implemented regulates all comparable services in an equivalent and non-discriminatory manner, regardless of the technology used.
2. Member States may, under objective, transparent and non-discriminatory conditions, impose proportionate obligations on operators to prevent the use of certain equipment or devices that are likely to pose difficulties or risks to the security, integrity or availability of networks and services or the confidentiality of transmitted content.
3. Member States shall refrain from imposing limitations on the service offered over a given network except for reasons of national security or in order to ensure a high level of protection in the field of cybersecurity.
4. The individual license and general authorization regime shall, in light of possible technological developments, include provisions aimed at facilitating the review of the conditions of authorizations, in particular when technological advance has impact on ongoing operations.

Article 13 Technological neutrality in spectrum management

In the context of management and allocation of spectrum to operators, Member States shall ensure that licenses are granted in a technologically neutral manner, giving operators the operational flexibility necessary for the compilation of their technological portfolio as well as to optimize their investments, maximize their coverage, and enhance their service offerings, and also enabling users to benefit from the best possible mobile broadband experience.

Article 14 Network protection and security

Member States shall collaborate, under the conditions laid down in Article 28 of this Directive, with a view to adopting rules and standards to ensure the security, integrity and availability of electronic communications networks and services.

Chapter V Other guiding principles

Article 15 Guarantee of access to an open internet ("net neutrality")

1. Member States shall ensure the promotion of access to an open internet for users, in accordance with the relevant Community provisions in the matter, including those foreseen in the present Directive, in particular in Article 200 and Article 201 of this Directive.

2. As such, the Member States strive to ensure compliance with internet neutrality as a general principle guaranteeing equal treatment of all data traffic on the internet in the ECOWAS zone. They prohibit any form of discrimination with regard to the source, destination or content of data traffic.

3. The coordination structures referred to in Article 28 of this Directive may provide, in a harmonized manner, for exceptions to the principle of net neutrality where they are essential to achieve the objectives of this Directive and are in line with international best practices in this area.

Article 16 Responsibility of actors

Member States shall ensure that operators may not be held civilly or criminally liable for content transmitted over an electronic communications network, except in cases where they either initiate the request for the transmission in question, select the recipient of the transmission, or select or modify the content being transmitted.

Article 17 Protection of personal data

1. Member States shall ensure compliance with the legal framework for the protection of private life and personal data when such data are being process in the context of electronic communications activities, in accordance with the relevant provisions of this Directive.

2. Where the protection referred to in paragraph 1 of this article is wholly or partially incumbent on authorities other than the national regulatory authority, the latter shall provide these authorities with assistance on all relevant aspects to facilitate their tasks in the electronic communications sector.

Article 18 Access to national and international bandwidth

1. Member States undertake to:

   a. Work to:

      (i) an increase in the capacity of international bandwidth available to each country,

      (ii) (ii) ensure a significant reduction in the cost of international communications for each Member State, and

   (iii) create conditions of equitable access to international bandwidth, so as to allow the development of a competitive regional market;

   b. Create the conditions for equitable access to national and international bandwidth on land networks in order to facilitate connectivity to submarine cable landing stations within ECOWAS.

2. In pursuit of the objective referred to in paragraph 1 of this article, Member States shall ensure that their actions contribute in particular to:

   a. allow the equitable development of a competitive and harmonized electronic communications market within ECOWAS;

   b. promote the increase in the national and international bandwidth capacity available to each Member State;

   c. facilitate access by landlocked countries to submarine cables;

   d. promote a significant reduction in the cost of national and international communications in each Member State.

3. The ECOWAS Commission shall assist Member States, at their request, in the development of national policies and legal frameworks on these matters and in the electronic communications sector in general.

Chapter VI Governance of the electronic communications sector

Article 19 Institutional governance framework

1. In Member States, each of the actions provided for in this Directive shall be performed by a competent authority.

2. Member States shall ensure that cooperation between the different structures, which have responsibilities and mandates on various relevant aspects provided for in this Directive for the electronic communications sector, is put in place to facilitate efficient management of activities in this sector.

Article 20 Distribution of competences

1. Member States shall ensure that the responsibilities and mandate of each of the actors in the institutional framework are clearly defined to avoid any uncertainty, overlap of conflict regarding the distribution of competences.

2. The allocation of competences must be reflected in all national legislation or regulations applying to the electronic communications sector, to allow a clear determination of the relations between the different entities and the credibility of each actor in the performance of its mission.

Article 21 Information

1. Member States shall publish the tasks to be performed by the competent national authorities in an easily accessible form, in particular when these tasks are assigned to several bodies.

2. Member States shall inform the Commission of the existence of any competent national authority charged with the application of this Directive, the implementing measures relating thereto, as well as their respective responsibilities, taking care to avoid overlapping tasks.

Chapter VII Ministry in charge of the electronic communications sector

Article 22 Electronic communications policy function

The Ministry is responsible for national electronic communications policy, in particular the following areas:

1. development and review of electronic communications policies and regulations consistent with the objectives of this Directive;
2. assuming responsibility for international electronic communications matters affecting the country;
3. proposing a policy related to the provision of universal service and submitting it to the government for approval;
4. monitoring the implementation of the policy referred to in paragraph 3 of this article for the purpose of expanding the scope of coverage of electronic communications services in such a way as to meet the requirements of economic and social development in the country;
5. drawing up plans that encourage investment, on a competitive basis, in the electronic communications sector.

Chapter VIII National regulatory authorities

Article 23 Status, independence and transparency

1. National regulatory authorities shall exercise their powers in an impartial, transparent and non-discriminatory manner.
2. Each Member State shall guarantee the independence of the national regulatory authorities with respect to the political authorities and all organizations ensuring the provision of electronic communications networks, equipment or services and any otherwise involved in the sector, by ensuring that the former are legally distinct from and functionally independent of the latter.
3. Each Member State that retains ownership or control of undertakings that provide electronic communications networks or services in the sector shall ensure complete and effective separation of rule-making and regulatory functions and activities associated with the ownership or management of these undertakings.
4. Each Member State shall take the necessary steps to guarantee the following:
    a. a clear and precise mandate of the national regulatory authorities as well as their decision-making bodies;
    b. clear and transparent internal procedures for the national regulatory authorities, including:
        i. decision-making procedures for the decision-making bodies of the national regulatory authorities;

ii. collegiality of the decisions of their decision-making bodies;

iii. incompatibility of the functions of members of their decision-making bodies with any other activity in the sector, any government office and any parliamentary function;

iv. prohibition on staff from taking on any other remunerated function in the electronic communications sector and from holding any direct or indirect interest in any undertaking in the sector;

v. recruiting of members of decision-making bodies through a clear and transparent procedure by which candidates are invited to apply on the basis of demonstrated professional skills and qualifications;

vi. establishment of a remuneration scheme for members of decision-making bodies;

vii. once-only renewable nature of the members' mandate; and

viii. protection of members of decision-making bodies against dismissal except in case of demonstrated grave misconduct or incapacity;

c. The creation of transparency mechanisms and the distribution of consultation procedures with the sector players, giving interested parties the opportunity to bring forward their observations on proposed measures within a reasonable timeframe, as well as the creation of a central information desk to allow access to all ongoing consultations and publish the results of public consultations, except in specifically described cases where confidentiality is an issue;

d. Creation of provisions to ensure that inspections tasks are only performed by duly sworn persons;

e. Publication of an annual activity report;

f. Publication of all decisions of the regulatory bodies on the website of the national regulatory authority under the conditions provided for in Article 9 of this Directive and, where applicable, in the Official Journal of the Member State concerned.

Article 24 Resources of national regulatory authorities

1. Each national regulatory authority must have the financial and human resources it needs to perform their tasks in an impartial, autonomous and transparent manner.

2. Each Member State undertakes to give preference to the self-financing schemes for national regulatory authorities, and to provide for the allocation of all or part of taxes, fees and other financial compensation paid by operators for the exercise of their activities in the sector in order to finance regulatory activities.

3. The funding system for the national regulatory authorities shall not have the effect of reintroducing the influences and interests of organizations that the separation of regulatory and operational functions intended to exclude.

Article 25 Areas of activities of national regulatory authorities

1. The regulation of the electronic communications sector shall be within the scope of activities of national regulatory authorities of each Member State. These shall include at least the following tasks:

    a. the development, at the request of the competent government authority or at the initiative of the national regulatory authority, of proposals to:

        i. adapt the legal, economic and security framework in which electronic communications activities take place, such as draft laws, decrees and ministerial orders relating to the regime of the activities of the different operators active in the electronic communications sector; and

        ii. ensure effective competition, taking the greatest account of technology-neutrality regulation;

    b. the processing of individual license applications, preparation and implementation of individual licensing procedures by competitive bidding, as well as preparing and updating, in conjunction with the other ministerial bodies involved, the texts for the licensing terms of reference that lay down the rights and obligations of operators;

    c. receipt of application files for electronic communications activities under the general authorization regime. The national regulatory authorities issue the general authorizations and prepare the associated documents, including the elaboration of the terms and conditions for general authorizations and, where applicable, the associated specifications;

    d. the issuance of certificates of registration and verification, for all those activities of operators that are subject to the declaration regime;

    e. the issuance of mandatory specifications and approvals for terminal equipment and the performance of compliance checks;

f. monitoring compliance by all operators with their obligations according to the regulations in force and the terms of existing individual licenses, general authorizations and declarations in the electronic communications sector. To this end, the national regulatory authorities will receive and analyze all information and documentation required from operators in accordance with the regulations in force and their terms of reference, and request all additional details and information that may be needed;

g. monitoring the electronic communications market under economic and technical aspects, in accordance with good practices and internationally recognized protocols, taking into account the convergence of technologies in the field of electronic communications;

h. fostering and protecting effective competition as well as a fair and efficient market between entities engaged in the electronic communications market in their respective Member States, taking due account of the public interest and preventing distortion and restriction of competition in the sector. As such, the national regulatory authorities implement market regulation, in particular the imposition of obligations on powerful operators in accordance with the relevant provisions of this Directive;

i. assessing and monitoring closely market-shaping and competition issues regarding open internet access;

j. establishing performance standards for operators in relation to the provision of electronic communications services and monitoring compliance with those standards;

k. monitoring and communication to the Minister on relevant information on the sector, such as the performance of operators, the quality of services to consumers and satisfaction of the latter, measured according to existing international codes of practice;

l. promotion of the protection of user and consumer rights in the electronic communications sector, in coordination, where relevant, with other competent authorities. As such, the national regulatory authorities deal with all matters relating to the protection of the rights of consumers, including setting up of a suitable system for receiving their complaints, and the related investigations concerning electronic communications services and, where necessary, submission of such complaints to the appropriate agency;

m. monitoring the fulfilment, by operators of their obligations, so as to ensure the delivery of adequate, high quality services that meet the various needs of users;

n. elaborating and, if necessary, revising the accounting requirements and tariff principles to be used by operators;

o. contribution to the protection and security of personal data in the electronic communications sector;

p. the quality of every electronic communications service and, to that end, the determination of technical standards for those services and the connection of the user to electronic communications networks;

q. management of the radio frequency spectrum, monitoring of the conditions of its use and decision-making in this area. In cases where these tasks are assigned wholly or partially to other competent authorities, the national regulatory authorities provide advice regarding the market-shaping and competitive procedures for the granting of rights of use for radio spectrum for electronic communications networks and services;

r. allocation of numbering resources and management of the numbering plan, while ensuring effective number portability from one operator to another;

s. examination and control of the implementation of the conditions relating to interconnection and access to networks, in accordance with the provisions of this Directive relating to access and interconnection of electronic communications networks and services. As such, the national regulatory authorities implement appropriate regulation, in particular the imposition of obligations on powerful operators in accordance with the relevant provisions of this Directive in terms of access, interconnection and infrastructure sharing;

t. implementing the policy relating to universal access/universal service and network performance obligations in accordance with the provisions of this Directive, in particular concerning the charges in the provision of universal service and the related net cost;

u. the implementation of the tariff policy applicable to electronic communications services on wholesale markets;

v. resolution of disputes between operators and between operators and alternative infrastructure operators and, where applicable, domain managers or private property owners;

w. monitoring of the development of new technologies and the prescription of measures to stimulate and facilitate investment in the electronic communications sector, in particular private investment;

x. encouraging regional connectivity of electronic communications and the digital economy;

y. ensuring the implementation by operators of adequate and proportionate technical and organizational measures to manage risks to the security of networks and services.

2. The national regulatory authorities shall also perform any other task reserved to the national regulatory authorities in this Directive or that Member States or other provisions of Community law may assign to them.

3. In cases where the granting of individual licenses or general authorizations is entrusted to a body separate from national regulatory authorities, Member States shall make the necessary legal and regulatory provisions to charge national regulatory authorities with processing of applications and providing reasoned opinions prior to the granting of such licenses or authorizations.

Article 26 Provision of information

1. Member States, and in particular national regulatory authorities, shall ensure that:

   a. operators, alternative infrastructure providers and any other persons designated by Member States shall provide all necessary information, including financial information, to national regulatory authorities, in order for the latter to ensure compliance with the provisions of this Directive and of acts adopted for its application, perform the functions of regulating the sector and encouraging the development of electronic communications networks and services.

   b. operators and alternative infrastructure providers shall provide this information promptly, on a predetermined periodic basis or on request, respecting the deadlines and providing the level of detail required by the national regulatory authorities.

   c. the information requested by the national regulatory authorities shall be proportionate to their needs for the accomplishment of their mission, and those national regulatory authorities shall give the reasons justifying the requests for information.

2. The principle of business secrecy is not applicable to national regulatory authorities; nevertheless, the latter must respect the confidentiality of the information received.

Chapter IX Institutional cooperation and interaction

Article 27 Cooperation between relevant national authorities

1. In each Member State, all national authorities charged with matters affecting the development of the electronic communications sector shall coordinate their activities and exchange relevant

information to facilitate the consistent application of this Directive. In particular, this refers to the following national authorities:

a. national regulatory authorities;
b. other responsible authorities according to this Directive;
c. the authorities responsible for the application of competition law;
d. authorities responsible for the application of consumer law protection legislation;
e. authorities responsible for the protection of personal data;
f. other competent authorities in the digital sector;
g. competent authorities in the audiovisual sector;
h. the authorities responsible for financial services;
i. competent authorities in the energy sector;
j. competent authorities in the water sector;
k. competent authorities in the transport sector; and
l. the competent authorities in the field of public works.

2. The coordination referred to in paragraph 1 of this article shall contribute to the achievement of the objectives of this Directive, in particular in terms of the development of networks and services. It shall cover, in particular, issues relating to alternative infrastructure, the coordination of civil engineering works referred to in Article 79 of this Directive, the deployment of fibre optics referred to in Article 80 of this Directive, the dispute settlement procedures referred to in Article 108 of this Directive and the penalty procedures referred to in Article 111 of this Directive.

3. Member States shall publish procedures for cooperation and consultation between the responsible national authorities referred to in paragraph 1 of this Directive above on matters of common interest.

4. Each Member State shall ensure that the missions of these authorities do not overlap and undertake to promote interactions and the exchange of information between said authorities, while guaranteeing the confidentiality of such correspondence.

Article 28 Regional regulatory coordination imperative and objectives

1. National regulatory authorities of the Member States undertake to take all measures to cooperate and coordinate at the regional level their regulatory activities in the electronic communications sector. They shall set up appropriate bodies as exchange platforms to facilitate this regional regulatory interaction.

2. The regional regulatory cooperation and coordination referred to in this article is intended to ensure the sharing of information and data, the dissemination of good practices and useful models, and the progressive convergence of national regulatory standards and practices on all relevant aspects dealt with in this Directive in order to promote regional integration, the development of electronic communications networks and services as well as intra-Community trade.

3. Regional coordination bodies referred to in paragraph 1 of this article shall keep the Commission informed of their work under the conditions provided for in this Directive.

4. The regional coordination structures referred to in paragraph 1 of this article shall set up a regional data observatory. To this end, they shall define a framework for the collection of data relating to the electronic communications sector, specifying in particular the data to be communicated by Member States at intervals to be determined. They may decide to amend the list of data to be communicated, in particular with a view to adapting it to developments in the sector. The data collected shall be made available to all Member States and, where appropriate, to the public.

5. The data referred to in paragraph 4 of this article shall relate in particular to wholesale tariffs for access, interconnection, infrastructure sharing and access to alternative infrastructure. The sub-regional coordination structures referred to in paragraph 1 shall establish a nomenclature of the main wholesale services concerned with a view to obtaining comparable figures from each Member State.

6. As part of their regional interactions, national regulatory authorities shall endeavour to involve, as much as possible, the Commission, the electronic communications market players as well as the various national, regional and international authorities, institutions and organizations involved in the sector.

7. When adopting decisions concerning their national markets, national regulatory authorities shall take utmost account of any guidelines, opinions, recommendations, common positions, best practices and methods adopted in the context of their regional regulatory coordination activities.

8. Each Member State shall ensure that its respective national regulatory authorities are involved in and actively support each other in relation to regional coordination activities.

Chapter X Entry into the electronic communications market

Article 29 General principles governing market entry

1. Member States shall guarantee the freedom to provide electronic communications networks and services, subject to the conditions laid down in this Directive. To this end, they shall not prevent an undertaking from providing electronic communications networks or services, except in the cases set out in this Directive. Any restriction on the freedom to provide electronic communications networks and services shall be duly substantiated and notified to the Commission.

2. Without prejudice to the requirements set out in paragraph 1 of this article, Member States, with a view to releasing all the dynamics necessary for the promotion of information and communication technologies, innovation and investment, endeavour to adopt as much as possible the general authorization regime, while limiting the requirement for an individual license to cases of access to and use of scarce resources.

3. When a Member State subjects the operation of an electronic communications network and/or the provision of an electronic communications service to a general authorization or declaration procedure, the granting of the general authorization or the modalities for implementing the declaration must comply with the principles set out below.

4. The conditions imposed on operators subject to general authorization and/or declaration regimes are based on the principles set out in **Error! Reference source not found.** of this Directive for licenses and authorizations and in **Error! Reference source not found.** of this Directive for declarations.

5. Member States shall define and apply mechanisms for the granting of individual licenses and general authorization and making declarations which facilitate entry into the market and which gradually remove obstacles to competition and the emergence of new services.

6. Any condition imposed on the operation of networks or the provision of electronic communications services must be non-discriminatory, proportionate, transparent and justified in relation to the network or service concerned.

7. In formulating and implementing their authorization and declaration regimes, Member States shall promote the establishment of networks and the provision of electronic communications services among Member States.

Article 30 Sector development

Member States may, in order to promote the development of the electronic communications sector in the region and to offer more choice to users, decide that certain activities may be subject to a less restrictive regime than that provided for in this Directive.

Article 31 Limitation of barriers to market entry

1. Member States shall ensure that barriers imposed are not contrary to this Directive concerning the number of operators on the electronic communications market.
2. Member States shall refrain from any provision granting exclusive rights or special rights for the provision of electronic communications, including operation of electronic communications networks necessary for the provision of such services, except if strictly justified by lack of resources.
3. All undertakings shall be subject to the same conditions for the provision of electronic communications services or operation of comparable electronic communications networks.

Article 32 Public availability of market entry criteria

1. Where an individual license, general authorization or the submission of a declaration is required, relevant information relating to the conditions thereof in accordance with the principles set out in Annexes 1 and 2 to this Directive shall be published in such a way that makes it easily accessible to interested parties under the conditions laid down in Article 9 of this Directive, including the applicable rules and procedures, the list of items to be provided and the standard documents to be completed.
2. The following information shall be published and made available to the public:
    a. all criteria for the issue of individual licenses, general authorization and all declaration requirements;
    b. the rules, procedures and obligations applicable to obtaining an individual license or general authorization, making a declaration or carrying out activities subject to the free regime;
    c. the list of items to be provided and the standard documents to be completed in order to obtain an individual license or general authorization or to make a declaration;

d. the period of time required to reach a decision concerning an application for an individual license or a general authorization, which may not exceed eight (08) weeks, except in the case of allocation through a competitive tendering procedure;

e. the terms and conditions governing activities subject to individual license, general authorization, declaration or open entry.

Article 33 Public consultation

The competent authorities must ensure fairness and transparency in the process of individual licensing or general authorization, including by conducting public consultations with industry players, the public and other stakeholders.

Article 34 Reason for denial

1. Each Member State shall ensure that any candidate be informed of the reasons for the denial of any individual license or general authorization and may seek judicial review of that refusal.
2. Applicants whose general authorization or individual license has been suspended or revoked within the last ten (10) years, even outside the country concerned, may not be authorized to carry out any activity under an individual license or general authorization.

Chapter XI General authorization regime

Article 35 Activities subject to general authorization

1. In order to provide all the dynamics necessary for the promotion of technology, innovation and investment in the electronic communications sector, any undertaking that fulfils the conditions referred to in this Chapter XI of Directive shall be allowed to provide electronic communications networks or services.
2. As such, the following activities are subject to the general authorization regime:
   a. operation of public electronic communications networks directly intended for the provision of electronic communications services to end-users and that are not subject to the individual license regime;
   b. provision of public electronic communications services intended directly for end-users and that are not subject to the individual license regime, including number-based interpersonal communications services.

3. Notwithstanding the provisions of paragraph 2 of this article, Member States may decide to subject:

   a. the operation of public electronic communications networks intended exclusively for use by operators and the provision of public electronic communications services intended exclusively for operators to an authorization regime, provided that this regime does not constitute a barrier to market entry and the exercise of these activities;

   b. the provision of internet access services under the declaration regime.

4. Member States may decide to provide for a general authorization scheme covering all or several categories of electronic communications activities, with the exception of those subject to individual licensing.

Article 36 Procedures applicable to the general authorization regime

1. A Member State shall not prevent an undertaking that provides the necessary information and gives the required proof that it fulfils the conditions imposed, satisfying the conditions attached to a general authorization in accordance with the provisions of Part **Error! Reference source not found.** of **Error! Reference source not found.** of this Directive, from carrying out the intended electronic communications.

2. Operators applying for general authorization are required to submit a request to the national regulatory authority, along with the documents and information determined by each Member State.

3. The documents and information referred to in paragraph 2 of this article for the general authorization regime shall be limited to that which is reasonably necessary to verify that the applicant has the technical and financial capabilities to comply with the obligations laid down in the applicable legal framework, its general authorization and the associated specifications.

Chapter XII Individual licensing regime

Article 37 Activities that may be subject to individual licensing

1. Only the following activities may be subject to an individual license:

   a. Operation of public electronic communications networks using radio frequencies that are of particular scarcity and strategic importance to provide radiocommunications services;

   b. When a Member State, for reasons of public policy, determines that an activity of electronic communications must be exercised under special conditions, in particular relating to public order, public security and public health. Such exceptions shall be notified to the ECOWAS Commission.

2. Member States may decide to provide for a comprehensive individual license regime allowing for the performance of all or several categories of electronic communications activities.

Article 38 Procedures for granting individual licenses

1. When a Member State intends to grant individual licenses, it shall:

   a. do so according to open, objective, non-discriminatory and transparent procedures;

   b. set reasonable timeframes for processing requests;

   c. ensure that national regulatory authorities publish on their websites, under the conditions set out in Article 9 of this Directive, the conditions that must be met in order to obtain an individual license.

2. The documents and information that may be required for an individual license is limited to those reasonably necessary to verify that the applicant has the technical and financial capacity to comply with the obligations laid down in the applicable legal framework, its individual license and the associated specifications, and that it meets the conditions referred to in paragraph 1 of this article.

3. Any person demonstrating that they meet the conditions referred to in paragraphs 2 of this article shall be entitled to obtain an individual license, except in the cases provided for in Article 39 of this Directive. However, if an undertaking applying for an individual license fails to provide such documents and information, the Member State may refuse to grant the individual license.

4. Any Member State that refuses to grant an individual license shall communicate to the undertaking concerned and to the Commission the reasons for its decision.

5. Each Member State shall establish a procedure allowing appeals against such refusal of the individual license, to be brought before an institution that is independent from the national regulatory authority.

Article 39 Limitation of number of individual licenses

1. Each Member State shall be able to limit the number of individual licenses for any category of electronic communications services, and for the operation of electronic communications

infrastructures, only to the extent required to ensure efficient use of scarce resources, such as radio frequencies and numbering resources. Such a decision to limit the number of individual licenses shall be reviewed every five (5) years.

2. Where a Member State intends to limit the number of individual licenses granted in accordance with paragraph 1 of this article, it shall:
   a. give due consideration of the necessity to maximize the benefits for users and to facilitate or strengthen the development of competition;
   b. give interested parties the opportunity to express their opinion on any planned limitation;
   c. publish its decision to limit the number of individual licenses and as well as the justification for such decision, and provide for a judicial review procedure against that decision;
   d. review, at reasonable and regular intervals, the limitation imposed, either at its own initiative, or at the request of the undertakings concerned;
   e. launch a public tender for the issuance of individual licenses.
3. In any selection, Member States shall take due account of the need to facilitate the development of competition, to facilitate investment in new technologies and to maximize the advantages for users.
4. The information concerning the aforementioned criteria shall be published in advance in such a way that it is easily available under the conditions laid down in Article 9 of this Directive. The Official Journal of the Member State concerned shall refer to the publication of such information.
5. When a Member State determines, at its own initiative or following a request made by an undertaking, at the time of entry into force of national measures transposing this Directive or subsequently, that the number of individual licenses can be increased, it shall take the necessary actions and launch a call for tender for additional individual licenses.

Article 40 Call for tender for individual licensing

1. For all individual licenses subject to a competitive procedure, the national regulatory authority shall specify the following aspects in particular in a set of specifications:
   a. the conditions for the establishment of the network;
   b. the conditions for the provision of the service;
   c. the coverage area of said service and the implementation schedule;

d. the radio frequencies and the blocks of numbers allocated as well as the conditions of access to elevated points belonging to the public domain;

e. the minimum professional and technical qualifications as well as the financial guarantees required of applicants;

f. the operating conditions of the service, in particular the conditions for the provision of universal service and the principle of equality of treatment of users;

g. the arrangements for payment of the fee referred to in Article 51 of this Directive;

h. the arrangements for payment of the financial contribution referred to in Article 41;

i. the duration of validity of the individual license and conditions for its renewal.

2. The call for tender is organized on the basis of objective, transparent, non-discriminatory, proportionate and detailed selection criteria.

3. The successful tenderer shall be the candidate whose offer is deemed to be the best in accordance with the requirements of the call for tender.

4. Award shall be published in a public report.

Article 41 Financial compensations applicable to individual licenses

1. When Member States decide to require individual license holders to provide financial compensation, the amounts required shall take the greatest possible account of possible counterproductive effects that overpayments could have on the development of the sector in the long run.

2. The financial compensation required shall be reasonable, shall be sustainable for individual licensees so as not to undermine the prospects for their investment in the sector.

Chapter XIII Declaration regime

Article 42 Activities subject to declarations

1. The following activities shall be subject to declaration:

a. The operation of electronic communications networks intended exclusively for use by operators and not to provide electronic communications services directly to end-users, as well as the provision of public electronic communications services intended exclusively for other operators and not directly to end-users;

b. Resale of electronic communications services to end-users without operating networks; and

c. Commercial operation of value-added services.

2. Member States may decide to subject the activity of providing access to certain alternative infrastructures to the notification regime, rather than the open entry regime, provided that this regime does not constitute a does not constitute an obstacle to undertakings' investment in shareable infrastructure or facilities.

3. Regardless of the regime applicable to alternative infrastructure operators, national regulatory authorities may impose specific obligations on them to facilitate the development of electronic communications networks and services, particularly in terms of information disclosure, rules applicable to deployed infrastructure, and access to such infrastructure.

Article 43 Procedures applicable to declarations

1. Any natural or legal person wishing to exercise one of the activities subject to the declaration regime is required to submit with the relevant national regulatory authority a declaration of the offer of such service, in accordance with the requirements of Article 44 of this Directive.

2. The national regulatory authority acknowledges receipt of the declaration in the interest of ensuring that the declared service complies with the existing regulatory framework. The interested person can thus freely exercise the notified activities upon reception of the acknowledgment of receipt issued by the national regulatory authority.

3. The interested person shall also be entitled to freely exercise the notified activity if the national regulatory authority remains silent for a period of more than four (4) weeks after due notification.

4. Any declaration requires the declarant to comply with the essential requirements and other requirements of public interest determined by each Member State or the national regulatory authorities. Thus, without prejudice to the right to impose penal sanctions, if the exercise of the activity subject to the declaration regime proves to undermine public order or security or is contrary to moral standards and decency, the national regulatory authority may without delay oppose the declaration or prohibit the exercise of such activity.

5. The conditions to which any undertaking that has made a declaration to the national regulatory authority is committed shall be defined in a clear and transparent manner.

6. The declaration regime shall be formulated and implemented in such a way as to facilitate the provision of electronic communications services between Member States.

7. The conditions that may be imposed in the case of a declaration are provided for in **Error! Reference source not found.** of this Directive.

Article 44 Information required for declarations

1. Each declaration of intention to open a service shall contain the information determined by the national regulatory authority.
2. Any change made to the initial conditions of the declaration, with the exception of changes to the rate charged, shall be brought to the attention of the relevant national regulatory authority.
3. Member States may lay down conditions applicable to activities subject to the declaration regime, in particular those provided for in **Error! Reference source not found.** of this Directive.
4. Any condition attached to a declaration must comply with the principle of proportionality and be in accordance with the Community competition rules.
5. These conditions are published annually so that relevant information is easily available to interested parties under the conditions set out in Article 9 of this Directive. They can be modified in objectively justified cases and in a proportionate manner. In doing so, Member States shall inform the Commission of their decision, as well as any regional regulatory coordination body of national regulatory authorities as referred to in Article 28 of this Directive.

Chapter XIV Open entry regime and activities outside the scope of electronic communications

Article 45 Activities subject to open entry regime

1. Without prejudice to the provisions of Article 46 of this Directive, any activity of operating networks or providing electronic communications services, which is not expressly subject to the individual license, general authorization or declaration under this Directive is free, subject to compliance with the applicable laws and regulations.
2. The open entry regime applies in the following cases:

   ~~a.~~ Internal networks;

   b. Radio installations exclusively composed of low-power, low-range equipment categorized as decided by the national regulatory authorities; and

   c. Any other activity meeting the requirements of paragraph 1 of this article.

Article 46 Activities outside the scope of electronic communications

1. Other activities not covered by this Directive, including the installation or maintenance of electronic communications networks, the provision of alternative infrastructure, including dark fibre or space on high points, or non-number-based interpersonal communications services, are not considered to be electronic communications activities.

2. Nevertheless, the provision of alternative infrastructure, including dark fibre, may be subject to specific obligations to facilitate the development of electronic communications networks and services, in accordance with the provisions of Article 42 of this Directive.

3. In order to ensure the effectiveness of the obligations referred to in paragraph 2 of this article, Member States may subject the exercise of certain activities by alternative infrastructure operators to a notification regime.

Chapter XV Conditions applicable to all operators or to certain categories of operators

Article 47 Principles

1. Any condition applicable to an individual license, a general authorization or an activity subject to the declaration regime must comply with the principle of proportionality and Community Competition Rules.

2. The conditions applicable to individual licenses or general authorizations issued to operators are set forth in **Error! Reference source not found.** to this Directive.

3. Member States shall ensure that the requirements set out the specifications of individual licenses and general authorizations and those applicable to activities subject to the notification regime do not discourage competition and investment in new infrastructures and technologies.

4. All operators enjoy fundamental rights that apply to operators engaged in comparable electronic communications activities.

Article 48 Specific conditions applicable to operators

1. Where the operator requests to have access to scarce resources such as frequency spectrum or numbers, the national regulatory authority shall retain the right to put in place specific conditions, including, but not limited to, the requirement to participate in specific application or competitive selection procedures.

2. The conditions relating to limited resources should be activated where an operator gains access to such resources.

3. The national regulatory authority shall, where appropriate, conduct a separate consultation regarding the allocation of scarce resources.

4. Certain universal service obligations or conditions may apply to operators, in particular with regard to the routing of emergency calls or the provision of a directory.

5. Any operator shall make appropriate provisions to take into consideration the needs of persons with disabilities.

Article 49 Publication of conditions applicable to individual licenses and general authorizations

The conditions applicable to individual licenses and general authorizations, including the associated technical specifications, shall be published annually, including on the website of the national regulatory authority under the conditions set out in Article 9 of this Directive so as to make sure that this information is easily available to interested parties.

Article 50 Modification of conditions applicable to individual licenses and general authorizations

1. The conditions relating to an individual license or a general authorization, in particular their associated technical specifications, shall be considered fixed at the time the individual license or general authorization is officially delivered and may in principle not be modified.

2. Any Member State shall be able to modify the conditions attached to an individual license or general authorization in objectively justified cases and in a proportionate manner.

3. Where it becomes necessary to modify the conditions attached to an individual license or a general authorization, the Member State shall notify the holder of the individual license or general authorization, within a reasonable period of time in advance, of any modifications, before they are implemented.

4. Member States shall notify their intention to the Commission and to national regulatory authorities for the purposes of regional regulatory coordination as referred to Article 28 of this Directive.

Article 51 Charges and fees applicable to operators

1. Without prejudice to financial contributions, including those relating to the provision of universal service in accordance with the relevant provisions of this Directive and Part **Error! Reference source not found.** of **Error! Reference source not found.**, the charges imposed on undertakings for individual license procedures, general authorization or declaration shall be intended solely to cover the costs of issuing the individual license or general authorization or processing the declaration.

2. Charges and fees imposed on operators in their capacity as licenses operators, authorized operator or declared operator shall be sustainable and shall not discourage investment. Member States shall demonstrate compliance with this requirement when establishing or modifying any charge or fee.

3. These charges and royalties shall be in proportion to the volume of work required and shall be published in an appropriate and sufficiently detailed form so that the information is easily available.

4. Notwithstanding paragraphs 1 and 2 of this article, in the case of scarce resources, Member States may charge fees and ensure optimum utilization of such resources.

5. The fees in paragraph 4 of this article shall be non-discriminatory and shall take into account in particular the need to promote the development of innovative services and competition, without prejudice to the license cost and financial contributions intended to finance regulatory activities and universal service.

6. Each Member State shall provide for mechanisms to avoid double taxation of operators' revenues or interconnection charges for sectoral taxes and fees based on operators' turnover.

7. These financial contributions, taxes, fees and other charges applicable to operators shall be published annually by the national regulatory authorities of each country in an appropriate manner and in sufficient detail to ensure that the information is easily accessible under the conditions laid down in Article 9 of this Directive.

Article 52 Standard models for individual licenses, general authorizations and specifications

1. Member States shall ensure that national regulatory authorities draw up and publish standard models for individual licenses, general authorizations and associated specifications relating to the exercise of the main electronic communications activities.

2. Member States shall cooperate with each other to ensure consistency and, where possible, harmonization of the conditions imposed on operators, in particular individual licenses, general authorizations and associated specifications, for each type of electronic communications activity.

Article 53 Non-transferability

1. Individual licenses and general authorizations shall be issued in consideration of the person. They may be transferred to third parties, where applicable, only with the prior consent of the national regulatory authority, in accordance with a procedure determined by each Member State.

2. In the event of a change of control or transfer of assets of an operator subject to the notification regime, that operator, or the new operator where applicable, shall be required to inform the relevant national regulatory authority of that change within thirty (30) days and to file with the national regulatory authority a declaration.

Article 54 Duration and renewal of individual licenses and general authorizations

1. Individual licenses and general authorizations shall be granted for periods of sufficient duration to enable operators to make the necessary investments and to reap the expected benefits. The duration of licenses and authorizations shall not, in principle, be less than ten (10) years, except for individual licenses and general authorizations for experimental purposes or in duly justified special cases.

2. Each Member State shall establish objective, transparent and non-discriminatory procedures for the renewal of individual licenses and general authorizations, enabling operators to obtain the renewal of their individual license or general authorization within a reasonable time frame.

3. A refusal to renew may only be justified on serious grounds, including non-compliance with applicable obligations by the operator concerned.

4. Individual licenses and general authorizations shall be renewed on terms equivalent to those enjoyed by their holder, except where there are duly justified reasons of public interest, including to take account of developments in the sector and user needs.

Article 55 Enforcement

1. The conditions of individual licenses and general authorizations must be enforceable and clear with regard to the rights and obligations of the holder.

2. The national regulatory authority shall undertake reasonable and appropriate methods to enforce the terms and conditions relating to the holder's activities.

3. Each individual license and general authorization shall include provisions to facilitate enforcement processes and access by competent authorities, if necessary, to the relevant documents of the individual license or general authorization holder, provided that privacy and confidentiality are respected.

4. The individual licence or general authorization shall require the national regulatory authority to inform the holder of any alleged or suspected violations from the holder of which it becomes aware and, where appropriate, to allow the holder sufficient time to take measures to remedy the situation.

Article 56 Experimental licenses

1. Each Member State may decide to grant an individual license or general authorization on an experimental basis to promote the development of an innovative technology or service, and to subject the activities concerned to rules that derogate from those normally applicable to an operator.

2. Any Operator benefiting from an individual license or general authorization may obtain frequency and numbering resources.

3. Each Member State shall determine the maximum duration of the experimental individual license and general authorization, as well as the derogations applicable to the activities concerned.

Article 57 Activities of a strategic nature

1. Member States shall coordinate with each other under the conditions laid down in Article 28 of this Directive in order to identify electronic communications activities or situations of a strategic nature for which a regional approach may be considered.

2. The coordination structures referred to in Article 28 of this Directive may propose the adoption of rules and standards applicable to certain activities or situations.

3. Member States shall determine the rules applicable to the provision of satellite internet access, including issues relating to data access and the interception of communications.

Article 58 Publication of information on operators

1. National regulatory authorities shall draw up and publish, under the conditions laid down in Article 9 of this Directive, a list of all operators subject to the individual license, general authorization and declaration regimes, specifying the activities which these operators are authorized to carry out.

2. Each Member State shall publish this information in its official journal.

3. National regulatory authorities shall publish on their websites, under the conditions laid down in Article 9 of this Directive, the individual licenses, general authorizations and specifications granted to all operators or, failing that, the models of these documents referred to in Article 48of this Directive.

Chapter XVI Type Approval

Article 59 Obtaining approvals

1. Terminal equipment intended to be connected to a public electronic communications network and radio equipment used for the transmission, reception or transmission and reception of signals and correspondence may not be manufactured for the domestic market, imported, held for sale, offered for sale, distributed free of charge or for a fee, connected to a public electronic communications network or advertised unless they have been approved by the national regulatory authority and remain in conformity with that approval.

2. Each Member State shall determine, within the framework of the coordination procedure referred to in Article 28, the conditions for mutual recognition of approvals issued in other Member States.

3. Where Member States have established such a mutual recognition mechanism, authorization granted by a national regulatory authority shall be automatically recognized in all Member States covered by the mutual recognition mechanism, without any specific procedure being required at national level.

Article 60 Essential requirements

1. The national regulatory authority shall determine the essential requirements to be met by terminal equipment and radio equipment referred to in Article 59 of this Directive.

2. Member States shall, within the framework of the coordination procedure referred to in Article 28 of this Directive, ensure that the essential requirements to be met by terminal equipment and radio equipment referred to in aArticle 59 of this Directive are harmonized.

3. Duly authorized officials of the national regulatory authority may carry out any checks to ensure that the equipment held by manufacturers, importers, traders and users is approved and complies with the regulations in force.

Chapter XVII Deployment of networks and provision of services throughout ECOWAS

Article 61 Harmonisation of procedures

1. Member States shall strive to develop and adopt common classifications of electronic communications networks and services.

2. The National Regulatory Authorities of Member States, for the purposes of regional regulatory coordination as referred to in Article 28 of this Directive, shall facilitate interaction and exchange of experience among themselves.

Chapter XVIII Access and interconnection of networks and services

Article 62 Objectives of regional coordination

The provisions of this Chapter XVIII constitute a minimum common reference framework, which may be supplemented by each Member State with a view to imposing additional rules and obligations.

Article 63 Coordination

National regulatory authorities are responsible for coordinating implementation of this Chapter XVIIIXVIII within the framework of regional regulatory coordination as referred to in Article 28 of this Directive. In particular:

1. organizing work and collaborating with a view to defining a common method for evaluating the cost of access, interconnection, infrastructure sharing and access to alternative infrastructure.

2. establishing and submitting to the Commission and to the coordinating body referred to in Article 28 of this Directive a comparison of the main technical and tariff offers for access, interconnection, infrastructure sharing and access to alternative infrastructure in force in the Member States.

3. coordinating the development towards increased convergence between the regulatory provisions applicable in the Member States.

Article 64 ECOWAS Technical Committee on Access, Interconnection, Infrastructure Sharing and Access To Alternative Infrastructure

1. A technical committee on access, interconnection, infrastructure sharing and access to alternative infrastructure is hereby established within the Commission, in which the regulatory authorities of the Member States and a representative of the operators of each Member State are represented.

2. Representatives of National Regulatory Authorities and Operators are appointed by each of the entities of professional bodies they represent.

3. Each National Regulatory Authority and Operators of each Member State thus appoint a representative and his deputy. The appointed persons lose their status as member or deputy member when they leave the national regulatory authorities or operators concerned, by decision of the entity or professional body represented. These entities then replace them within thirty (30) days.

4. The National Regulatory Authority of the Member State that effectively holds the chair of the Authority of Heads of States chairs the Technical Committee.

5. The Technical Committee has an advisory role. Its role is to assist and make recommendations to national regulatory authorities on any subject relating to access, interconnection, infrastructure sharing and access to alternative infrastructure in the ECOWAS zone and in particular concerning matters relating to interconnection and cross-border access.

6. It may also assist the ECOWAS in the following tasks, the list below not being exhaustive:

   a. implementation of a harmonized cost model for access to submarine or terrestrial bandwidth;

   b. implementation of the tariff observatory for access, including access to national and international capacities, interconnection, infrastructure sharing and access to alternative infrastructure, which may be published by ECOWAS;

   c. establishing a list of relevant electronic communications markets susceptible prior to regulation within ECOWAS;

   d. Development of guidelines on market analysis and assessment of market dominance;

e. Development of any standard or recommendation in terms of access, interconnection, infrastructure sharing and access to alternative infrastructure;

f. Determining the most appropriate harmonized regimes and rules for the development of innovative networks and services.

7. The chairperson of the Technical Committee summons the members of the Technical Committee to meetings and sets the agenda for these meetings, taking into account the requests of Member States.

8. The convocation, together with the agenda, and, where applicable, useful documents relating to it, are sent at least fifteen (15) working days before the date of the meeting, by post, electronic mail or any other medium as specified in the Technical Committee's internal rules of procedure. In cases of emergency, there is no time limit.

9. Depending on the topics on the agenda, the Chairman of the Technical Committee may invite any expert to participate in meetings, taking into account the proposals of Member States;

10. The Technical Committee meets, either in person or by videoconference, at least once (01) per year and as many times as necessary, on a convocation by its chairman;

11. It adopts its rules of procedure at its first meeting, which shall be held during the first quarter following the date of entry into force of this Directive;

12. The members of the Technical Committee shall ensure the confidentiality of facts, information or documents that come to their knowledge in the performance of their duties;

13. The secretariat of the Technical Committee is provided by the services of the Commission;

14. The costs related to the participation of the Member States delegates in the meetings of the Technical Committee are borne by their respective administrative structures. The logistics of these meetings are handled by the national regulatory authority of the host country.

Article 65 Non-discrimination principle

1. The general regulatory framework for access, interconnection, infrastructure sharing and access to alternative infrastructure in Member States shall incorporate the general principles of Community regulations foreseen for the establishment of the West African common market, including non-discrimination between undertakings established in different Member States.

2. According to the obligations of non-discrimination, operators shall, inter alia, apply equivalent conditions in equivalent areas, and shall provide services and information to third-party

operators under the same conditions and with the same quality as for their own services, or those of their subsidiaries or partners.

Article 66 Competitive electronic communications market

1. The national regulations on access, interconnection, infrastructure sharing and access to alternative infrastructure shall respect the principles of free and fair competition. Accordingly, the regulations shall be conducive to elimination of obstacles to new operators.

2. This Directive must be such as to increase the choice and quality of services available to users while allowing the regulator to ensure that the legal and contractual rules applicable to access, interconnection, infrastructure sharing and access to alternative infrastructure are applied effectively.

Article 67 Content of national regulations

The national regulations set minimum requirements for effective implementation of access, interconnection, infrastructure sharing and access to alternative infrastructure, in particular:

1. compatibility of services and networks, including interoperability between interpersonal communications services for the sake of end-to-end connectivity between end-users;

2. publication of reference interconnection offer (RIO);

3. existence of guidelines for the negotiation of contracts for access, interconnection, infrastructure sharing and access to alternative infrastructure;

4. transparency of contracts;

5. absence of discrimination between operators in granting access, interconnection, infrastructure sharing and access to alternative infrastructure services;

6. level, structure and basis for calculating charges for access, interconnection, infrastructure sharing and access to alternative infrastructure;

7. quality of access, interconnection, infrastructure sharing and access to alternative infrastructure;

8. unbundling, where applicable, of network elements;

9. availability of rapid and independent procedures for resolving disputes, and the means for enforcing the rules;

10. possibility of consulting market players in order to reach a decision on a given regulatory or supervisory problem;

11. in justified cases, where end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services, and to the extent necessary to ensure end-to-end connectivity between end-users, obligations on relevant providers of number-independent interpersonal communications services which reach a significant level of coverage and user uptake, to make their services interoperable.

Article 68 Harmonization of cost calculation methods

1. National regulatory authorities shall cooperate and coordinate their activities for the purpose of establishing and regularly updating a complete and harmonized methodology for calculating costs of access, interconnection, infrastructure sharing and access to alternative infrastructure, based on a standardized cost study and model. To this end, national regulatory authorities shall share their cost models, their experience in this field and best practices.

2. The aforementioned methodology shall establish in particular in detail, without this list being exhaustive:

    a. Relevant costs to be taken into account;

    b. Structure of the cost calculation model;

    c. Basic data to be incorporated into the model;

    d. Cost of capital return assessment method;

    e. Interpretation of model results

3. National regulatory authorities shall consult with operators on the definition and implementation of this methodology and its development.

Article 69 General rules of access, interconnection and infrastructure sharing

1. Operators are required to interconnect their public networks with at least one other public network. To this end, any operator duly authorized to establish a public electronic communications network shall establish an interconnection between its network and at least one other public electronic communications network, in order to obtain directly or indirectly access to all of the other public electronic communications networks.

2. Operators shall accede, under objective, transparent and non-discriminatory conditions, to requests for access, interconnection and infrastructure sharing from other operators.
3. The request for access, interconnection or infrastructure sharing may be refused only if it is technically impossible. Any refusal to interconnect shall be substantiated and notified to the requesting party and to the national regulatory authority. If the operator has to incur substantial expenditure to meet the request for access, interconnection and infrastructure sharing, the costs exclusively dedicated to meeting the request shall be borne by the applicant. The proportion of the costs to be borne by the applicant shall be determined by the national regulatory authority.
4. Regulatory authorities may decide that operators may comply with their deployment obligations by entering into active infrastructure sharing agreements, particularly in less densely populated areas.
5. Access, interconnection and infrastructure sharing agreements are subject to approval by the national regulatory authority under the conditions set out in this Directive.
6. National regulatory authorities may impose specific rules and conditions for access, interconnection and infrastructure sharing on operators responsible for carrying out certain universal service activities and who receive compensation for this in accordance with the provisions of this Directive.

Article 70 Cross-border access, interconnection and infrastructure sharing

1. Duly authorized operators in the same Member State or in another Member State shall be able to freely negotiate the technical and commercial terms of access, interconnection and infrastructure sharing, on fair and reasonable terms.
2. National regulatory authorities shall ensure the provision of adequate access, interconnection and infrastructure sharing between the parties involved to promote efficiency and foster sustainable competition for the benefit of end-users.
3. National regulatory authorities shall adopt and make publicly available the applicable procedures for obtaining access, interconnection and infrastructure sharing, with a view to promoting maximum transparency in the sector, without prejudice to the measures that the national regulatory authority may take with regard to undertakings designated as having significant market power in accordance with the provisions of this Directive.

Article 71 Passive and active infrastructure sharing obligations

1. Operators shall:

a. give priority to sharing existing infrastructure before considering the deployment of new infrastructure of their own;

b. provide for conditions that will enable its subsequent sharing by third-party operators in accordance with foreseeable needs, in the case of the deployment of new infrastructure,.

2. National Regulatory Authorities shall encourage the sharing of passive and active infrastructure and may, in the public interest and in the interest of users, in particular for reasons of digital planning, environmental protection or competition, impose obligations on operators to meet reasonable requests, including on the applicable technical and pricing conditions. However, such sharing obligations shall only apply to active radio electronic communications network infrastructure in cases where access to and sharing of passive infrastructure alone is not sufficient to achieve the desired objectives.

3. The provisions of paragraph 2 of this article shall be without prejudice to the freedom of national regulatory authorities to choose the most appropriate sharing or access obligation in accordance with the principle of proportionality, depending on the nature of the problem to be addressed.

4. National Regulatory Authorities shall encourage operators to provide access to civil engineering elements, including, but not limited to, buildings or access to buildings, building wiring, antennas, towers and other supporting constructions, poles, aerial cables, pylons, ducts, conduits, manholes, access chambers and cabinets, given the high cost of duplicating them.

5. National Regulatory Authorities shall place particular emphasis on infrastructure sharing between powerful operators and competing operators, on fair and reasonable terms, particularly in areas where access to such infrastructure is limited by natural or structural barriers.

6. Operators shall provide the National Regulatory Authority, as well as the body responsible for the database and one-stop shop referred to in Article 79 of this Directive, with all the information required by the National Regulatory Authority in accordance with the provisions of Article 26 of this Directive, in order to facilitate infrastructure sharing.

Article 72 Access to electronic communications lines enabling service to an end-user.

1. National Regulatory Authorities may require any person who deploys, owns or operates electronic communications networks serving an end-user to meet reasonable requests from third-party operators for access to those networks and associated facilities in order to provide electronic communications services to that end-user, where duplication would be economically inefficient or physically impracticable.

2. Access shall be provided under transparent and non-discriminatory conditions at a point of mutualization defined by the National Regulatory Authorities, allowing for the effective connection of third-party operators under reasonable economic, technical and accessibility conditions.

3. The relevant agreement shall be submitted for approval to the National Regulatory Authority under the conditions set out in this Directive.

4. In order to ensure consistency in deployment and uniform very high-speed broadband coverage of the areas served, national regulatory authorities may specify, in an objective, transparent, non-discriminatory and proportionate manner, the terms and conditions of access provided for in this Article.

Article 73 Co-investment

1. Operators may use co-investment for the deployment of electronic communications networks, in particular fibre optic networks serving end-users or radio stations.

2. National Regulatory Authorities may request operators to identify the areas in which they wish to invest and under which conditions, in particular through co-investment agreements, and to collect their investment commitments and make them binding.

3. The co-investment agreement shall be submitted to the national regulatory authority for approval under the conditions set out in this Directive.

4. The principles, terms and conditions applicable to co-investment shall be set by the national regulatory authority in a fair, reasonable, non-discriminatory and transparent manner. National regulatory authorities may define rules applicable to co-investment agreements, distinguishing, where appropriate, depending on whether the co-investment commitment is made before or after the deployment of the infrastructure concerned, in particular minimum investment amounts, rights obtained in return for investments, infrastructure access tariffs and the duration of co-investment agreements.

5. Operators that do not take part in the co-investment shall benefit, under transparent and non-discriminatory conditions, from effective and efficient access to the network that was the subject of the co-investment.

6. The conditions for the application of this Article may be specified, as necessary, by the National Regulatory Authority.

Article 74 National roaming

1. The National Regulatory Authority shall ensure that existing operators offer national roaming service to operators who request it, at affordable prices, wherever it is technically possible to do so.

2. National roaming must in no event replace the coverage obligations undertaken by the operator as part of their market entry in accordance with the applicable regime, except in the case of a derogation granted by the National Regulatory Authorities.

3. National Regulatory Authorities may impose obligations to provide national roaming services, in particular to satisfy the general interest and the interests of users, in particular for reasons of digital development of the territory, environmental protection, competition, development of networks and services in less densely populated areas, in order to support the launch of services by a new operator, or in the event of an imbalance in the distribution of radio frequency spectrum. In such cases, the technical and pricing conditions for national roaming may be set by the National Regulatory Authorities.

4. The national roaming contract shall be freely negotiated between operators on a bilateral basis and operators shall provide users with relevant information about national roaming tariffs. The agreement is subject to approval by the national regulatory authority under the conditions set out inthis Directive.

5. The National Regulatory Authority shall ensure that national roaming offers are fair and non-discriminatory.

6. The National Regulatory Authority shall publish specific national roaming guidelines to help establish tariff and technical conditions as well as information on national roaming contracts, in consultation with market players.

Article 75 Community roaming

National Regulatory Authorities shall :

a. ensure the widest possible compatibility between mobile systems in terms of roaming, and take it into consideration when allowing entry in the mobile market in the region;

b. study roaming prices charged in the region;

c. consult with the players concerned with a view to arriving at reasonable tariffs allowing the greatest possible number of roaming users in the region to utilize the networks under the best price and quality conditions;

d. identify operators engaged in applying prohibitive tariffs and require them to cease such practices;

e. consult with the national competition authorities in each Member State, where one exists;

f. allow prepaid users to use roaming at reasonable tariffs;

g. inform customers about roaming charges in a clear, transparent, and detailed manner;

h. draw the necessary lessons from international practice.

Article 76 Access to USSD channels

1. Operators providing radio communication services are required to grant, under objective, transparent and non-discriminatory conditions, any request for access to their USSD channel submitted by operators providing value-added services and by USSD aggregators and to related services and information with the same quality of service as they provide for their own services or those of their subsidiaries or partners.

2. A request for connection to the network may not be refused if it is justified in view of the applicant's needs and the operator's capacity to meet them. Any refusal shall be notified to the national regulatory authority and may be challenged under the conditions laid down in Article 108 of this Directive.

3. Operators providing radio communication services are required to publish annually a reference offer for access to USSD channels approved by the national regulatory authority under the conditions set out in Article 95 of this Directive.

4. Agreements concluded to enable access to USSD channels shall be submitted to the national regulatory authority under the conditions set out in this Directive.

5. National Regulatory Authorities shall manage and assign to operators providing value-added services and to USSD aggregators the numbers associated with USSD codes, in the appropriate format, under transparent, objective and non-discriminatory conditions.

6. The number associated with the USSD code shall be assigned by decision of the national regulatory authority.

7. Where necessary, National Regulatory Authorities may adopt decisions specifying the conditions for the application of this Article and the technical and tariff conditions for access to and use of operators' USSD channels, in particular with regard to interoperability.

Article 77 Access to alternative infrastructure

1. National Regulatory Authorities and other competent authorities shall encourage access to alternative infrastructures on the basis of commercial negotiations and on fair and reasonable terms, in order to promote the rapid development of a sustainable competitive market.

2. National Regulatory Authorities may impose obligations on alternative infrastructure operators to allow operators access to alternative infrastructures, in accordance with the provisions of Article 42 of this Directive.

3. Each Member State shall take the necessary measures to adjust the rules applicable to any alternative infrastructure operator to include this service in its obligations.

4. National Regulatory Authorities and other competent authorities, in consultation with stakeholders, shall develop procedures applicable to relations between operators and alternative infrastructure operators with regard to the conditions for infrastructure sharing, in particular those relating to deadlines and access to the information necessary for its implementation.

5. National Regulatory Authorities may require alternative infrastructure operators that deploy, own, or operate alternative infrastructures to publish a reference offer for access to alternative infrastructure on their website, after approval by the regulatory authority.

6. The reference offers shall be published on the website of the National Regulatory Authority under the conditions set out in Article 9 of this Directive.

7. Access to alternative infrastructures by operators shall be subject to an agreement setting out the technical and financial conditions. This agreement shall be submitted to the national regulatory authority under the conditions set out in this Directive.

8. Revenues and expenses relating to access services provided to operators by alternative infrastructure operators shall be recorded in accounts separate from those of the other activities of said operators, in accordance with the rules and level of detail defined by the National Regulatory Authorities.

9. In the event of difficulties, National Regulatory Authorities may impose technical and financial conditions for access to alternative infrastructures by adopting specific decisions or within the framework of the dispute settlement procedure provided for in Article 108 of this Directive.

10. Where the activity of the alternative infrastructure operator concerned falls within the competence of a regulatory authority in another sector, the national regulatory authority shall, before taking any decision, consult the authority concerned for a simple opinion within a maximum of fifteen (15) days after the date of its own referral.

Article 78 Communication of information relating to alternative infrastructures

1. Operators shall have access to information relating to alternative infrastructures for the purposes of applying the provisions of Article 77 and Article 79 of this Directive.

2. The list of information shall be determined by decision of the National Regulatory Authorities.

3. Operators of alternative infrastructure and public entities that hold this information shall provide it to operators within one (01) month of receiving a written request, in a proportionate, non-discriminatory, and transparent manner, and in a standard and easily accessible format. They shall also provide it to the body responsible for the database and one-stop shop referred to in Article 79 of this Directive.

4. Operators shall respect business confidentiality when using this information.

5. The communication of this information may only be restricted or refused for reasons of network security and integrity or for reasons of national defence, public security, public health, or the safety of individuals.

Article 79 Coordination of civil engineering works

1. Member States shall adopt rules and standards applicable to the carrying out of works relating to any alternative infrastructure and civil engineering works of significant importance to enable their use for the benefit of the electronic communications sector.

2. The rules shall cover, in particular, information obligations relating to the construction of such works and existing infrastructure, obligations relating to the construction of civil engineering and electronic communications facilities, and the allocation of costs associated with the implementation of these obligations.

3. The rules shall, in particular, be designed to avoid duplication of works, infrastructure or redundant investment and to ensure the safety of existing infrastructure.

4. Member States shall put in place measures to ensure the coordination of civil engineering works when deploying infrastructure, both in the electronic communications sector and beyond, to involve other sectors.

5. National Regulatory Authorities shall publish guidelines setting out the principles applicable to the technical, organizational, and financial conditions for the occupation of the infrastructure and facilities constructed in accordance with this Article, in particular where ducts or other road or utility reserves have been installed for subsequent use by electronic communications networks, as well as the technical specifications applicable to the execution of the work.

6. Member States shall develop and make available to operators a database listing all electronic communications networks and all alternative infrastructure and utility reserves for use in the deployment of electronic communications networks.

7. Member States shall set up a one-stop shop providing electronic access to this database and, where applicable, enabling the payment of certain fees, taxes, and charges and the obtaining of the authorizations, permits, and rights necessary for the construction of electronic communications networks and alternative infrastructures.

8. The National Regulatory Authority may be called upon to settle disputes relating to the application of this article under the conditions provided for in Article 108 of this Directive.

Article 80 Deployment of fiber optics

1. Member States shall determine which new building construction projects, significant refurbishment of existing buildings, or new urbanization or activity areas must provide for fiber optic cabling ab initio necessary to connect the residential or professional premises concerned to the networks of operators providing internet access services.

2. National Regulatory Authorities shall adopt rules applicable to the deployment of fiber optic electronic communications networks referred to in paragraph1 of this article.

Article 81 Carrier selection

Each Member State may define and implement carrier selection measures in order to facilitate effective competition and allow users to choose their provider freely and have access to the services of an alternative provider.

Article 82 Number portability

1. Number portability shall be guaranteed within Member States by 30 June 2030 at the latest.

2. National Regulations shall allow users to keep their phone numbers when they change operators, without prejudice to the provisions of this Directive concerning the protection of the rights of users.

Article 83 Handling the specific issue of call terminations and prohibiting differentiation between on-net and off-net calls

National Regulatory Authorities shall examine:

a. interconnection and call termination charges on mobile and fixed networks;

b. charges and tariff structures, retail and interconnection prices and the sharing of revenues between originating and terminating operators for fixed-to-fixed, fixed-to-mobile and mobile-to-mobile calls;

c. possible adjustments to the tariff structures of retail and interconnection prices.

d. National Regulatory Authorities may set or impose technical and pricing conditions on call termination services.

e. Operators are prohibited from differentiating retail tariffs or commercial conditions between calls made between two users of their network and calls made between a user of their network and a user of another operator's network. This prohibition applies to both fixed and mobile networks.

Article 84 Evolution of the regulatory framework to promote the development of the internet

Member States shall ensure that:

a. operators, through unbundling or specific offers, are able to offer "triple play" type services, broadband internet, voice and television;

b. all the equipment of operators necessary for the implementation of the local loop access can be co-located;

c. national regulatory authorities encourage activities that will promote the development of the wholesale market and hence rapid expansion of the internet in Member States;

d. a single emergency number is recognized in all Member States, regardless of the operator providing services to the end-user;

e. the recognition of USSD codes across all Member States in order to ensure the interoperability of the services provided through such codes;

f. a functional Internet exchange point is set up and interconnected with those of other Member States.

Article 85 Measures to encourage investment

1. Member States may offer operators incentives, such as a reduction in the amount of applicable taxes, fees or contributions, or an extension of the duration of individual licenses, general authorizations or frequency usage rights, in order to obtain improvements in coverage and quality of service in return.
2. National Regulatory Authorities may enter into binding agreements with operators on the operator's commitments.

Article 86 Legal regime of access, interconnection, infrastructure sharing and access to alternative infrastructure agreements

1. Access, interconnection, infrastructure sharing and access to alternative infrastructure are subject of an agreement between the two parties concerned.
2. The agreement shall specify the technical and financial conditions pertaining to access, interconnection, infrastructure sharing or access to alternative infrastructure.
3. The agreement shall be communicated to the National Regulatory Authority upon signature.
4. The National Regulatory Authority may request the parties to modify the agreement referred to in the previous paragraph, where indispensable, in order to ensure compliance with the principles set out in this Directive, in particular fair competition, non-discrimination between operators or the interoperability of services and networks,.
5. National Regulatory Authority shall send the parties concerned a duly substantiated request.
6. The parties concerned shall have a period of one (01) month, as from the date of request for modification, to amend the agreement.
7. The National Regulatory Authority may, either on its own initiative or at the request of one of the parties, set a deadline for signature of the agreement.

8. The National Regulatory Authority shall, at the expiration of the one (01) month deadline, intervene to bring the negotiations to a conclusion so that negotiations do not become a barrier to the entry of new operators.

9. Operators which so request must be allowed to consult, in the offices of the national regulatory authorities, in the manner that the latter shall decide and respecting normal business confidentiality, the agreements entered into by other operators.

10. Where the national regulatory authority considers it is urgent to take action in order to safeguard competition and protect the interests of users, it may request that access, interconnection, infrastructure sharing or access to alternative infrastructure be implemented pending entry into an agreement.

Article 87 Content of agreements

The agreements referred to in Article 86 shall specify:

1. the date of entry into force, duration and arrangements for the modification, termination and renewal of the agreement;

2. arrangements for access, interconnection, infrastructure sharing or access to alternative infrastructure, and the planning of subsequent developments, level of quality of service guaranteed by each network, coordination measures for monitoring quality of service, and fault identification and clearance;

3. a description of the services provided by each of the parties;

4. arrangements for measuring traffic and setting fees for services, billing and settlement procedures. In the absence of any reference offer or for services not appearing in the reference offer, the applicable tariffs shall appear in the annex to the agreement;

5. notification procedures and the contact details of the authorized representatives of each of the parties for each field of competence;

6. rules for compensation in the case of failure by one of the parties and in case of violation of quality of service obligations;

7. dispute settlement procedures with mention, in the case of failure of negotiations between the parties, of mandatory recourse to the national regulatory authority for dispute resolution.

Article 88 Verification by the national regulatory authority

1. The national regulatory authority shall ensure that:

a. the agreement referred to in Article 86 of this Directive complies with the applicable legal and regulatory texts, in particular those provisions relating to access, interconnection, infrastructure sharing and access to alternative infrastructure, including the rules set out in the terms of reference of operators;

b. the provisions of the agreement contain no discriminatory measures liable to advantage or disadvantage one of the parties vis-à-vis other operators. For this purpose, the agreement shall be compared with other agreements involving at least one of the parties.

2. Where the national regulatory authority has not formulated a request for modification within six (06) months as from receipt of the agreement, requests for modification shall cover only those amendments aimed at guaranteeing that each party receives no worse treatment in terms of non-discrimination as compared to those offered in more recent agreements by the other party.

Article 89 Confidentiality

1. Undertakings which obtain information from other undertakings before, during or after the process of negotiating the agreements referred to in this **Error! Reference source not found.** shall use such information only for the purposes for which it was provided and shall at all times respect the confidentiality of the information transmitted or stored.

2. The information received may not be disclosed to other parties, in particular to other departments, subsidiaries or partners for whom it could constitute a competitive advantage.

Article 90 Dominant operator on a relevant market

1. The guidelines referred to in this Directive shall determine the cases in which an operator shall be deemed to be dominant on the market for a service or group of electronic communications services.

2. When assessing whether two (02) or more operators are in a joint dominant position in a market, national regulatory authorities shall act in accordance with existing relevant Community law and take into the utmost account the guidelines on market analysis and the assessment of significant market power published by the Commission under paragraph 2 of Article 91 of this Directive.

3. An operator with significant market power on a specific market may also be designated as having significant market power on a market closely related to that specific market where the links between the two markets allow the operator concerned to leverage into the closely related

market the power held in the specific market, thereby strengthening its global power on the electronic communications markets.

4. An operator with significant market power in a specific market may be subject to obligations in a market closely related to the specific market where such obligations are necessary to ensure the effectiveness of the obligations imposed on that operator in the specific market.
5. Each national regulatory authority draws up an annual list of operators with significant market power in the electronic communications markets.
6. The list of operators with significant market power shall be communicated to the Commission and the other Member States.

Article 91 Identification of relevant markets and significant market power on a relevant market

1. National regulatory authorities shall determine the relevant markets. To this end, they shall:
    a. consult the concerned electronic communications market players and other stakeholders as the case may be on the competitive situation of the various markets identified and they conduct analyses of those markets;
    b. define the criteria for measuring dominance;
    c. collect information about each identified market so as to measure the extent of dominance;
    d. seek the advice of the competition authority, where one exists;
    e. consult with the players in the electronic communications market about obligations to be imposed on powerful operators for each relevant market.
2. The Commission shall publish the following:
    a. decisions of the individual Member States in question;
    b. guidelines for market analysis and assessment of market power;
    c. a recommendation on relevant markets for products and services in the electronic communications sector, the characteristics of which may justify the imposition of regulatory obligations dealt with in this Directive, in particular the application of ex ante regulation.
    d. the markets are defined in accordance with the principles of ECOWAS competition law.

3. The Commission shall take the measures referred to in paragraph 2 of this article after public consultation including with national regulatory authorities and taking the utmost account of the opinion of any regional regulatory coordination body of national regulatory authorities as referred to in Article 28 of this Directive.

4. Each national regulatory authority shall analyse the markets to determine whether or not they are effectively competitive, to determine the individual or collective power of operators and to draw the necessary conclusions in terms of regulatory obligations to be imposed.

5. Following these analyses, the national regulatory authority proceeds as follows:

   a. if the analysis shows that the market is competitive, it shall abolish any existing obligations;

   b. otherwise, the Authority shall identify the operator or operators with significant market power pursuant to Article 90 of this Directive, and impose appropriate specific regulatory obligations as provided for in this Directive;

   c. while determining the regulatory measures to be imposed, the national regulatory authority shall choose the least intrusive way to remedy the problems identified in the market analysis, in strict compliance with the principle of proportionality.

6. National regulatory authorities shall regularly review existing market analyses and the resulting regulatory obligations to take into account developments in the electronic communications market at national and regional level.

7. The reviews referred to in paragraph 6 of this article must be carried out no later than within three (03) years from the previous decision.

Article 92 Obligation to keep analytical accounts and separate accounts

1. National regulatory authorities may require dominant operators to set up regulatory accounting for the purpose of regulation.

2. Cost accounting must show separate accounts, in accordance with international best practice.

3. Costs relating to regulated and non-regulated activities must also be kept separate.

4. Accounting shall be by activity, “activity-based costing, ABC”.

5. The cost accounting system must be audited annually by an independent body appointed by the national regulatory authority, the costs of the audit to be borne by the dominant operator.

6. The national regulatory authority shall publish a cost nomenclature based on the standard classification referred to in paragraph 8 of this article.

7. Pending the implementation of regulatory accounting, interconnection rates must be calculated based on the following recommendations:

   a. use of a regional benchmark;

   b. use of an existing cost calculation tool;

   c. for Member States that have audited cost accounting, a top-down model based on forward-looking historical costs may be used initially for example for three (3) years before moving to a model based on long-run incremental costs (LRIC), thereby giving the powerful undertaking an incentive for greater efficiency.

   d. for setting the appropriate rate of return based on the cost of capital, it is recommended to use market data.

   e. for calculating the cost of equity, it is recommended to use the hybrid CAPM (Capital Asset Pricing Model) method, incorporating the country risk and corrective coefficient **R**.

8. The regional coordination structures referred to in Article 28 of this Directive define a nomenclature of standard costs for the main electronic communications activities carried out by operators, in collaboration with national regulatory authorities.

Article 93 Functional separation

1. National regulatory authorities may require a vertically integrated operator to entrust its wholesale access product supply activities to a functionally independent economic entity, separate from an operational point of view, in order to ensure the provision of perfectly equivalent access products, in particular in terms of delivery times, pricing and service levels, to all downstream operators, including the downstream divisions vertically integrated with the operator subject to the functional separation obligation.

2. Where national regulatory authorities intend to impose an obligation of functional separation, they shall demonstrate that the priori imposition of appropriate obligations has failed and would consistently fail to achieve the objectives of competition within a reasonable timeframe.

3. National regulatory authorities shall also demonstrate that there are significant and persistent competition problems or market failures in several of these electronic communications markets.

Article 94 Reference offer

1. The dominant operator may be required to publish and update annually a reference offer, reflecting its price list and the technical services offered.

2. The reference offer must contain at least the following services:

   a. services for the routing of switched traffic for destinations served by the network - call termination and origination;

   b. rental of transmission capacities on urban, interurban and international links of the network -leased lines;

   c. access or interconnection links;

   d. supplementary services and arrangements for providing these services, in particular the provision of premises, underground conduits, antenna supports and energy sources;

   e. description of all access points, interconnection points or infrastructure sharing points and the conditions of access thereto, for the purpose of physical or remote co-location;

   f. comprehensive description of proposed access and interconnection interfaces, including the signaling protocol and possibly the encryption methods used for the interfaces;

   g. technical and tariff conditions for the selection of portability and, where applicable, carrier selection;

   h. presentation of the methods of implementing access, interconnection or infrastructure sharing, as applicable, in particular with regard to the procedure for submitting requests, the establishment lead time, supervision, measurement of traffic, and the like.

3. For fixed networks and services, the offers also include the following services:

   a. billing services on behalf of third parties;

   b. at the request of the national regulatory authority, a remote or virtual co-location offer if physical co-location has been proven technically unfeasible;

   c. where necessary, the technical and financial conditions for access to the resources of the dominant operator, in particular those relating to local loop unbundling as provided for in Article 101 of this Directive, with a view to offering electronic communications services.

4. Reference offers must be as detailed as possible in order to facilitate and smooth negotiations and the access, interconnection or infrastructure sharing agreement.

5. Reference offers must enable operators to pay only for facilities that are necessary for the service requested.

6. The dominant operator may not refuse to accede to a request based on its reference offer.

7. The reference offer may be supplemented by offers of additional services, in particular those imposed by national regulatory authorities, including the services referred to in Article 71 to 74 and Article 76 of this Directive.

8. National regulatory authorities may require other non-dominant operators and alternative infrastructure operators to publish the reference offer where this is necessary to achieve the objectives of this Directive.

Article 95 Approval of the national regulatory authority

1. Reference offers referred to in Article 94 shall be subject to the prior approval of the national regulatory authority. The latter shall ensure compliance with applicable legal and regulatory obligations, amongst others:

   a. it shall ensure that the reference offer complies with the provisions relating to access, interconnection and infrastructure sharing, including the obligations set out in the terms of reference of operators, in particular with regard to the content of the reference offer and tariff obligations;

   b. it shall ensure that the provisions of the reference offer do not contain any discriminatory measures likely to favor or disadvantage one of the parties over other operators.

2. National regulatory authorities shall publish a clear and transparent procedure governing approval of the reference offer of dominant operators.

3. National regulatory authorities may require operators to add or modify the services included in their reference offer in order to ensure compliance with the principles set out in this Directive, in particular when such additions or modifications are justified for compliance with the principles of non-discrimination and the imposed tariff obligations, including the obligation to orient tariffs toward costs.

4. If the national regulatory authority has not formulated any modification request within six (06) months of receipt of the offer, the modification requests referred to in paragraph 3 of this article can only relate to adaptations aimed at guaranteeing one of the parties a non- discriminatory treatment with regard to more recent agreements involving the other party.

5. National regulatory authorities may impose transparency obligations in line with international best practices.

Article 96 Publication of the reference offer

1. Dominant operators are required to publish on their website and to communicate their reference offer to any operator that so requests.
2. Communication of their reference offer may be made electronically.
3. Reference offers approved by the national regulatory authority shall be made available by a link on the website of the national regulatory authority under the conditions set out in Article 10 of this Directive.

Article 97 Relevant cost orientation

1. Dominant operators may be required to comply with tariff obligations, including compliance with the principle of relevant cost orientation, that is, the costs of the network components or the management structures of the operator that are effectively involved in the provision of access, interconnection or infrastructure sharing.
2. The relevant costs shall include:
    a. general network costs, i.e. costs relating to network components used by the operator both for services to its own customers and for access, interconnection or infrastructure sharing;
    b. costs specific to access, interconnection or infrastructure sharing, i.e. costs solely incurred by these services.
3. Non-relevant costs shall include costs specific to services other than access, interconnection or infrastructure sharing.
4. Relevant costs shall take account of long-term economic efficiency, in particular the investments required for renewal and extension of the network with a view to sustained quality of service.
5. Relevant costs shall incorporate the cost of return on capital invested.

Article 98 Monitoring of interconnection tariffs

1. Operators are required to attach to the draft reference offer submitted to the national regulatory authority a detailed presentation justifying the main tariffs proposed.

2. Once the harmonized method for calculating interconnection costs has been adopted by national regulatory authorities as part of the regulatory coordination referred to in Article 28 of this Directive, operators with a dominant position shall use this method in order to provide the requested justification.
3. The national regulatory authority shall ensure that the methods and data used are valid. As required, it shall request the operator to adjust its calculations to rectify errors identified.
4. Should an operator fail to provide the justification required, the national regulatory authority may in the operator's stead evaluate the costs based on the information available to it.
5. National regulatory authorities shall ensure that the pricing of access, interconnection and infrastructure sharing, insofar as powerful operators are concerned, is cost oriented.

Article 99 Communication of information to the national regulatory authority

1. Operators are required to communicate a reference offer to the national regulatory authority at least once a year, the basic information required for checking the calculation of access, interconnection and infrastructure sharing costs.
2. The national regulatory authority shall prepare and communicate to operators a detailed list of that information.
3. The national regulatory authority shall update the list periodically, taking account, inter alia, of steps taken to harmonize the calculation methods.
4. Operators are required to allow the duly authorized staff or agents of the national regulatory authority to have access to their installations and their information system to check the validity of the information received.
5. The national regulatory authority is bound to respect the confidentiality of non-public information to which it has access within the framework of auditing costs.

Article 100 Access to infrastructure of dominant operators

1. Where there are reasonable demands in the market, national regulatory authorities, with a view to facilitating the development or strengthening of a sustainable competitive market that benefits the end-user, may impose specific obligations on powerful operators relating to access to infrastructure that are not easily replicable and whose reuse can generate significant savings.
2. While exercising their powers pursuant to paragraph 1 of this article, national regulatory authorities shall give priority to access to civil engineering including, but not limited to, buildings

or entries to buildings, building cables, including wiring, antennae, towers and other supporting constructions, poles, overhead cables, pylons, masts, ducts, conduits, inspection chambers, manholes and cabinets, given the high cost of their duplication.

3. Operators with an internet network access point shall include in their reference offer referred to in Article 94 of this directive an offer to service providers for connecting to this node to other operators.

Article 101 Local loop unbundling

1. In order to promote sustainable competition in the provision of quality services to users, the national regulatory authority may impose obligations on powerful operators relating to the unbundling of the local loop.

2. The dominant operators undertake to provide other operators with access to the local loop, together with the possibility of co-location in its premises in order to facilitate unbundling, or remote or virtual co-location, under objective, transparent and non-discriminatory conditions, and in accordance with the principle of cost-oriented pricing.

3. The reference offer containing all services related to unbundling, including the list of services offered at the request of the national regulatory authority, shall be approved by the latter.

4. The national regulatory authority shall ensure other operators' access to relevant information related to unbundling.

5. The national regulatory authority carries out “price squeeze” test to compare retail prices and unbundling prices to eliminate anti-competitive practices by dominant operators.

Article 102 Co-location

1. Dominant operators may be required to provide co-location services under specific conditions. National regulatory authorities shall ensure that a co-location offer that presents no barrier to entry of competitors is included in the reference offer referred to in Article 94, including, where applicable, in the unbundling offer referred to in Article 101 of this Directive.

2. Where physical co-location is impossible for some valid reason, such as lack of space, the powerful operators shall offer a remote or virtual co-location;

3. The national regulatory authority shall have a “map” of self-contained routing switches or other equivalent installations that are open to access and interconnection and are available for competitors’ co-location. To this end, a working group composed of the national regulatory

authority, the incumbent operator and alternative operators, shall, in a fully transparent way, examine the problems of co-location and propose different solutions in order to solve problems that may arise. The industry stakeholders may be involved in this group so as to bring its technical expertise to bear;

4. The national regulatory authority shall work in advance on problems relating to access to premises, uninterrupted power, cooling and patch cable.

5. The national regulatory authority shall prevent the creation of any entry barriers inherent to co-location and provide solutions to conflicts relating to it as rapidly as possible.

6. The national regulatory authority shall establish a decision on the minimal set of conditions that must be fulfilled in any co-location offer, following consultation with operators. These conditions may lead to the specification, in any co-location offer, of the following aspects:

   a. Information on co-location sites;

   b. Precise locations of the provider's sites suitable for co-location;

   c. Publication or notification of an updated list of sites;

   d. Indications as to the availability of alternative solutions in the event that physical space for co- location is not available;

   e. Information on what types of co-location are available, and on the availability of electric systems and cooling equipment on the sites, as well as the rules governing sublease of the co-location premises;

   f. Indications on the time required to conduct feasibility studies for any co-location request;

   g. Information on equipment characteristics and any restrictions on equipment that can be accepted for co-location;

   h. Measures to be taken by operators offering co-location to ensure the security of their premises and to identify and resolve problems;

   i. Conditions under which the personnel of competing operators may enter the premises;

   j. Conditions under which competing operators and the regulator may inspect a site where physical co-location is impossible, or a site where co-location has been refused on the grounds of lack of capacity.

Article 103 Regional cooperation

The technical rules adopted by national regulatory authorities pursuant to this Directive shall be subject to the coordination measures referred to in Article 28 of this Directive with a view to ensuring consistency and regional harmonization of the rules adopted in all Member States.

Chapter XIX Access to public and private land

Article 104 Rights of way

1. This Article applies to rights relating to the installation of facilities on, over or under public or private property by an operator.
2. Operators shall, against fair and prior compensation, benefit from rights of way over public property and from easements over private property as necessary, under the conditions set out in paragraph 3 of this article.
3. When a competent authority considers an application for the granting of rights, that authority shall comply with the following requirements:
   a. act on the basis of simple, efficient, transparent and publicly available procedures, applied without discrimination and without delay, and in any event makes its decision within two (02) months of the application, except in the case of expropriation;
   b. follow the principles of transparency and non-discrimination, when it attaches conditions to any such rights;
   c. implement streamlined and flexible procedures to facilitate rapid deployment of networks and services to promote innovation and economic growth.
4. Member States ensure that, where public authorities retain ownership or control of operator, there shall be an effective structural separation of the function responsible for granting the rights referred to in paragraph 1 of this article from the activities associated with ownership or control.

Article 105 Fees for rights of way or occupation

1. Member States may allow the competent authorities to impose fees for the rights referred to in Article 104 of this Directive, to ensure the optimal use of available resources,
2. The fees shall be justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and shall take into account the general objectives of this Directive. Member States may cap the amount of fees that may be applied.

Article 106 Network element sharing and co-location

1. The competent authorities may, to protect the environment, public health or safety or to achieve urban planning and land use objectives, require an operator to provide co-location, physical, remote or virtual and share network elements and associated facilities on the following bases:

   a. this operator has exercised the right under national law to install facilities on or under public or private property; or

   b. this operator has benefited from a procedure of expropriation or use of property.

2. The co-location or sharing of network elements and facilities installed and sharing of property shall be subject to the following requirements:

   a. they may be imposed only after an appropriate period of public consultation, during which all interested parties shall be given an opportunity to express their opinion; and

   b. they may only be imposed in the specific areas where such sharing is considered to be necessary to achieve the objectives set out in paragraph 1 of this article.

3. The competent authorities may impose the following measures:

   a. the sharing of such facilities or properties, including land, buildings, access to buildings, building cabling, antennae, towers and other supporting structures, poles, overhead cables, ducts, conduits, manholes, inspection chambers and cabinets; or

   b. measures facilitating the coordination of public works.

4. Where appropriate, a Member State may designate a national regulatory or other competent authority to perform one or more of the following tasks:

   a. to coordinate the procedure provided for in this Article;

   b. to act as a single information point;

   c. to establish rules for apportioning the costs relating to the sharing of resources or property and the coordination of civil works coordination.

5. Measures taken by a competent authority in accordance with this Article shall be objective, transparent, non-discriminatory, and proportionate. Where relevant, such measures shall be implemented in coordination with national regulatory authorities.

Chapter XX Settlement of disputes and sanctions

Article 107 Obligations of national regulatory authorities

1. National regulatory authorities shall publish a referral procedure for dispute resolution and sanctions complying with that described in Article 108 and Article 111 of this Directive :
   a. the dispute resolution procedure must allow market players to bring any disputes referred to in Article 108 or Article 109 of this Directive before the national regulatory authority in accordance with a clear and transparent procedure;
   b. the sanctioning procedure must allow any operator and any other party having a legitimate interest to act to refer the matter to the national regulatory authority;
2. National regulatory authorities may provide for an optional or mandatory conciliation mechanism to settle disputes;
3. National regulatory authorities shall ensure that the committee responsible for taking decisions is impartial, and comprises persons recognized for their competence and appointed intuitu personae, that the principles of adversarial proceedings and the rights of defence are respected, that the principle of separation between investigative and decision-making functions is implemented, and that decisions are adopted in a proportionate manner and in accordance with transparent, objective and non-discriminatory procedures;
4. National regulatory authorities shall issue duly reasoned decisions and publish them on their website in accordance with the conditions set out in Article 9 of this Directive, subject to the restrictions provided for by national law, in particular with regard to business secrecy.
5. National regulatory authorities shall set a maximum timeframe for the settlement of disputes or adopting a decision on sanctions;
6. National regulatory authorities shall provide for the possibility for the authority initiating a referral action itself, and the possibility of issuing an injunction against an operator or an alternative infrastructure operator in the event of serious problems requiring urgent solution;
7. National regulatory authorities shall refer the matter to the competent authorities of other sectors for a simple opinion, within a maximum of fifteen (15) days after the date of referral, when the activity of the alternative infrastructure operator concerned by the dispute resolution or sanction procedure falls within the remit of other sectors;

8. National regulatory authorities shall cooperate with one another as widely as possible and establish a group for exchanging experience via the internet and a base of past disputes and their solutions.

Article 108 Procedure for the settlement of national disputes

1. The following parties may refer disputes to the national regulatory authorities for resolution:
   a. any operator;
   b. any alternative infrastructure operator, for matters relating to access to or use of alternative infrastructure by operators;
   c. where Member States so provide in accordance with paragraph 2 of this article, any person responsible for granting access to public land or private property, for matters relating to access to public land or private property.
2. The national regulatory authority may take up matters on its own initiative and may be referred to in the following cases:
   a. breach of legal or regulatory provisions relating to electronic communications or contractual clauses, including those provided for in individual licenses, general authorizations or associated specifications;
   b. failure of negotiations within two (02) months of the first request or refusal of access, interconnection, infrastructure sharing or access to alternative infrastructure, not in accordance with the conditions set out in the applicable texts;
   c. any disagreement relating to the application or interpretation of the agreements related to the matters referred to in (b) above or of reference offers;
   d. where Member States so provide, the conditions for granting or refusing to grant rights of occupation on public land or on private property for the purpose of establishing and/or operating an electronic communications network;
   e. the exercise of special or exclusive rights by an operator in the sector.
3. The national regulatory authority shall render a decision within a period of three (03) months from the date of receipt of the referral. This period may be extended to six (06) months when additional investigations and expert opinions are necessary.

4. The decision of the national regulatory authority shall be substantiated, and may specify the equitable conditions, both technical and financial, under which the interconnection, the access or the infrastructure sharing is to be effected.

5. The national regulatory authority may order a party to comply with specific measures to ensure compliance with the applicable obligations. Where appropriate, such orders may be accompanied by penalty payments.

6. In the event of a serious and blatant breach of the rules governing the electronic communications sector, the national regulatory authority may, after requesting the parties to submit their remarks, order appropriate provisional measures to ensure the continued functioning of networks and services.

7. When a decision to settle a dispute is taken, it shall be widely disseminated within the Member States. This dissemination shall be ensured by publishing the decision in the database referred to in Article 28 of this Directive.

Article 109 Settlement of cross-border disputes

1. The procedure referred to below shall be applicable in the event of a dispute between parties authorized to carry out electronic communications activities based in two Member States.

2. The procedure shall apply even if both parties are authorized to carry out electronic communications activities in one of these two Member States, provided that the networks or services concerned by the dispute are transnational and affect the activities of one of the two operators in the other Member State.

3. Any party may refer the dispute to either of the national regulatory authorities concerned, and the procedure described in Article 108 of this Directive or the national level applies.

4. The national regulatory authority to which the matter has been referred shall inform the national regulatory authority of the other Member State within seven (07) days.

5. The national regulatory authorities of both Member States shall coordinate their efforts to resolve the dispute in a manner consistent with the guiding regulatory principles set out in Article 7 of this Directive;

6. In the absence of a reaction from either regulatory authority within one (1) month, or of coordination between the national regulatory authorities and, and to reach a solution, each party may refer the matter to the Commission, and address a copy of this referral to each of the parties and to the national regulatory authorities concerned.

7. The Commission shall take all appropriate measures to enable the competent national authorities to settle the dispute within a reasonable time frame.

8. The decisions adopted by each of the national regulatory authorities shall be binding, unless they are contradictory, in which case the Commission shall take all appropriate measures to enable the contradictions to be resolved.

Article 110 Settlement of disputes with end-users

1. Each Member State shall ensure that users have an effective means of redress in the event of a dispute with their operator, through national regulatory authorities or any other competent body or court.

2. Each national regulatory authority shall ensure that operators establish and implement mechanisms for the effective handling of disputes with end-users.

Article 111 Control, supervision, and sanction

1. National regulatory authorities shall have the necessary powers to monitor and supervise the activities of operators in the sector, in particular:

    a. monitoring authorizations and essential requirements, as well as supervising the conditions of use of equipment;

    b. monitoring the conditions of use of scarce resources;

    c. monitoring compliance with the obligations incumbent on operators and alternative infrastructure operators under the regime to which they are subject, in particular those of operators designated as having significant market power.

2. In the event of non-compliance by operators or alternative infrastructure operators with the obligations applicable to them under this Directive and the national texts applicable to the electronic communications sector, including individual licenses, general authorizations, and associated specifications, the following penalties may be applied:

    a. financial penalty;

    b. restriction of the scope or duration of the individual license or general authorization;

    c. an injunction to comply with specific measures to ensure compliance with the applicable obligations, including the modification of unfair terms in agreements governing access, interconnection, infrastructure sharing, and access to alternative infrastructures. Where appropriate, such injunctions may be accompanied by periodic penalty payments;

d. suspension of the individual license or general authorization or of the right to engage in electronic communications activities;

e. withdrawal of the individual license or general authorization or prohibition from exercising electronic communications activities for a specified period.

3. Member States may provide that the national regulatory authority has the power to automatically include on the list of notified operators any person whose activities justify their being subject to the notification regime.

4. To determine whether a person should be automatically included in the list of notified operators, the national regulatory authority may require that person to provide any relevant information on its activities, networks, and services.

5. If the person concerned fails to respond, the national regulatory authority may refer the matter to, or request any authorized authority to refer the matter to, any competent authority, including judicial authorities, for the purpose of obtaining such information, including abroad.

6. Each Member State shall determine the maximum period within which the national regulatory authority shall give its decision after notifying the operator concerned of the complaints.

7. The national regulatory authority shall give the operator or alternative infrastructure operator an opportunity to express its views within a reasonable timeframe on the allegations against it and, except in the case of repeated violations on its part, it shall be given the opportunity, within a certain period of time, to remedy the violation.

8. Where the violation is not remedied, the national regulatory authority may confirm its decision.

9. The decision shall be communicated to the operator or alternative infrastructure operator within one (01) week from the date of the decision.

10. In the event of a serious and flagrant breach of the rules governing the electronic communications sector, the national regulatory authority may, after hearing the operator or alternative infrastructure operator, order appropriate interim measures to ensure the continuity of the operation of networks and services.

11. Each Member State may decide to confer on national regulatory authorities powers to impose penalties for anti-competitive practices.

12. When a sanction is imposed, it shall be widely disseminated within the Member States. This dissemination shall be ensured by publishing the decision in the database referred to in Article 28 of this Directive.

Article 112 Right of appeal

1. Each Member State shall ensure that mechanisms exist to allow any person having a legitimate interest to act to appeal against any decision of the national regulatory authority, including those referred to in this Chapter, before a judicial body independent of the parties involved, the government, and the national regulatory authority concerned.

2. The appeal body shall be able to review not only the procedure by which the decision of the national regulatory authority was taken, but also the facts of the case.

3. Pending the outcome of an appeal, the decision of the national regulatory authority shall stand unless a stay of execution is obtained.

4. Where the appeal body is not judicial in nature, it must always give written reasons for its decisions, which must be reviewed as a last resort by a national court.

Chapter XXI Access to radio frequency resources

Article 113 Radio frequency spectrum management

Each Member State shall ensure the coordinated management of the radio frequency spectrum , based on the following objectives:

1. Economic efficiency:

   a. ensure that the allocation of frequencies to users, mindful of the uses, results in an increase in the value provided by the resource on the market;

   b. ensure that there is a swift and flexible response to changing markets and technologies, with new services being accommodated as they become technically and commercially viable;

   c. minimize transaction costs, barriers to entry and any other constraints on efficient economic activity; and

   d. prohibit the hoarding of radio spectrum, i.e. the granting of usage rights that are not exercised by operators.

2. Technical efficiency:

    a. ensure efficient use of the radio spectrum, in compliance with technical limitations defined taking into account interference considerations; and

    b. promote the development and introduction of new techniques that enable the optimal use of spectrum, where the cost of such technologies is justified by the value of the savings achieved.

3. General policy:

    a. ensure that management complies with public policy;

    b. ensure the availability of radio frequencies for the needs of national defense services and other public services; and

    c. ensure that any change to the use of frequencies in a Member State always complies with international and regional obligations of Member States.

Article 114 Definition of a common framework for spectrum management

1. Member States shall jointly define a common framework for economically efficient spectrum management with a view to achieving the objectives set out in this Directive.

2. Member States shall ensure that national regulatory authorities implement harmonized spectrum allocations in accordance with the ITU Radiocommunication Conference process and promote innovative uses of spectrum to support the national interest of each country.

Article 115 Principles of efficient spectrum management

Member States shall ensure that all users, regardless of category, are encouraged to make optimum use of the spectrum they occupy and are required to return any frequencies they do not use within eighteen (18) months.

Article 116 Compliance with global and regional regulatory frameworks

Member States shall manage spectrum in a manner that promotes flexibility while remaining consistent with ITU international allocations.

Article 117 Authorization for spectrum use in the electronic communications sector

1. Each Member State shall comply with the provisions of this article to facilitate the use of radio spectrum in the electronic communications sector.

2. Each Member State shall establish specific rules and procedures for the allocation of radio frequencies for experimental or innovative uses, where appropriate on a temporary basis.

3. The rules applicable to the use of radio frequencies may be adapted under the conditions set out in Article 56 of this Directive.

4. Each Member State shall ensure that the use of radio spectrum in the electronic communications sector, including its shared use by several operators, requires an individual authorization only where this is necessary to maximize the efficiency of that use or where demand exceeds supply.

5. Authorizations for the use of frequencies shall include the obligations applicable to operators, including commitments made by them to obtain such authorizations.

6. Each Member State shall determine the conditions under which the frequencies may be transferred and the conditions under which operators may share frequency resources that are subject to an individual authorization for use.

7. In all other cases, each Member State may adopt, in the electronic communications sector, a system of generic authorization for use in certain frequency bands, subject to compliance with certain essential requirements, which may vary depending on the type of frequencies. These essential requirements are the subject of the cooperation work referred to in Article 28 of this Directive.

Article 118 Determination of spectrum resource fees used in the electronic communications sector

1. Each Member State may allow the competent authority to subject the rights to use the radio spectrum in the electronic communications sector to an allocation fee or a usage fee

2. An allocation or usage fee shall be justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and shall take utmost account of the general objectives of this Directive.

3. Each Member State shall ensure that applicable fees are set at a level that ensures efficient assignment and use of radio spectrum.

4. Each Member State shall adopt a frequency pricing system in cases where demand is greater than supply and when no auction procedure is provided for.

5. Determination of the price calculation method, which is generally based on spectrum opportunity costs, may also take account of any objectives defined by the State.

6. The criteria for determining fees may take into account the frequency band concerned, the bandwidth assigned, the type of service envisaged, the obligations relating to the geographical scope and coverage of the envisaged services, as well as other imposed obligations, for example in relation to digital inclusion or rural connectivity.

7. Member States may also take into consideration the level of fees applied in comparable countries, where such fees have been determined based on justified, transparent, non-discriminatory and proportionate criteria.

8. Each Member State shall ensure that in the majority of frequency bands where demand is greater than supply, they follow the principle of paying a positive price for spectrum access if there are other potential uses for a given block of spectrum, that is where the opportunity cost is greater than zero.

9. Where demand does not exceed supply, the price may be equal to the management cost or to a value consistent with government public policy.

Article 119 Auctions in the electronic communications sector

1. Member States shall make preferential use of auctions as a means for assigning primary rights of use of frequencies in the electronic communications sector to various applicants, to ensure transparency, objectivity and impartiality in the procedure of allocation, where demand is greater than supply.

2. Frequency allocation procedures following an auction procedure may be organized concurrently with procedures applicable to the allocation of individual licenses or the selection of an operator responsible for performing certain universal service activities, or any other competitive procedures in other sectors, where applicable.

Article 120 Restrictions on spectrum usage conditions in the electronic communications sector

1. Each Member State shall ensure that spectrum management bodies make every effort to limit the conditions for granting authorizations for the use of frequencies to the minimum necessary to ensure efficient spectrum use.

2. Individual licenses, general authorizations or authorizations for the use of frequencies already in force must be amended to remove any restrictions not needed for reasons of international coordination or interference management

3. The new individual authorizations for the use of frequencies must be accompanied by a minimum number of restrictions.

4. Frequencies shall be assigned with the aim of allowing their most technologically neutral use possible, subject to compliance with the national frequency allocation plan, in accordance with the provisions of Article 13 of this Directive.

5. Each Member State shall lay down rules and procedures enabling the holder of a frequency authorization to use their frequency bands for technologies or services other than those initially envisaged.

6. Each Member State shall inform the operators of the new conditions for frequency use resulting from their review.

7. Rules and procedures shall enable operators to submit to the national regulatory authority, a request to operate the frequencies for which they hold a usage authorization with different technologies or services.

8. The national regulatory authority shall have a period of three (03) months to respond to the request.

9. The decision of the national regulatory authority shall be duly reasoned.

Article 121 Spectrum reorganization and Technological Neutrality

1. Where the requirements of optimal radio frequency spectrum planning necessitate the reorganization of the frequencies assigned to an operator, the national regulatory authority shall, through public consultation, define a transition plan that ensures the continuity of services.

2. Operators may submit to the national regulatory authority a request for spectrum reorganization in order to obtain additional frequencies in bands they are not authorized to use.

3. The national regulatory authority shall have a period of three (03) months to respond to such a request.

4. The decision of the national regulatory authority shall be duly reasoned.

5. Member States shall determine in a fair, objective, transparent and non-discriminatory manner the costs of implementing the reorganization of the radio frequency spectrum, as well as, where applicable, the compensations to which the concerned operators may be entitled.

Article 122 Coordination of spectrum management across civil and government uses

1. Each Member State shall establish a framework, which permits the efficient coordination of all spectrum use, at the national, regional and international levels.
2. Each Member State shall promote the grouping of the various regulatory bodies responsible for spectrum use, in particular, in the field of broadcasting and electronic communications.
3. Where the government's requirements for a particular frequency band are non-existent or negligible, such frequencies may be permanently allocated to civil uses, following definitive renunciation by the government.

Article 123 Role of national regulatory authorities

1. The management of the radio frequency spectrum should, as far as possible, be entirely the responsibility of a single authority in order to facilitate a coherent management system based on the principle of technological neutrality.
2. Member States shall set up mechanisms for constructive interaction between these authorities and the national regulatory authorities in order to ensure efficient and coherent management of the radio spectrum, where due to the imperatives linked to the specific needs of the country, these tasks are entrusted entirely or partially to other competent authorities.

Article 124 Radio Frequency Spectrum Coordination Committee

1. Member States that manage the radio frequency spectrum according to the multi-agency model referred to in paragraph 2 of Article 123, shall establish an inter-departmental committee to facilitate efficient spectrum coordination.
2. The Committee shall operate according to the following rules:
   a. the Committee shall, as a first step, define a general policy program and guidelines for regulation;
   b. the Committee shall comprise national regulatory authority representatives responsible for spectrum management, as well as key non-governmental stakeholders;
   c. Official minutes shall be kept of the meetings of the Committee and be made public, except where justified on grounds of national security;
3. Member States that establish such a committee shall ensure that it also includes members from the private sector and civil society.

4. Member States shall ensure that the committee is obliged to publish an annual report, to be communicated to the government and published on the Committee's internet website.
5. The Committee shall also publish all work carried out and any other relevant information, subject to a confidentiality clause, on a dedicated internet website.
6. The internet website of each member participating in the committee shall include a link to the committee's internet website.
7. Each Member State shall appoint two members of each national committee to sit on a regional committee comprising members from the National Committees.
8. The regional Committee shall meet once (01) a year, in one of the Member States, to address matters of international scope in the context of spectrum management and matters of mutual interest.

Article 125 Regional Spectrum Management Coordinating Committee

1. A special committee shall be established at the regional level, composed of the bodies responsible for spectrum management in each Member State, which shall be responsible for defining a common approach to wireless access systems and any other relevant issues relating to radio spectrum management.
2. The Committee shall examine the frequency assignments and allocations of Member States and recommend a harmonized policy for promoting the provision of broadband wireless access services across the region.
3. The Committee shall provide the Commission and each Member State with a report on its activities and studies carried out before 31 December of each year.
4. A review of the frequency assignments and allocations of the countries of the ECOWAS region must take place every five (05) years.

Article 126 Common method for documenting and control of spectrum use

1. Each Member State shall establish, possibly under the auspices of ECOWAS, a common methodology for documenting and monitoring of the spectrum, sharing as necessary the costs of developing a software tool for that purpose.
2. Member States shall promote the establishment, under the auspices of ECOWAS, of a forum bringing together those responsible for spectrum management for the following purposes:

a. exchange of information and experiences to promote the harmonization of spectrum management rules;

b. defining common positions to be presented to regional, then global bodies;

c. sharing existing expertise.

Article 127 Common framework for a public database and establishment of a national allocation table for interference management

Member States shall:

a. establish a common framework for the creation of a public database of technical and geographical information about radiocommunication systems;

b. provide, in the near future, the elements necessary to define a common framework for the establishment of a national frequency allocation table.

Article 128 Promotion of deployment of 5G and emerging radiocommunication technologies

1. Each Member State shall utilise globally harmonized spectrum to maximize the efficient use of the available spectrum, taking utmost account of the relevant decisions of ITU World Radiocommunication Conferences.

2. Each Member State shall ensure that terrestrial systems capable of providing wireless broadband services are authorized to use low, high and very high frequencies, subject to compliance with the regulations in force governing spectrum use, in order to be able to meet the rather diversified requirements of the different usage scenarios envisaged for 5G and other emerging radiocommunication technologies.

3. Each Member State shall also ensure that their decisions support the momentum of convergence between television broadcasting networks, 5G systems and other emerging radiocommunication technologies.

4. Each Member State may, however, extend the deadline laid down in paragraph **Error! Reference source not found.** of this Article, where justified, inter alia, under the following circumstances:

    a. absence of market demand for the use of identified frequency bands as established by the finding of a public consultation;

    b. unresolved cross-border coordination issues resulting in harmful interference between Member States;

c. restriction on the use of identified frequency bands based on the general interest objective;

d. unresolved cross-border coordination issues resulting in harmful interference with third countries;

e. imperatives of safeguarding national security and defence;

f. cases of force majeure.

5. Each Member State shall promote the harmonised introduction of other emerging terrestrial and non-terrestrial radiocommunication technologies.

Chapter XXII Access to numbering resources

Article 129 Objective

1. This Directive lays down the rules of a harmonized approach by Member States for the use and allocation of numbering resources so as to guarantee free competition with the opening to new operators;

2. The rules concern, in particular, the following aspects:

   a. the establishment and management of a numbering plan;

   b. the implementation of a procedure for requesting the allocation and reservation of numbers and for withdrawing them;

   c. planning for direct allocation of numbers for end-users;

   d. the determination of charges for numbering, as well as roaming, portability, migration, rates, competition and harmonization.

Article 130 General principles of numbering

1. The establishment of the national numbering plan, the control of the allocation of all national numbering resources as well as the development of the national regulatory authority.

2. National regulatory authorities may decide to delegate administrative responsibility for the management of the numbering plan.

3. The National regulatory authority shall ensure that the rules for the allocation, reservation and use of numbers are complied with.

4. An annual audit of the body having administrative responsibility for the plan shall be carried out by the national regulatory authority.

5. Adequate numbers and number series shall be reserved in numbering plans for all publicly available electronic communications services.

6. The principal elements defined in paragraph 5 are public, available from the national regulatory authorities upon request, and published in an official and transparent manner.

7. In the interests of national security, numbering capacity intended for security and defence purposes is not made public.

8. The procedure for allocating numbering capacity shall be open, transparent, non-discriminatory, in accordance with objective criteria and the principles of reservation, allocation and possible withdrawal.

9. The right to use numbering resources is materialized by an authorization to use numbers. Authorizations to use numbers shall specify the obligations applicable to operators, including the commitments made by them to obtain such authorizations.

10. National regulatory authorities shall ensure the proper use of the prefixes, numbers, number blocks and codes that are allocated. These shall not be protected by industrial or intellectual property rights, nor shall they be transferred without the agreement of the national regulatory authority. They must not be hoarded, that is, the granting of rights of use that are not exercised by operators.

11. National regulatory authorities shall ensure that the management of the numbering plan allows for the publication of directories and access to directory inquiry services, while respecting the personal data and privacy of end-users.

12. National regulatory authorities shall ensure that numbering plans and the associated procedures are implemented in a way that protects equality of treatment to all operators. They shall ensure that an operator to whom a number range is assigned does not engage in any discrimination against other operators as regards the sequences of numbers used to provide access to their services.

13. Subject to the requirements listed below, national regulatory authorities or other competent authorities may also grant rights of use for numbering resources from the national numbering plans to undertakings other than operators for the provision of specific services:

   a. sufficient numbering resources are made available to meet current and foreseeable future demand;
   b. those undertakings shall demonstrate their ability to manage the numbering resources and to comply with any relevant requirements set out pursuant to Article 134 of this Directive.

14. In the event of a demonstrated risk of exhaustion of these resources, national regulatory or other competent authorities may suspend the further granting of rights of use for numbering resources to those undertakings referred to in paragraph 12 of this article.

15. Without prejudice to articles 186 to 193 of this Directive, national regulatory authorities shall promote remote activation, where technically feasible, in order to facilitate the change of operators by end-users, in particular providers and end-users of machine-to-machine services.

Article 131 Essential principles for managing the numbering plan

1. National regulatory authorities shall ensure that the numbering plan complies with the following essential points:
   a. the plan must be long-term and balanced;
   b. the plan must take into account the requirements of short and special numbers reserved for emergency services, value-added services such as information services, operator services, user assistance services, and ensure that prefixes and numbers or number blocks are allocated to operators, under objective, transparent and non-discriminatory conditions;
   c. the establishment of the plan must take into account the opinions of operators, end-users and the national regulatory authority;
   d. the plan must include a coherent, clear and published strategy;
   e. the plan should take into account applicable international standards, particularly regarding access to international service;
   f. the plan must not be anti-competitive for operators;
   g. the plan should not be anti-competitive for users;
   h. the plan must be suitable for proper management;
   i. the plan must be scalable and provide sufficient margins to meet any unexpected needs.

2. National regulatory authorities shall ensure compliance with the following requirements concerning numbers and number blocks:

   a. numbers and blocks of numbers may not become the property of the applicants, or of end-users;

   b. they are allocated following reservation by the national regulatory authority for a limited duration of time, corresponding to the operational lifetime of the service or application.

   c. when an applicant transfers the operation of its electronic communications service, for which numbering capacity has been allocated, that capacity is allocated to a transferee, on condition that the latter is authorized to operate the service and that a declaration to this effect has previously been submitted to the national regulatory authority.

3. All information about the reservation, allocation and withdrawal of numbering capacity shall be public, and shall be provided by the national regulatory authority on demand.

Article 132 General methods of managing the numbering plan

National regulatory authorities shall put in place the following methods to harmonize management of numbering plans at regional level:

1. use of common databases for the allocation of numbers;
2. adoption of a common emergency code for the sub-region alongside the existing emergency codes;
3. promotion of appropriate number portability;
4. assigning lower initial digits to fixed lines, and reserving the higher ones to mobile;
5. allocation of number blocks against a fee;
6. planning for direct allocation to end-users;
7. number assignment using geographical, network or service codes;
8. allowing for migration to a closed plan.

Article 133 Cooperation and harmonization of numbering resources

1. Each Member State shall support the harmonization of numbering resources within ECOWAS wherever necessary to foster the development of services.

2. Each Member State shall ensure that its national numbering plans make it possible, subject to technical and economic feasibility, for users located in other Member States to have access to non-geographical numbers that are accessible through out their national territory.

3. the Member States shall, where appropriate, in order to ensure overall interoperability of services, coordinate their positions within the international organizations and bodies, in which decisions concerning issues related to numbering, naming and addressing of communications networks and services are taken.

Article 134 Reservation and allocation mechanisms

1. Each Member State shall establish and publish on the website of the national regulatory authority, under the conditions set out in Article 9 of this Directive, open, transparent and non-discriminatory rules and procedures for the reservation and allocation of numbering resources.

2. Number allocations shall be technology-neutral, non-discriminatory and compatible with number portability.

3. Each Member State shall ensure that the rules and procedures for reservation and allocation are harmonized in accordance with the conditions laid down in Article 28 of this Directive.

Article 135 Reservation fees and allocation fees

1. The competent authorities shall determine the cost of processing fees to be charged for the reservation of numbering capacity, depending on the type of numbering requested, in a transparent and non-discriminatory manner, according to objective and published criteria.

2. The competent authorities shall determine the cost of processing fees for the allocation of numbering capacity, depending on the type of numbering requested, in a transparent and non-discriminatory manner, according to objective and published criteria.

3. Where the numbering capacity is allocated in portions, the annual fee shall be reduced proportionally.

4. The competent authorities shall set the deadline for the payment of fees referred to in paragraph 2 of this article in the year for which they are due.

5. For the year in which the numbering capacity is allocated, fees shall be reduced for the same proportion as the number of complete months that remain in the calendar year on the date the allocation is made, and shall be paid within thirty (30) days of that date.

6. The competent authorities shall fix the penalty charged for overdue fees. The level of penalty is to be calculated on the basis of the number of days payment is overdue.

7. The amount of the fees mentioned in this Directive shall be adjusted annually.

8. The withdrawal of numbering capacity that was previously reserved or allocated does not entail any entitlement to any indemnity or reimbursement of some or all of the fees mentioned in this Directive.

Article 136 Delegation to a third-party provider

1. The holder of a numbering resource may entrust an outside provider with the distribution of this resource to the end customer(s). In such cases, a distinction is made between the provider holding the allocation for the resource, Delegating provider, and the delegated outside provider who distributes the resource to the end customers, Delegated provider.

2. A third-party provider may only be involved in this way if the following conditions are met:

    a. the Delegated provider must have declared to the national regulatory authority the activity that is necessary for operation of the resource in question or has an individual license or general authorization;

    b. the Delegated provider must have notified the national regulatory authority by air registered mail, about the resource or resources to be put at the disposition of the Delegated provider, along with a description of the service that is to be provided via said resource or resources.

    c. the notification shall have been done before any legal provisions on delegation come into force between the provision between the Delegating provider and the Delegated provider.

3. In the case of resources allocated by block, delegation may involve the entire resource or an entire portion thereof.

4. The Delegating provider remains responsible for compliance with all obligations associated with the allocation of the resource.

5. The providers involved in the delegation must also guarantee portability for the end-users.

Article 137 Transfer

1. Transfer of an allocated resource is subject to the prior authorisation of the national regulatory authority.

2. The request for authorisation to transfer an allocated resource must be submitted to the national regulatory authority by the final beneficiary of allocation, accompanied by the signed concurrence of the original provider holding the allocation.

3. The decision to allocate a resource to a new holder shall be taken by the national regulatory authority within a period not exceeding two (02) months.

Article 138 Revocation and withdrawal of an allocation decision

1. An allocation decision may be revoked or withdrawn in the cases stipulated in this article.

2. Where revocation takes place at the request of the holder, the latter must inform the national regulatory authority by air registered letter, accompanied by a copy of the request for cancellation of the resource in the networks of other operators, of the fact that the service will be discontinued, and the holder wishes to free the corresponding numbering resource.

3. The resource shall stop being subject to fees as of the day this letter is received.

4. The revocation of the decision to allocate the resource in question shall be notified to the holder.

5. If resources are not used in a matter that conforms to the conditions of their allocation and utilization, or if a significant part of the resource remains unused for a period determined by the national regulatory authority, the latter may decide to withdraw the numbers.

6. The national regulatory authority shall hear the operator concerned and, where appropriate, allow it to remedy the situation.

7. A resource for which revocation or withdrawal has been pronounced becomes free again, but it may not be reallocated until at least six (06) months have expired, except if it is requested by the former allocation holder.

8. If the resource has been withdrawn for reason of unsatisfactory utilization, pursuant to paragraph 3 above, the resource may not be allocated again until at least six (06) months have expired, regardless of the applicant.

Article 139 Extraterritorial use of national numbers within the Community

1. Member States shall ensure that national regulatory or other competent authorities make available a range of non-geographic numbers which may be used for the provision of electronic communications services other than interpersonal communications services, throughout the territory of the Community.

2. National regulatory or other competent authorities shall ensure that the conditions set out pursuant to Article 134, on the basis of which the reservation of numbering resources used for the provision of services outside the Member State of the country code is assessed, and their enforcement, are as stringent as the conditions and enforcement applicable to services provided within the Member State of the country code, in accordance with this Directive.

3. National regulatory or other competent authorities shall also ensure in accordance with paragraphs 4, 5 and 6 of this article that operators using numbering resources of their country code in other Member States comply with user and consumer protection and other national rules related to the use of numbering resources applicable in those Member States where the numbering resources are used. This obligation is without prejudice to the enforcement powers of the competent authorities of those Member States.

4. Where the rights of use for numbering resources include their extraterritorial use within ECOWAS in accordance with paragraphs 1 to 3 of this article, national regulatory or other competent authorities shall attach to those rights of use specific conditions in order to ensure compliance with all the relevant national user and consumer protection rules and national law related to the use of numbering resources applicable in the Member States where the numbering resources are used.

5. In the event of a breach by an undertaking of relevant user and consumer protection rules or national laws related to the use of numbering resources of that Member State, the following mechanism shall apply:

    a. the national regulatory or other competent authority of a Member State where the numbering resources are used shall address a request for intervention to national regulatory or other competent authorities of the Member State where the rights of use for the numbering resources have been granted, demonstrating the breach;

    b. in accordance with this Directive, national regulatory or other competent authorities of the Member State where the rights of use for the numbering resources have been granted and to which the request has been sent shall enforce the conditions attached as referred to in paragraph 4 of this article. In serious cases, this intervention may result in withdrawal of rights of extraterritorial use for the numbering resources granted to the undertaking concerned.

6. National regulatory authorities shall facilitate and coordinate the exchange of information and work among them within the framework of sub-regional regulatory coordination as referred to in Article 28 of this Directive.

7. Where a national regulatory or other competent authority grants rights of use for numbering resources to undertakings other than electronic communications operators Article 130 of this Directive:

    a. this Article shall also apply;

    b. the provisions of Article 130 to Article 134 of this Directive shall apply to the specific services for the provision of which the rights of use have been granted.

Chapter XXIII Pricing of electronic communications services

Article 140 Objective

1. This Directive establishes a common framework for Member States for determining the pricing principles for public electronic communications services and for the exercise of control by the national regulatory authorities.

2. The Common Framework constitutes a minimum common reference base, which may be supplemented and reinforced by national regulatory provisions and by the prescriptions of national regulatory authorities.

Article 141 General pricing principles

1. Operators shall establish their prices in compliance with the legislation and regulations of trade, in particular Community competition law.

2. Prices are set freely by operators, subject to the absence of price squeezes, cross-subsidies, predatory pricing, selling at a loss or discriminatory practices.

3. Prices are established in accordance with the principles of transparency, objectivity and non-discrimination.

4. Unless exceptional cases motivated by the importance of the additional costs of implementing or operating certain services, tariffs are applicable without geographical discrimination across the national territory.

5. The exceptions referred to in paragraph 4 of this article are subject to approval of the national regulatory authority.

6. Operators shall keep their tariffs publicly available.

7. Public network operators are also required to notify the national regulatory authority of their detailed tariffs at the start of each year, as well as subsequent changes thereof before they are implemented.

8. Operators shall put in place measurement systems to ensure the effective application of published tariffs.

9. The national regulatory authority shall periodically monitor the effective application of this principle and sanction any breaches noted.

Article 142 Tariff regulation

1. The national regulatory authority may decide to regulate retail tariffs of an operator when the following conditions are met:

   a. to compensate for the absence or insufficiency of competing offers with regard to one or more services;

   b. when persistent pricing difficulties are encountered in the market, in particular those referred to in Article 141 of this Directive;

   c. when it does not appear possible to promote the development of competition through other measures, including the granting of new authorizations;

   d. where the measures envisaged are likely to resolve the difficulties encountered.

2. The purpose of the tariff regulation is to eliminate the difficulties encountered that justify the introduction of the regulatory measure.

3. The regulatory decision is taken by the national regulatory authority for a maximum period of two (02) years, without prejudice to the provisions of Article 142 of this Directive.

4. The national regulatory authority shall ensure beforehand the existence of a significant difference between the price of the service (s) and their reference cost assessed in accordance with the provisions of this article.

5. The national regulatory authority shall refrain from regulating a retail tariff when the market for the service concerned is not significant to the needs of the public or when its development prospects are poorly identified during launch phases of a new service.

6. The price cap is achieved by setting ceiling or floor values for the weighted average price of the services concerned.

7. The price cap may relate to a basket of services reflecting the users' consumption profiles.

8. The price cap can be imposed over a multi-year period with a gradual evolution of price ceilings or floors, to facilitate the adaptation of market players or to take into account an objective of gradual improvement in productivity factors.

9. The national regulatory authority may determine the formulas for setting the price floors or ceilings, taking into account, on the one hand, productivity objectives and, on the other hand, economic indicators reflecting variations in costs.

10. The framework shall be based on a substantiated decision made by the national regulatory authority following an investigation into the competitive standing of the service(s) concerned and assessment of relevant costs.

11. The decision is notified to the operator concerned and shall be executed within a maximum period of two (02) months from its notification, notwithstanding the possible exercise of the rights of recourse of the operator.

12. The national regulatory authority shall ensure compliance with regulatory decisions on a regular basis by calculating for the public the average price of the services and baskets of services concerned.

13. In the event of non-compliance with the decision, the national regulatory authority shall summon the operator, supported by the result of its observations.

14. In the event of non-compliance with these requirements, the national regulatory authority may initiate sanctions proceedings.

15. Operators may submit a request to the national regulatory authority to revise the regulatory rules in the event of a significant change in the general economic environment, the level of competition or their cost structure.

16. The national regulatory authority shall decide, after examining the situation, whether it is necessary to modify the framework rules or to abolish the framework.

Article 143 Identification of reference cost levels

1. The national regulatory authority shall assess the reference cost of services or groups of services that may be regulated based on the following elements:

a. the information provided by network operators and service providers on the setup of service costs. To this end, the national regulatory authority shall have access to the general, analytical and auxiliary accounts of operators or providers;

b. comparisons with the prices charged in the same country or in comparable countries, particularly within the ECOWAS, by operators deemed to be efficient. This comparison makes it possible to highlight, where applicable, the productivity gains required from national operators.

2. The following aspects shall determine the cost calculation by the national regulatory authority:

   a. Costs directly attributable to the services considered;

   b. Common costs in proportion to their contribution to these services;

   c. Costs specific to other services are not taken into account;

   d. Costs shall take account of long-term economic efficiency, in particular the investments required for renewal and extension of the network with a view to sustained quality of service. These costs shall incorporate the cost of return on capital invested.

Article 144 Harmonization of cost calculation methods

1. National regulatory authorities, within the framework of sub-regional regulatory coordination as referred to in Article 28 of this Directive, shall define and periodically update a complete and harmonized methodology for calculating the reference costs of main retail services.

2. This methodology shall define the following aspects in detail:

   a. relevant costs to be taken into account;

   b. structure of the costing model;

   c. basic data to be incorporated into the model;

   d. planning methods to take into account long-term developments in expenses and products;

   e. method of evaluating the cost of capital;

   f. interpretation of the model results.

Article 145 Observatory of regional tariffs

1. At the beginning of each year, national regulatory authorities shall communicate to sub-regional regulatory coordination bodies established by national regulatory authorities pursuant to Article 28 of this Directive, the prices charged by their national operators or providers for a sample of services including in particular:
   a. connection and subscription to the fixed telephone service;
   b. local, national and international fixed telephone traffic;
   c. access to mobile phone service (prepaid and postpaid offers);
   d. national and international mobile telephone traffic;
   e. dial-up or permanent access to the internet;
   f. community roaming calls, texts and data
2. The regional regulatory coordination bodies referred to in paragraph 1 of this article shall define the framework for data collection.
3. The regional regulatory coordination bodies may decide to modify the services listed on paragraph 1 of this article, in order to take into account the most significant services in the sector and may also
4. The regional regulatory coordination bodies may decide, after having initialized its database, to move towards a quarterly collection of all or part of the data.
5. These regional regulatory coordination bodies shall establish a comparison of these tariffs, adding information available to it on the tariffs charged for the same services in neighbouring countries and in Member States. This comparison is distributed to national regulatory authorities under the title “regional tariff observatory”.
6. National regulatory authorities shall take account of such data received from the tariff observatory in the assessment of reference costs in accordance with the provisions of paragraph 1 of this article.
7. Within the framework of regional regulatory coordination as referred to in Article 28 of this Directive, national regulatory authorities shall refer to the Commission any need to modify the provisions of this Directive with a view to adapting to technical, legal and economic developments in the electronic communications sector.

Chapter XXIV Universal service regime

Article 146 Objective

1. This Chapter XXIV lays down the rules applicable to universal access service in the Member States' space, and sets out in particular the role of Member States in establishing and implementing rules in the following areas:
    a. creating a regulatory and policy environment favourable to universal access/service;
    b. designing and identifying of regulatory reform measures;
    c. promoting innovative regulatory policies:
    d. assuring access to information and communication infrastructures:
    e. providing subsidies for financing and managing universal access/service policy;
    f. assuring cooperation in the provision of the service;
    g. Assuring the oversight and review of policies;
    h. Establishing an obligation to put emergency services in place.
2. This Chapter also defines the following aspects:
    a. The minimum set of services, which fall within the scope of universal service;
    b. The conditions for implementing these services;
    c. The methods for financing these services;
    d. The terms of supply of these services as well as the quality conditions to be met.
3. Member States undertake to ensure the provision of the universal access service provided for under the terms of this Directive, while respecting the principles of equality, continuity, universality and adaptability.

Article 147 Creation of a regulatory and policy environment favourable to universal access service

Member States shall take all necessary measures to:

1. identify, at the highest possible political level, electronic communications as a tool for socioeconomic development, designating to that end a national focal point such as a Ministry, a government department or well-known individual to champion the cause of electronic communications development;
2. establish and strengthen national regulatory authorities and provide them with the means to play a key role in the implementation of universal access policies, first by working on and promoting policies aimed at reducing inequalities in order to address market efficiency gaps (letting the market deliver universal access/service), and then by tackling true access gaps;
3. make national regulatory authorities responsible for the implementation of policies geared towards the provision of services that are of the highest possible quality, reliable and affordable, and which satisfy the needs of existing and future users;
4. develop their legal frameworks through reforms of the electronic communications sector, institutions and legislation, in line with international best practices, but with due regard for local requirements;
5. include, in the definition of universal access/service policies, all citizens and elements of the population regardless of age, disability status, gender, ethnic origin, socioeconomic level or geographic location;
6. make the underlying legislation sufficiently flexible, ensuring that new technologies and practices are easily incorporated, e.g. new electronic communications, multimedia and audio-visual services;
7. include, in the definition of universal service, a range of services meeting the needs of the populations and in harmony with technological advances and sub-regional orientations in the promotion of a digital economy.

Article 148 Designing policies and determining regulatory reform measures

1. Member States shall take the necessary measures in order to:

    a. implement a national policy that identifies appropriate and realistic universal access/service objectives:

b. conduct, as frequently as possible, public consultations with stakeholders to identify their needs and modify universal access/service policies, regulations and practices accordingly;

c. design universal access/service policies, regulations and practices to create incentives for the private sector to extend universal access to electronic communications services;

d. use a multi-pronged approach to addressing universal access/service challenges and opportunities, relying on complementary strategies to meet the targets that have been set both from the point of view of supply as demand, including for example:

   i. investment needs in infrastructure;

   ii. investment for the development of content, applications, value-added services and services of interest to domestic users;

   iii. investing in the local electronic communications market;

   iv. developing skills in digital professions by including marginalized populations;

   v. development of public access solutions including those using innovative services such as Community networks and wifi;

e. establish a fair and transparent electronic communications regulatory framework that promotes universal access to electronic communications services while allowing the market to address universal access service to the greatest extent possible, intervening only where the market has failed or seems likely to do so. This entails:

   i. promoting technologically neutral individual licensing and general authorization practices enabling operators to use the most cost-effective technology to provide services for users;

   ii. adopting a transparent and non-discriminatory interconnection framework in which interconnection rates are linked to costs;

   iii. reducing regulatory burdens to lower the costs of providing services to consumers;

   iv. promoting competition in the provision of a full range of electronic communications services to increase access, affordability, availability, and use of said services.

2. Where it is necessary for regulators and decision-makers to intervene to facilitate the delivery of universal access/service:

a. public access strategies should be explored in addition to private universal service strategies for domestic purposes;

b. both “pay or play strategies” shall be considered, including both prescriptive and incentive measures, but where possible, operators or providers should be encouraged to invest in rural, remote and low-income populations and areas;

c. the national regulatory authority shall determine each year the areas eligible for universal service and call for tenders for coverage of these areas.

d. network operators and service providers in each country may respond to this call for tenders using the “pay and play” principle.

e. Member States can use regulatory reforms as the first step in achieving universal access, recognizing that further steps may be necessary to achieve ubiquitous access to electronic communications services, namely in rural areas or for users with specific needs;

f. appropriate individual licensing and general authorization schemes for operators in rural areas could be set up to meet the needs of unserved /or underserved areas.

Article 149 Promoting innovative regulatory policies

Member States shall:

1. promote access to low-cost broadband connectivity, from the local level to the international level, involving government authorities, undertakings and non-governmental organizations;

2. adopt regulatory frameworks that support new applications such as e-education and e-government;

3. adopt policies aimed at increasing access to the internet and broadband services, based on their own market structure, such that these policies reflect diversity in cultures, gender, languages and social interests;

4. ensure that national regulatory authorities work with stakeholders to expand broadband coverage and use through multi-stakeholder partnerships, in parallel to government initiatives to promote financially sustainable programs, particularly with a view to bridging the market gap that may exist in some countries;

5. adopt regulatory regimes that facilitate the use of all transport media, whether wireline, power line, cable, wireless or any other new technology;

6. ensure that national regulatory authorities put forward initiatives for encouraging public access to broadband and internet services in schools, libraries and other community centers, making special efforts to reach communities and marginalized people, for example persons with disability;

7. ensure that national regulatory authorities propose initiatives aimed at encouraging and inducing open access and infrastructure sharing models to reduce the overall costs of providing services and, consequently, the costs for users.

Article 150 General principles

With a view to facilitating access to electronic communications infrastructure, Member States shall:

1. foster, within a competitive framework, the introduction of innovative services using new technologies at an affordable level of pricing;

2. promote affordable electronic communications equipment, which could include national manufacturing of electronic communications equipment, reduced customs tariffs and duties, as well as users' loans to make electronic communications equipment more affordable;

3. develop a full range of public access options, including the creation of public telecentres and multi- purpose community centers;

4. develop local projects and inputs, including content that is useful for local populations and marginalized groups, thereby increasing their relevance and hence their long-term financial sustainability;

5. institute education and training programs, including digital training, to encourage the use of electronic communications and their impact on the local people and marginalized groups, thereby increasing the long-term financial sustainability of ICT projects.

Article 151 Availability of universal access service

1. Each Member State shall take the necessary measures to ensure that, as a minimum, all users within its territory have access to the services listed in Articles 152, 153, 154, 155 and 156 of this Directive, regardless of their disability, sex, ethnic origin, socio-economic level or geographical location and at affordable prices.

2. Without prejudice to more generous domestic measure for users, Member States may extend the scope of application of this Article to microenterprises, small and medium-sized enterprises and not-for-profit organizations.

Article 152 Provision of electronic communications services

1. Each Member State shall ensure that reasonable requests for connection to an electronic communications network are satisfied by at least one operator and may, if necessary, designate one or more operators to that effect, such that all parts of the national territory is covered.

2. The connection provided must be such as to enable user access to basic electronic communications services, which are determined by each Member State.

3. Each Member State shall ensure that the electronic communications services referred to in paragraph 2 of this article are accessible at a specified level of quality and at an affordable rate in light of specific national conditions, and that the speed of internet access services, as defined by national regulatory authorities, is sufficient to enable users to benefit from and participate in the digital economy.

4. The access referred to in paragraph 2 of this article may be offered either at a fixed location or in mobile form.

5. Given the importance of mobile connectivity for the digital inclusion of people in the ECOWAS zone and their full social and economic participation in society, Member States are encouraged to promote broadband mobile or nomadic access.

6. Without prejudice to paragraph 7 of this article, any bit rate allowing data transmission speeds greater than or equal to a threshold determined by the national regulatory authority is deemed sufficient within the meaning of paragraph 3 of this article.

7. Each Member State shall define the adequate broadband internet access service for the purposes of paragraph 2 of this article with a view to ensuring the bandwidth necessary for users' social and economic participation in society.

8. The adequate broadband internet access service referred to in paragraph 3 of this article shall be capable of delivering the bandwidth necessary for supporting at least the minimum set of services set out in **Error! Reference source not found.** of this Directive.

9. Each Member State shall take into account national conditions and the minimum bandwidth enjoyed by the majority of users within the territory of that Member State, and taking into account any guidelines agreed by national regulatory authorities within the framework of sub-regional regulatory coordination as referred to in Article 28 of this Directive.

Article 153 Directories, telephone information services and customer service

1. Each Member State may decide that:

a. a directory containing the credentials of all users, including their fixed and mobile telephone numbers, shall be made available to users in a form approved by the national regulatory authority. Such directory can be printed or electronic or both;

b. a directory containing all names of operators, contact numbers, including user information lines, shall be made available to users under a form approved by the national regulatory authority. This directory can be printed or electronic or both;

   at least one telephone information service covering all listed users shall be made available to all users, including users of public access services and centers;

2. Each Member State shall ensure that customer service call center is available from each operator so that users can be assisted, request service information and submit complaints;

3. undertakings providing the services described in paragraphs 1 and 2 of this article shall apply the principles of non-discrimination to the processing and presentation of information provided to them by operators.

4. Each Member State shall undertake to give effect to these provisions with all due respect for the applicable laws and regulations in force in regard to personal data and privacy protection.

5. Where a subscriber explicitly so requests, his or her information shall not be included in any directories.

Article 154 Emergency services

1. Each Member State shall ensure that emergency calls can be free of charge from any fixed or mobile telephone, including community access centres.

2. The requirements of paragraph 1 of this article shall also apply for Community roaming users, in accordance with relevant provisions of Community legal and regulatory framework.

Article 155 Public access points or centres and community access points

1. Each Member States undertakes to ensure public access points, centers,or community access points are installed, including the minimum set of electronic communications services, including internet services, under reasonable conditions, in terms of quantity and geographical distribution.

2. Each Member State shall ensure that national regulatory authorities are in the position to impose schedules for the deployment of public access points or centers, with the aim of having at least one public access point, center or community access point in each locality whose size exceeds a

threshold set by the national regulatory authority, no later than twenty-four (24) months after the date of entry into force of the national measures transposing this Directive.

3. The Commission shall monitor implementation of this measure on an annual basis.
4. Exemptions may be granted by the Commission at the request of Member States, duly justified by the specificities of domestic sectors.

Article 156 Special measures in favour of certain social groups

1. Where the need exists, in particular because of the existence of gaps, Member States shall take special measures to ensure that certain social groups have at least equivalent access to publicly available telephone services, including emergency and directory services, free of charge or at an affordable price.
2. The social groups referred to in paragraph 1 of this article include the following users:
   a. vulnerable users such as persons with disabilities, women, children and rural populations, and
   b. all users with specific social needs.

Article 157 Review of the scope of service/universal access

1. Policy oversight and review requires the following two components.
   a. the adoption by Member States of measurable targets for improving connectivity and access to the use of electronic communications, objectives which may be based on the percentage of the population covered by internet services of sufficient quality, the penetration rate of electronic communications services, or the usage rate of electronic communications services; and
   b. holding regular reviews of universal access/service policies, regulations and practices in order to adapt to the evolving nature of electronic communications services and users' needs.
2. Each Member State shall contribute to the periodic review of the scope of the universal service carried out by the Commission as provided for in **Error! Reference source not found.** of this Directive, by communicating to the Commission, in accordance with the procedures formulated by the latter, national data resulting from the supervision and review of policies referred to in paragraph 1 of this article.

Article 158 Mandatory additional services

1. A Member State may decide to make additional services accessible to the public, within their national territory, beyond those services that already come under the heading of universal service obligations as referred to above in Article 151 of this Directive.

2. No compensation mechanism involving specific undertakings shall be imposed.

Article 159 Cooperation for the management of universal access and service

1. The management of universal access and service requires the cooperation of all stakeholders and must involve the private sector and civil society to respond effectively to users' needs while taking into account the constraints of operators.

2. The competent authority is responsible for gathering, through public consultations, the needs and recommendations of all stakeholders, including users and operators.

3. The implementation of universal access and service is primarily the responsibility of the private sector, under the supervision of the competent authorities.

Article 160 Arrangements for implementation

1. Member States shall determine the most efficient and appropriate approach for ensuring the implementation of universal service, with due respect for the principles of objectivity, transparency, non-discrimination and proportionality.

2. Member States shall endeavour to keep market distortions to a minimum, particularly where they take the form of service provision at rates or under conditions that differ from those prevailing in a normal commercial operation, while protecting the public interest.

3. Member States shall put in place the legislative and regulatory framework governing the implementation of the universal service and shall ensure that:

    a. the definition of actions for the implementation of the universal service takes into account:

        i. regional planning policy, both at national and Community level;

        ii. the multisectoral equipment policy, in particular so that universal service actions can be carried out simultaneously with other infrastructure sectors, such as water, transport and energy;

        iii. social policy in Member States to subsidize access of disadvantaged groups to communications services, including voice and data;

iv. optimal management of scarce resources, including frequencies and numbers and limited financial resources.

b. Each year, the competent authority shall propose to the Minister, the actions to be carried out under the universal service, when it is proven that there is an insufficient coverage in certain areas.

4. To these ends, Member States may designate one or more undertakings or groups, including community networks, social enterprises, not-for-profit organizations, among others) to ensure the provision of services that are part of the universal service referred to in Article 151 of this Directive, such that all parts of the territory are covered.

5. Member States may designate different undertakings or different groups of undertakings to provide different components of universal access or service or to cover different parts of the national territory.

6. Where Member States designate an operator to fulfill universal service obligations over all or part of the national territory, they shall do so through a mechanism that is effective, objective, transparent and non-discriminatory, and which does not excludes any undertaking a priori, including the call for tenders. The specifications and the regulations for call for tenders shall specify in particular:

   a. The nature of the services to be provided;

   b. The territory or area to be covered;

   c. The level of universal service quality to be guaranteed;

   d. Selection criteria;

   e. The conditions for the provision of services;

   f. The operating and maintenance conditions after deployments;

   g. The means of identification of the disadvantaged groups concerned.

7. The designation mechanism shall select a candidate from among those who provide proof of their ability to deliver the indicated service under the required conditions, throughout the territory considered. Member States shall give priority to existing operators in the country.

8. Each Member State shall notify the Commission of the undertakings in charge of the universal service in their territory and shall publish the names of these undertakings on the website of the

competent authority and the national regulatory authority under the conditions set out in Article 9 of this Directive.

Article 161 Quality of service provided by designated undertakings

1. Each Member State shall ensure that the undertakings or groups entrusted with the task of providing users with the services referred to in Article 151 of this Directive provide the competent authorities a regular account of their activities and results achieved in that regard.

2. The competent authorities shall establish performance objectives for undertakings or groups assuming universal service obligations referred to in Article 151 of this Directive, in accordance with the procedures described in this Article.

3. Pursuant to the provisions of this Directive relating to the regime applicable to network operators and service providers, individual licenses and general authorizations may specify results to be achieved for the provision of universal service/access.

4. Persistent failures of an undertaking or a group of undertakings to achieve the performance objectives and quality levels specified for the implementation of Article 151 to 156 of this Directive may entail the implementation of sanctions by national regulatory authorities.

5. The competent authorities are entitled to require independent verification of an operator's performance of the obligations incumbent upon it pursuant to Articles 151 to 156 of this Directive.

Article 162 Level and structure of prices

1. Each national regulatory authority shall ensure the provision of universal access/service to everyone at affordable rates, in accordance with the affordability objectives of ECOWAS, without prejudice to the provisions of this Directive relating to the pricing of electronic communications services.

2. Each national regulatory authority may, at the request of the Minister in charge of the sector, require undertakings designated pursuant to Article 160 of this directive to make available to users with low incomes or specific social needs tariffs, options or schemes that differ from those normally prevailing in commercial operations, particularly with a view to ensuring universal service.

3. The conditions under which such facilities are granted shall be proportional, transparent, non-discriminatory and publicly promulgated. National regulatory authorities may require the modification or elimination of all or part of these services.

Article 163 Calculating the cost of the universal service

1. Member States shall adopt a method for calculating the costs of the universal service, based on net costs, to enable national regulatory authorities to determine whether the provision of universal service places an unjustified burden on the undertakings designated as provider.

2. The net cost corresponds to the difference between the investment and operating costs associated with provision of the universal service and the relevant revenues. The relevant revenues are direct and indirect revenues generated by the universal service.

3. The net cost of any special-price scheme offers made by an operator to certain categories of users to ensure their access to the universal service shall be deducted from that provider's contribution to the universal service fund.

4. The calculation of the net cost of universal service obligations shall be submitted for auditing by an entity that is unconnected with the body responsible for managing the fund.

5. The result of the net cost calculation and the conclusions of the audit shall be made publicly available.

Article 164 Funding of universal access/service

1. Funding or subsidy for universal access/service must be targeted and are to be determined and delivered in a manner that is transparent, non-discriminatory, according to an approach aimed at maximizing the use of public and private financial resources for the benefit of the covered populations and neutral with respect to competition. Such funding or grant can occur through a number of means, including:

    a. a universal service fund, which should be developed as a mechanism within broader market-oriented approach to achieve universal access;

    b. a universal service fund financed by a broad range of market players, managed by neutral bodies such as national regulatory authorities or any other body independent of its beneficiaries under the supervision of an independent authority, and used to kick-start public access projects that meet the needs of the local community;

    c. governments may also consider a full range of other financing mechanisms:

        i. competitive minimum subsidy auctions could be used, as an option, to reduce the amount of financing necessary for projects financed by a universal service fund;

   ii. public access projects can be designed to achieve long-term financial sustainability, especially where consideration is given to innovative low-cost technologies.

2. each Member State undertakes to ensure the effective establishment of a universal service financing fund, the objective of which shall be to promote the development of universal service at the national level, in accordance with the provisions of Articles 151 to 156 of this Directive.

3. the purpose of the fund shall be to compensate any undertaking responsible for providing the universal service, by financing the net cost of the universal service, as determined in Article 163 of this Directive, and taking into account the possible commercial advantage induced by the provision of this service.

4. The fund, which is devoted to the electronic communications sector, may finance, inter alia, the following infrastructures as part of the implementation of the universal service as defined in Articles 151 to 156 of this Directive:

   a. electronic communications infrastructure and/or associated resources;

   b. subject to sufficient availability of resources, any other related infrastructure which, without being part of the infrastructure referred to in subparagraph a) above, conditions its deployment, in particular energy and road infrastructure.

5. Each Member State shall ensure compliance with the principle of optimizing the use of funds allocated to universal service, both at the policy definition stage, by giving priority to projects that are consistent with existing networks and services, particularly in geographical terms, and at the implementation stage, by providing, where appropriate, mechanisms to verify the use of funds and to discontinue funding when market developments no longer justify the payment of compensation to the operator concerned.

6. Each Member State shall establish a mechanism for the distribution and control of funds managed by the competent authority and shall ensure that operators who contribute to this fund participate in the governance of the competent authority.

7. The rules applicable to the creation, the rates of contributions from operators and to the operation of the fund are determined in accordance with the principles of transparency, non-discrimination and proportionality, as well as in compliance with the provisions of this Directive.

8. National regulatory authorities may decide not to require contributions from undertakings whose turnover in the Member State is below a certain threshold.

9. For any project financed by universal access/service funds and resources, a monitoring and evaluation plan should be in place, and the entities in charge of universal service should publish annual accounts to assess progress of projects and measure their impact.
10. The annual accounts shall be made public on the entity's website and available for viewing as needed by the public to ensure transparency and accountability.

Chapter XXV Guiding principles for user and consumer protection

Article 165 Non-discrimination

Unless such different treatment is objectively justified, operators shall not apply any different requirements or general conditions of access to, or use of, networks or services to consumers, for reasons related to following aspects:

a. consumer's nationality;

b. consumer's place of residence; or

c. consumer's place of establishment.

Article 166 Safeguarding fundamental rights

1. National measures regarding users' access to, or use of, services and applications through electronic communications networks shall respect the Charter and general principles of Community law.
2. Any measure referred to in paragraph 1 of this article, which would be liable to limit the exercise of the rights or freedoms recognized by the Charter shall be imposed only if it meets the following requirements:
   a. such measure must be provided for by law and respects those rights or freedoms;
   b. it must be is proportionate, necessary, and genuinely meets general interest objectives recognized by Community law or the need to protect the rights and freedoms of others, in line with the Charter and with general principles of Community law, including the right to an effective remedy and to a fair trial;
   c. due respect for the principle of the presumption of innocence and the right to privacy.
   d. a prior, fair and impartial procedure shall be guaranteed, including the right of the person or persons concerned to be heard, subject to the need for appropriate conditions and

procedural arrangements in duly substantiated cases of urgency in accordance with the Charter.

Chapter XXVI Protection of personal data

Article 167 Compatibility with other provisions

1. The provisions of this Chapter XXVI shall be without prejudice to:
   a. the applicable national laws of each Member State relating to access to data and the interception of communications in criminal matters and in matters of national defense and internal security;
   b. the right of each Member State to adopt specific rules on combating fraud in the electronic communications sector;
   c. the rules applicable in each Member State on user identification.
2. Member States shall coordinate, under the conditions laid down in Article 28 of this Directive, with a view to harmonizing the rules on user identification, including, where appropriate, taking into account technologies, means and data used in relation to electronic identification in Member States.

Article 168 Protection of personal data in the electronic communications sector

1. Without prejudice to the relevant provisions of Community law in force with regard to the protection of personal data, the provisions of this Chapter XXVI shall apply to the processing of personal data in relation to the provision of electronic communications services.
2. In the processing of personal data, privacy and confidentiality of communications are recognized as a fundamental right that must be protected within Member States.

Article 169 Scope of Application

All processing of personal data in relation to the provision of electronic communications services shall be subject to Chapter XXVI where it:

1. is carried out by an operator;
2. is carried out on the territory of a Member State by a controller or processor in the context of the activities of its establishment located in the ECOWAS zone;

3. is outside the ECOWAS zone by a controller or processor as part of the activities of its establishment located in the ECOWAS zone.

4. Is carried out outside the ECOWAS zone by a controller or processor in the context of the activities of its establishment located outside the ECOWAS zone, when the following conditions are met:

   a. data subjects are in the territory of the Community; and

   b. the activities of the establishment relate to one or both of the following aspects:

      i. offering of goods or services to such data subjects in the Community, irrespective of whether a payment of the data subject is required, or

      ii. monitoring of their behaviour, as far as their behaviour takes place within the Community.

Article 170 Outside the scope of application

The provisions of this Chapter XXVI shall not apply to data processing carried out by the competent authorities for the following purposes:

1. prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties within the framework of the laws and regulations in force;

2. national defense;

3. safeguarding against and the prevention of threats to public security.

Article 171 Data protection authority

1. Each Member State shall ensure that the tasks assigned in this Directive to the data protection authority are carried out by a competent body.

2. Where these tasks are entrusted wholly or partially to authorities other than the national regulatory authority, the latter shall provide these authorities with assistance on all relevant aspects to facilitate the protection of personal data in the electronic communications sector.

3. The data protection authority is responsible for ensuring that processing of personal data is carried out in accordance with existing Community texts and the provisions the provisions of this Chapter XXVI.

Article 172 Processing of personal data for the purposes of the legitimate interests

1. Processing of personal data shall be considered legitimate where the processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party.
2. Processing of personal data shall not, override the interests or fundamental rights and freedoms of the data subject, in particular where the data subject is a child.

Article 173 Confidentiality and security of personal data

1. The confidentiality of communications made through a public electronic communications network and publicly available electronic communications services, as well as the related traffic data, is guaranteed.

2. Listening, tapping, storage or other kinds of interception or surveillance of communications and the related traffic data by persons other than users, without the consent of the consumers concerned, shall be prohibited, except when legally authorized to do so in accordance with existing legislation.

3. Paragraphs 0 and 0 of this article shall not prevent technical storage, which is necessary for the conveyance of a communication, without prejudice to the principle of confidentiality.

4, Paragraphs 0, 0 and 0 of this article shall not affect any legally authorized recording of communications by the recipient or the sender of the communications and the related traffic data by the operator when carried out in the course of lawful business practice, in compliance with the applicable legal framework, for the purpose of providing evidence of a commercial transaction or of any other business communication.

5. The use of electronic communications networks to store information or to gain access to information stored in the terminal equipment of a user shall only be allowed on following conditions:

a. The user must be provided with clear and comprehensive information, about the purposes of the processing; and

b. The user is offered the right to refuse such processing by the data controller.

6. The provision of paragraph 0 of this article shall not prevent any technical storage or access for the sole purpose of carrying out or facilitating the transmission of a communication over an electronic communications network, or as strictly necessary in order to provide an information society service explicitly requested by the user.

7. Operators must take appropriate technical and organizational measures to safeguard security of their services with respect to network security. MINDFUL of the state of the art and the cost of their implementation, these measures shall ensure a level of security appropriate to the risk presented.

8. In case of a particular risk of a breach of network security, operators shall inform users of such risk and, where the risk lies outside the scope of the measures to be taken by the operator, of any possible remedies, including an indication of the likely costs involved.

Article 174 Transfer of personal data to a non-ECOWAS country

The data controller must first inform the data protection authority of the Member State to which the data controller belongs and obtain its authorization under the conditions provided for by the legal and regulatory framework applicable within the Member State, before any transfer of personal data to a country that is not a member of ECOWAS.

Article 175 Processing of traffic data

1. Without prejudice to paragraphs 0, 0 and 0 of this Article and the legal and regulatory provisions applicable in each Member State, traffic data relating to users processed and stored by the operator must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication.

2. Traffic data necessary for the purposes of user billing and interconnection payments may be processed. Such processing is permissible only up to the end of the period during which the bill may lawfully be challenged or payment pursued.

3. The operator may process the data referred to in paragraph 0 of this article on the following conditions:

   a. such processing is necessary for marketing electronic communications services or for the provision of value-added services;

   b. such processing is executed to the extent and for the duration necessary for such services or marketing; and

   c. the user to whom the data relate has given his or her consent.

4. Users shall be given the possibility to withdraw their consent for the processing of traffic data at any time.

5. Without prejudice to the rights referred to in Chapter XXVI, the operator must inform the user of the types of traffic data that are processed and of the duration of such processing for the purposes mentioned in paragraph 0 of this article and, prior to obtaining consent, for the purposes mentioned in paragraph 0 of this article.

6. Processing of traffic data, in accordance with paragraphs 0, 0, 0 and 0 of this article, must be restricted to persons acting under the authority of operators handling the tasks listed below, and must be restricted to what is necessary for the purposes of such activities:

a. Billing or traffic management;

b. Customer enquiries;

c. Fraud detection; and

d. Marketing electronic communications services or providing a value-added service.

7. Paragraphs 0, 0, 0 and 0 of this article shall apply without prejudice to the possibility for competent bodies to be informed of traffic data in conformity with applicable legislation with a view to settling disputes, in particular interconnection or billing disputes.

Article 176 Protection regarding itemized billings

1. Users shall have the right to receive itemised bills.

2. National Regulatory Authorities shall apply National Laws aimed at reconciling the rights of users receiving itemised bills with the right to privacy of calling and called users, by ensuring that sufficient alternative privacy enhancing methods of communications or payments are available to users.

Article 177 Issues relating to calling and connected line identification

1. The operator that offers presentation of calling line identification shall offer to users the following possibilities:

a. To the calling user, the possibility of preventing the presentation of the calling line identification on a per-call basis, using a simple means and free of charge. The calling user must have this possibility on a per-line basis;

b. To the user being called, the possibility, of preventing the presentation of the calling line identification of incoming calls, using a simple means and free of charge for reasonable use of this function.

2. Where presentation of calling line identification is offered and where the calling line identification is presented prior to the call being established, the operator must offer the called user the possibility, using a simple means, of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling user.

3. National regulatory authorities shall ensure that, where presentation of calling or connected line is offered, operators inform the public thereof and of the possibilities set out in the present Article.

Article 178 Location data other than traffic data

1. Without prejudice to the provisions of this Chapter XXVI on the protection of personal data, location data other than traffic data relating to users of public electronic communications networks or publicly available electronic communications services may be processed only under the following conditions:
    a. such processing shall be authorized in accordance with the provisions of this Directive and the legal and regulatory provisions applicable in each Member State;
    b. such data are made anonymous, or the users have given consent; and
    c. such processing is implemented to the extent and for the duration necessary for the provision of a value-added service.
2. Without prejudice to the provisions of this Chapter on the right to information of the person whose data is being processed, the operator shall provide users with the following information, before obtaining their consent:
    a. the type of location data other than traffic data which will be processed;
    b. the purposes and duration of the processing; and
    c. whether the data will be transmitted to a third party for the purpose of providing the value-added service.
3. Users shall be given the possibility to withdraw their consent for the processing of location data other than traffic data at any time.
4. Where consent of the users has been obtained for the processing of location data other than traffic data, they must continue to have the possibility, using a simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network or for each transmission of a communication.

5. Processing of location data other than traffic data in accordance with the provisions of the present Article must be restricted to persons acting under the authority of the operator or of the third party providing the value added service and must be restricted to what is necessary for the purposes of providing the value-added service.

Article 179 Unsolicited communications

1. Telephone canvassing and the use of automated calling systems without human intervention automatic calling machines, facsimile machines or electronic mail for the purposes of direct marketing may only be allowed in respect of users who have given their prior consent.

2. Notwithstanding paragraph 1 of this article, where a natural or legal person obtains from its customers their electronic contact details for electronic mail, in the context of the sale of a product or a service, the same natural or legal person may use these electronic contact details for direct marketing, with the exception of telemarketing, of its own similar products or services, under the following conditions:

   a. These customers must have given their express consent to such use of their electronic contact details;

   b. These customers are given clearly and distinctly the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when they are collected; and

   c. These customers are given clearly and distinctly the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details on the occasion of each message.

3. Each Member State shall establish a system enabling users who do not wish to be contacted for telemarketing purposes to register free of charge on a list.

4. No person shall, either directly or through a third party, make telephone calls to users registered on this list, except in the case of solicitations made in the context of the performance of an existing contract and relating to the subject matter of that contract.

5. National regulatory authorities shall take appropriate measures to ensure that, free of charge, unsolicited communications for purposes of direct marketing, including telemarketing, in cases other than those referred to in paragraphs 1 and 2, are not allowed either without the consent of the users concerned or in respect of users who do not wish to receive these communications. The choice between these options shall be determined by national legislation.

6. In any event, the practice of sending electronic mail for purposes of direct marketing or telephone canvassing operations disguising or concealing the identity of the sender on whose

behalf the communication is made, or without indicating or providing a valid e-mail address to which the recipient may send a request that such communications cease, shall be prohibited.

7. Paragraphs 1 and 3 of this article shall apply to users who are natural persons.

8. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of users other than natural persons regarding unsolicited communications are sufficiently protected.

9. Member States shall provide for dissuasive penalties in the event of infringement of the provisions of this Article.

Article 180 Protection relating to user directories

1. National regulatory authorities shall ensure that users, before they are included in any printed or electronic directory of users available to the public or obtainable through directory enquiry services, in which their personal data can be included, are informed, free of charge, of the following:

   a. the purpose(s) of such directories;

   b. any further usage possibilities based on search functions embedded in electronic versions of the directory.

2. National regulatory authorities shall ensure that users are given the opportunities listed below, to the extent that their personal data are relevant for the purpose of the directory as determined by the provider of the directory:

   a. Subscribers shall be in the position to determine whether their personal data, and if so, which ones, shall be included in a public directory;

   b. Subscribers shall be in the position to verify, correct or withdraw such data.

3. Not being included in a public user directory, verifying, correcting or withdrawing personal data from it shall be free of charge.

4. The Member States may require that for any purpose of a public directory other than the search of contact details of persons on the basis of their name and, where necessary, a minimum of other identifiers, additional consent be asked of the users.

5. Paragraphs 1, 2 and 3 of this article shall apply to users who are natural persons.

6. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of users other than natural persons with regard to their entry in public directories are sufficiently protected.

Chapter XXVII Right of consumers to information and transparency

Article 181 Information relating to contracts

1. Operators other than providers of transmission services used for the provision of machine-to-machine services shall, before a consumer is bound by a contract or any corresponding offer, provide the information referred to in Parts **Error! Reference source not found.** to **Error! Reference source not found.** of **Error! Reference source not found.** of this Directive, to the extent that that information relates to a service they provide.
2. The information shall be provided in a clear and comprehensible manner on a durable medium or, where provision on a durable medium is not feasible, in an easily downloadable document made available by the operator.
3. The operator shall expressly draw the consumer's attention to the availability of that document and the importance of downloading it for the purposes of documentation, future reference and unchanged reproduction.
4. The information shall, upon request, be provided in an accessible format for consumers with disabilities.
5. The information referred in this article shall become an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise.
6. Where internet access services or publicly available interpersonal communications services are billed based on either time or volume consumption, their providers shall offer consumers the facility to monitor and control the usage of each of those services.
7. The facility to monitor and control the usage of each of those services shall include access to timely information on the level of consumption of services included in a tariff plan.
8. Providers shall notify consumers before any consumption limit, as established by competent authorities in coordination, where relevant, with national regulatory authorities, included in their tariff plan, is reached and when a service included in their tariff plan is fully consumed.
9. Each Member State may maintain or introduce in its national law provisions requiring providers to provide additional information on the consumption level and temporarily prevent further use

of the relevant service in excess of a financial or volume limit determined by the competent authority.

10. Each Member State shall remain free to maintain or introduce in their national law provisions relating to aspects not regulated by the present Article, in particular in order to address newly emerging issues.

Article 182 Transparency, comparison of offers and publication of information

1. The general terms and conditions of sale or electronic communications services shall be published under the control of the national regulatory authority.
2. The national regulatory authority shall ensure that such general terms and conditions are clear and that operators publish in a clear, comprehensive, machine-readable manner and in an accessible format for consumers with disabilities the information referred to in **Error! Reference source not found.** of this Directive.
3. Any changes to the general terms and conditions of sale shall be published to the public under the same conditions.
4. Upon request, such service providers shall supply that information to the competent authority and, where relevant, to the national regulatory authority, before its publication.
5. The information shall be regularly updated and the consumers shall be informed of any update of the information.
6. National regulatory authorities may take the following initiatives:
    a. proceed to the publication of said information themselves;
    b. specify additional requirements regarding the form in which such information is to be published.
7. The national regulatory authorities shall ensure that end-users have access free of charge to at least one independent comparison tool which enables them to compare and evaluate different internet access services and publicly available number-based interpersonal communications services, and, where applicable, publicly available number-independent interpersonal communications services. This comparison requirement concerns the following aspects of these services:
    a. prices and tariffs of services provided against recurring or consumption-based direct monetary payments; and

b. the quality of service performance, where minimum quality of service is offered or the undertaking is required to publish such information pursuant to Article 184 of the present Directive.

8. The comparison tool referred to in paragraph 7 of this article must meet the following requirements:

   a. be operationally independent from the providers of such services, thereby ensuring that those providers are given equal treatment in search results;

   b. clearly disclose the owners and providers of the comparison tool;

   c. set out clear and objective criteria on which the comparison is to be based;

   d. use plain and unambiguous language;

   e. provide accurate and up-to-date information and state the time of the last update;

   f. be open to any provider of internet access services or publicly available interpersonal communications services making available the relevant information, and include a broad range of offers covering a significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results;

   g. provide an effective procedure to report incorrect information;

   h. include the possibility to compare prices, tariffs and quality of service performance between offers available to consumers and, if required by Member States, between those offers and the standard offers publicly available to other consumers.

9. Upon request by the provider of the tool, any comparison tools fulfilling the requirements listed in paragraph 8 of this article shall be certified by competent authorities in coordination, where relevant, with national regulatory authorities.

10. With a view to making available such independent comparison tools, any third party shall have a right to use, free of charge and in open data formats, the information published by providers of internet access services or publicly available interpersonal communications services.

11. Member States may require that providers of internet access services or publicly available number-based interpersonal communications services, or both, distribute public interest information free of charge to existing and new consumers, where appropriate, by the means that they ordinarily use in their communications with consumers. In such a case, that public interest

information shall be provided by the relevant public authorities in a standardized format and shall, inter alia, cover the following topics:

a. The most common uses of internet access services and publicly available number-based interpersonal communications services to engage in unlawful activities or to disseminate harmful content, in particular where it may prejudice respect for the rights and freedoms of others, including infringements of data protection rights, copyright and related rights, and their legal consequences; and

b. The means of protection against risks to personal security, privacy and personal data when using internet access services and publicly available number-based interpersonal communications services.

Chapter XXVIII User and consumer rights in terms of service quality

Article 183 Scope of Application

The provisions of this Chapter XXVIII shall relate to internet access services and publicly available interpersonal communications services.

Article 184 Quality of service requirements

1. In coordination with other competent authorities, national regulatory authorities may require providers of internet access services and of publicly available interpersonal communications services to publish comprehensive, comparable, reliable, user-friendly and up-to-date information for users on:

    a. the quality of their services, to the extent that they control at least some elements of the network either directly or by virtue of a service level agreement to that effect, and on

    b. measures taken to ensure equivalence in access for users with disabilities.

2. In coordination with other competent authorities, national regulatory authorities may also require providers of publicly available interpersonal communication services to inform users if the quality of the services they provide depends on any external factors, such as control of signal transmission or network connectivity.

3. Upon request, such information shall be supplied to the national regulatory and, where relevant, to other competent authorities before its publication.

4. The measures to ensure quality of service shall comply with the regulatory requirements in terms of access to an open internet and roaming on public mobile communications networks within ECOWAS.

Article 185 Quality of service indicators

1. In coordination with other competent authorities, national regulatory authorities shall specify, taking utmost account of guidelines adopted by national regulatory authorities within the framework of regional regulatory coordination as referred to in Article 28 of this Directive, the following elements:

    a. the quality-of-service parameters to be measured;

    b. the applicable measurement methods; as well as

    c. the content, form and manner of the information to be published, including possible quality certification mechanisms.

2. By 30 June 2027, in order to contribute to a consistent application of this Article, national regulatory authorities acting within the framework of regional regulatory coordination as referred to in Article 28 of this Directive shall, after consulting stakeholders and in close cooperation with the Commission, adopt guidelines detailing the relevant quality of service parameters, including the following elements:

    a. relevant definitions and parameters, including those for users with disabilities;

    b. the applicable measurement methods;

    c. the content and format of publication of the information; and

    d. quality certification mechanisms.

Chapter XXIX Provider switching and number portability

Article 186 Requirements in the event of operator switching

1. In the case of switching between providers of internet access services or of number-based interpersonal communications services, the providers concerned shall provide users with adequate information before and during the switching process and ensure continuity of the internet access service, unless technically not feasible.

2. The receiving provider shall ensure that the activation of the internet access service, the number-based interpersonal communications service or both occurs within the shortest possible time on the date and within the timeframe expressly agreed with the user.

3. The transferring provider shall continue to provide its internet access service on the same terms until the receiving provider activates its internet access service.

4. Loss of service during the switching process shall not exceed one working day.

5. National regulatory authorities shall ensure the efficiency and simplicity of the switching process for the user.

Article 187 Right to number portability

1. Users with numbers from the national numbering plan shall have the right to retain their numbers, upon request, independently of the undertaking providing the service, in accordance with **Error! Reference source not found.** of the present Directive.

2. Where a user terminates a contract, he shall be able to retain the right to port a number from the national numbering plan to another provider for a minimum of one (01) month after the date of termination, unless that right is renounced by the user.

3. National regulatory authorities shall ensure that pricing among providers related to the provision of number portability is cost-oriented, and that no direct charges are applied to users.

Article 188 Deadlines for portability

1. The porting of numbers and their subsequent activation shall be carried out within the shortest possible time on the date explicitly agreed with the user. In any case, users who have concluded an agreement to port a number to a new provider shall have that number activated within one (01) working day from the date agreed with the user.

2. In the case of failure of the porting process, the transferring provider shall reactivate the number and related services of the user until the porting is successful.

3. The transferring provider shall continue to provide its services on the same terms and conditions until the services of the receiving provider are activated. In any event, the loss of service during the process of provider switching and the porting of numbers shall not exceed one (01) working day.

4. Operators whose access networks or facilities are used by either the transferring or the receiving provider, or both, shall ensure that there is no loss of service that would delay the switching and porting process.

Article 189 Portability procedure and cooperation obligation

1. The receiving provider shall lead the switching and porting processes set out in Articles 186, 187 and 188 of this Directive.

2. The receiving and transferring providers shall cooperate in good faith and shall not delay or abuse the switching and porting processes, nor shall they port numbers or switch consumers without the user's explicit consent.

3. The users' contracts with the transferring provider shall be terminated automatically upon conclusion of the switching process.

Article 190 Intervention of the national regulatory authority

1. National regulatory authorities may establish the details of the switching and porting processes, considering national provisions on contracts, technical feasibility and the need to maintain continuity of service to users. This shall include, where technically feasible, a requirement for the porting to be completed through over-the-air provisioning, unless the user requests otherwise.

2. National regulatory authorities shall also take appropriate measures ensuring that users are adequately informed and protected throughout the switching and porting processes and are not switched to another provider without their consent.

Article 191 Winding-up of contracts

Each Member State shall determine whether, and under what conditions, a user of prepaid services benefiting from number portability may obtain a refund or compensation for all or part of their unused rights or balances.

Article 192 Penalties and compensations

1. Each Member State shall lay down rules on penalties in the case of the failure of a provider to comply with the obligations laid down in this Directive, including delays in, or abuses of, porting by, or on behalf of, a provider.

2. Each Member State shall lay down rules on the compensation of users by their providers in an easy and timely manner in the case of the failure of a provider to comply with the obligations laid

down in this Directive, as well as in the case of delays in, or abuses of, porting and switching processes, and missed service and installation appointments.

Article 193 Information requirements

In addition to the information required under Parts **Error! Reference source not found.** to **Error! Reference source not found.** of **Error! Reference source not found.** of this Directive, national regulatory authorities shall ensure that users are adequately informed about the existence of the rights to compensation.

Chapter XXX Contract duration and termination

Article 194 Maximum duration of contracts

1. The contracts entered into between a consumer and an operator other than number-independent interpersonal communications services and other than transmission services used for the provision of machine- to-machine services, shall not mandate a commitment period longer than twenty-four (24) months.
2. Member States may adopt or maintain provisions which mandate shorter maximum contractual commitment periods.
3. This Article shall not apply to the duration of an instalment contract where the consumer has agreed in a separate contract to instalment payments exclusively for deployment of a physical connection, in particular to very high-speed networks.
4. An instalment contract for the deployment of a physical connection shall not include terminal equipment, such as a router or modem, and shall not preclude consumers from exercising their rights under the present Article.

Article 195 Automatic renewal and right to terminate contracts

1. Where a contract or national law provides for automatic renewal of a fixed duration contract for electronic communications services other than number-independent interpersonal communications services and other than transmission services used for the provision of machine-to-machine services, after such renewal, the consumer is entitled to terminate the contract at any time with a maximum one-month (01) notice period, as determined by Member States, and without incurring any costs except the charges for receiving the service during the notice period.

2. Before the contract is automatically renewed, operators shall inform consumers, in a prominent and timely manner and on a durable medium, of the end of the contractual commitment and of the means by which to terminate the contract.

3. Operators shall give consumers best tariff advice relating to their services.

4. Operators shall provide consumers with best tariff information at least annually.

Article 196 Requirements in the event of change in the contractual conditions

1. Consumers shall have the right to terminate their contract without incurring any further costs upon notice of changes in the contractual conditions proposed by the provider of publicly available electronic communications services other than number-independent interpersonal communications services, except in the following cases:

   a. the proposed changes are exclusively to the benefit of the consumer;

   b. the proposed changes are of a purely administrative nature and have no negative effect on the consumer; or

   c. the proposed changes are directly imposed by ECOWAS or national law.

2. Operators shall notify consumers at least one (01) month in advance of any change in the contractual conditions, and shall simultaneously inform them of their right to terminate the contract without incurring any further costs if they do not accept the new conditions.

3. The right to terminate the contract shall be exercisable within one (01) month after notification.

4. Member States may extend that period by up to three (03) months.

5. National regulatory or other competent authorities shall ensure that notification is made in a clear and comprehensible manner on a durable medium.

Article 197 Rights in the event of performance discrepancy

1. Any significant continued or frequently recurring discrepancy between the actual performance of an electronic communications service, and the performance indicated in the contract, shall be considered to be a basis for triggering the remedies available to the consumer in accordance with national law, including the right to terminate the contract free of cost.

2. Paragraph 1 of this article shall only apply to contracts concluded or renewed from the entry into force of national measures transposing this Directive.

Article 198 Requirements with regard to compensation by consumers

1. Where a consumer has the right to terminate a contract for a publicly available electronic communications service, other than a number-independent interpersonal communications service, before the end of the agreed contract period pursuant to the present Directive or to other provisions of ECOWAS or national law, no compensation shall be due by the consumer other than for retained subsidized terminal equipment.
2. Where the consumer chooses to retain terminal equipment bundled at the moment of the contract conclusion, any compensation due shall not exceed the following amounts, whichever is the smaller:
   a. the pro rata temporis value as agreed at the time of the conclusion of the contract; or
   b. the remaining part of the service fee until the end of the contract.
3. National regulatory or other competent authorities may determine other methods to calculate the compensation rate, provided that such methods do not result in a level of compensation exceeding that calculated in accordance with the paragraph 2 of this article.
4. The operator shall lift any condition on the use of that terminal equipment on other networks free of charge at a time specified by national regulatory or other competent authorities and at the latest upon payment of the compensation.

Article 199 Scope of rights relating to the duration and termination of contracts

As far as transmission services used for machine-to-machine services are concerned, the rights mentioned in Articles 196 and 198 of this Directive shall benefit both consumers, microenterprises, small enterprises and not-for-profit organizations.

Chapter XXXI Equitable access to internet services

Article 200 Right of users to an open internet

1. Users shall have the right to access and distribute information and content, use and provide applications and services, and use terminal equipment of their choice, irrespective of the consumer's or operator's location or the location, origin or destination of the information, content, application or service, via their internet access service, without prejudice to legal and regulatory provisions at Community and national level, that complies with Community law, related to the lawfulness of the content, applications or services.

2. When providing internet access services, providers of internet access services shall treat all traffic equally, without discrimination, restriction or interference, and irrespective of the sender and receiver, the content accessed or distributed, the applications or services used or provided, or the terminal equipment used.

3. The obligations of internet access service providers arising from paragraph 2 of this article shall not prevent such providers from implementing reasonable traffic management measures.

4. , The measures, to be deemed reasonable, shall be transparent, non-discriminatory and proportionate, and shall not be based on commercial considerations but on objectively different technical quality of service requirements of specific categories of traffic.

5. Traffic management measures may entail processing of personal data only if such processing is necessary and proportionate to achieve the objectives set out in this article.

6. The processing shall be carried out in accordance with the relevant provisions of this Directive on the protection of personal data.

Article 201 Transparency measures guaranteeing access to an open internet

1. Providers of internet access services shall ensure that any contract which includes internet access services specifies at least the elements referred to in Part **Error! Reference source not found.** of **Error! Reference source not found.** of this Directive.

2. Providers of internet access services shall publish the information referred to in paragraph 1 of this article.

3. Providers of internet access shall put in place transparent, simple and efficient procedures to address complaints of users relating to the rights and obligations laid down in this Directive.

4. Any significant discrepancy, continuous or regularly recurring, between the actual performance of the internet access service regarding speed or other quality of service parameters and the performance indicated by the provider of internet access services in accordance with points **Error! Reference source not found.** to **Error! Reference source not found.** of Part **Error! Reference source not found.** of **Error! Reference source not found.** of this Directive, where the relevant facts are established by a monitoring mechanism certified by the national regulatory authority, be deemed to constitute non- conformity of performance for the purposes of triggering the remedies available to the consumer in accordance with national law. This provision shall apply only to contracts concluded or renewed from the entry into force of national measures transposing the present Directive.

Chapter XXXII Other user and consumer rights

Article 202 Bundled offers

1. The following provisions shall apply to all elements of the bundle including, mutatis mutandis, those not otherwise covered by those provisions, if a bundle of services or a bundle of services and terminal equipment offered to a consumer comprises at least an internet access service or a publicly available number-based interpersonal communications service:

    a. Article 181;

    b. Article 182;

    c. Articles 194 to 199; and

    d. Article 186.

2. Where the consumer has, under Community law, or national law, a right to terminate any element of the bundle as referred to in paragraph 1 of this article before the end of the agreed contract term because of a lack of conformity with the contract or a failure to supply, Member States shall provide that the consumer has the right to terminate the contract with respect to all elements of the bundle.

3. Any subscription to additional services or terminal equipment provided or distributed by the same provider of internet access services or of publicly available number-based interpersonal communications services shall not extend the original duration of the contract to which such services or terminal equipment are added, unless the consumer expressly agrees otherwise when subscribing to the additional services or terminal equipment.

4. Paragraphs 1 and 3 of this article shall also apply to microenterprises, small enterprises, or not-for-profit organizations, unless they have explicitly agreed to waive all or parts of those provisions.

Article 203 Availability of services

1. National regulatory authorities shall take all necessary measures to ensure the fullest possible availability of voice communications services and internet access services provided over public electronic communications networks in the event of catastrophic network breakdown or in cases of force majeure.

2. National regulatory authorities shall ensure that providers of voice communications services take all necessary measures to ensure uninterrupted access to emergency services and uninterrupted transmission of public warnings.

Article 204 Public warning system

1. No later than two (2) years after entry into force of this Directive, Member States shall ensure that, when public warning systems regarding imminent or developing major emergencies and disasters are in place, providers of mobile number-based interpersonal communications services transmit public warnings to the users concerned.

2. Notwithstanding paragraph 1 of this article, Member States may determine that public warnings be transmitted through publicly available electronic communications services other than those referred to in paragraph 1 of this article, and other than broadcasting services, or through a mobile application relying on an internet access service, provided that the effectiveness of the public warning system is equivalent in terms of coverage and capacity to reach users, including those only temporarily present in the area concerned, taking utmost account of guidelines adopted by national regulatory authorities within the framework of regional regulatory coordination as referred to in Article 28 of this Directive.

3. Public warnings shall be easy for users to receive.

4. No later than two (2) years after entry into force of this Directive, and after consulting the competent authorities in charge of receiving emergency calls, national regulatory authorities shall publish guidelines adopted within the framework of regional regulatory coordination as referred to in Article 28 of this Directive, on how to assess whether the effectiveness of public warning systems under paragraph 2 of this article is equivalent to the effectiveness of those under paragraph 1 of this article.

Article 205 Equivalent access and choice for users with disabilities

1. The competent authorities shall specify requirements to be met by operators to ensure that users with disabilities benefit from the following facilities:

    a. access to electronic communications services, including the related contractual information provided pursuant to Article 181 of this Directive, equivalent to that enjoyed by the majority of users; and

    b. choice of undertakings and services available to the majority of users.

2. In taking the measures referred to in paragraph 1 of this Article, the competent authorities shall encourage compliance with the relevant standards or specifications laid down in accordance with the applicable standardization procedures.

Article 206 Directory enquiry services

1. All providers of number-based interpersonal communications services that attribute numbers from a numbering plan shall meet all reasonable requests to make available, for the purposes of the provision of publicly available directory enquiry services and directories, the relevant information in an agreed format, on terms which are fair, objective, cost oriented and non-discriminatory.

2. National regulatory authorities may impose obligations and conditions on undertakings that control access to users, for the provision of directory enquiry services, in accordance with this Directive, in particular Article 67.

3. The obligations and conditions shall be objective, equitable, non-discriminatory and transparent.

4. Member States shall not maintain any regulatory restrictions which prevent users in one Member State from directly accessing the directory enquiry service in another Member State by voice call or SMS and shall take measures to ensure such access.

5. This Article shall apply subject to the requirements of Community law on the protection of personal data and privacy and, in particular, of Article 180 of this Directive.

Chapter XXXIII Transitional provisions

Article 207 Existing individual licenses, general authorisations and declarations

1. No later than twelve (12) months after the date of the national measures transposing this Directive, Member States shall adapt to the provisions of this Directive existing individual licenses, general authorisations and declarations.

2. Where the application of paragraph 1 of this Article results to a restriction of the rights or an increase in the obligations of an undertaking subject to the individual licensing, general authorisation or declaration regime, the Member State may extend the validity of those rights and obligations by a maximum of nine (09) months from the date of entry into force of the national measures transposing this Directive.

3. A Member State may request a temporary extension of a condition linked to an existing individual license, general authorization or declaration prior to the date of entry into force of the national measures transposing this Directive, if it can show that suppression of that condition creates excessive difficulties for the undertakings benefiting from it, and if it is not possible for those undertakings to negotiate new agreements under reasonable commercial conditions prior to the date of entry into force of the national measures transposing this Directive.

4. Member States' requests for extension shall be brought before the Commission, which shall examine them in the light of the specific situation of each Member State and the undertakings concerned.

5. The Commission may request the opinion of national regulatory authorities acting within the framework of regional regulatory coordination as referred to in Article 28 of this Directive. The national regulatory authorities shall respond without delay.

6. The Commission shall, based on the aforementioned response, reach a decision and may accept or reject the request.

7. I the event of a request being accepted, the Commission shall decide on the scope and duration of the extension to be granted.

8. The decision of the Commission shall be communicated to the Member State concerned within the six (6) months following receipt of the request for extension.

Chapter XXXIV Final provisions

Article 208 Transposition and implementation

1. The Commission shall be responsible for the implementation of this Directive.

2. Each Member State shall adopt and publish, at the latest two (02) years after the entry into force of this Directive, the laws and regulations necessary to comply with this Directive.

3. The Commission shall monitor the progress made by each Member State in transposing this Directive throughout the two (2)-year period and shall provide support to Member States to ensure the adoption of the transposition measures.

4. In the event of difficulties in the transposition process or failure to adopt the transposition measures within the two (2)-year period referred to in this paragraph, the Commission shall propose to the concerned Member State a detailed timetable as well as technical assistance with a view to ensuring the prompt adoption of the transposition measures.

5. Each Member State shall communicate to the Commission the provisions of domestic law that they adopt in the field governed by the present Directive.

6. When, on the basis of this Directive, Member States take decisions that are liable to have an impact on exchanges between Member States and on the establishment of the single market, or on market entry arrangements for the purpose of providing publicly available electronic communications networks and/or services, they shall ensure that these measures as well as substantiating arguments are communicated to the Commission and to the regional regulatory coordination body established by national regulatory authorities pursuant to Article 28 of this Directive one (1) month prior to their implementation.

7. The Commission may comment on the provisions adopted by each Member State in accordance with this Article and communicated to it.

8. Where appropriate, Member States shall take into consideration the observations of the Commission and the regional regulatory coordination body established by national regulatory authorities pursuant to Article 28 of this Directive.

9. The provisions of this article shall take effect in the Member State concerned one (1) month after the date on which they were communicated to the Commission and the regional regulatory coordination body established by national regulatory authorities pursuant to Article 28 of this Directive, unless the Commission informs the Member State that they are incompatible with this Directive.

10. Under exceptional circumstances, where a Member State considers it urgent to take action to safeguard competition and protect the interests of users, it may adopt proportionate measures immediately, which are applicable for a limited period only.

11. Then measures taken by the Member States shall be communicated without delay to the Commission and to the eventual sub-regional regulatory coordination body established by national regulatory authorities pursuant to Article 28 of this Directive, for comment.

Article 209 Information report

No later than six (6) months following the date of its entry into force, and thereafter at its request in the context of the review procedures under **Error! Reference source not found.** of this directive, Member States shall communicate to the Commission, the necessary information, including the steps taken or which are in the course of approval for transposing and implementing the provisions of this Directive, in order to enable it to draw up a report on its application.

Article 210 Review Procedures

1. The provisions of this Directive and of specific Community acts adopted based on the provisions of this Directive shall be re-examined periodically, in particular with a view to determining whether they need to be amended to take account of the socio-economic environmental and technological and market developments concerning the different types of electronic communications networks and services.

2. Without prejudice to paragraph 1 of this article, the Commission shall carry out the review of this Directive by December 2030 and every three (3) years thereafter, and report to the Council of Ministers.

3. Without prejudice to paragraph 1 of this article, certain aspects of this Directive shall be reviewed as follows, and the Commission shall submit a report to the Council regarding the outcome of the review:

    a. The provisions relating to the scope of the universal service no later than three (03) years after its entry into force, and every four (4) years thereafter, in particular with a view to proposing to the Council of Ministers the modification or redefinition of the scope. That review shall be undertaken in light of social, economic and technological developments, taking into account, inter alia, mobility and data rates in light of the prevailing technologies used by the majority of users;

    b. No later than December 2030 and every four (4) years thereafter, national regulatory authorities, within the framework of regional regulatory coordination as referred to in Article 28 of this Directive, shall publish an opinion on:

        i. The implementation and operation at national level of the regime applicable to operators according to this Directive and their impact on the operation of the internal market. The Commission may, taking utmost account of the opinion formulated by national regulatory authorities within the framework of the regional regulatory coordination as referred to in Article 28 of this Directive, publish a report on the application of said regime and of Annexes **Error! Reference source not found.** and **Error! Reference source not found.**, and submit a legislative proposal to amend those provisions where it considers this to be necessary for the purpose of addressing obstacles to the proper functioning of the internal market;

        ii. Technological and market developments concerning the different types of electronic communications services. The Commission, taking utmost account of the opinion formulated by national regulatory authorities of the regional regulatory coordination as referred to in Article 28 of this Directive shall publish a report and publish a proposal for amendment where it considers necessary to ensure that the objectives set out in this Directive continue to be met.

4. Subject to the specific requirements of this article, the Commission, during the reviews indicated above, shall evaluate in particular the following aspects and may, to that end, request information from Member States, which shall be supplied without undue delay:
    a. the market implications of the different provisions; and
    b. whether the ex-ante and other intervention powers pursuant to the present Directive are sufficient to enable national regulatory authorities to address uncompetitive oligopolistic market structures, and to ensure that competition in electronic communications markets continues to thrive to the benefit of users.
5. Member States shall submit to the Commission any draft amendments to this Chapter XXVI with a view to adapting it to technical, legal and economic developments in the electronic communications sector.

Article 211 Publication

1. This **DIRECTIVE C/DIR.1/7/26** shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairperson of the Council of Ministers.
2. It shall also be published by each Member State in its National Gazette within the same timeframe.

Article 212 Entry into force

1. This **DIRECTIVE C/DIR.1/7/26** shall enter into force upon Publication.

DONE IN FREETOWN, THIS 17TH DAY OF JULY 2026

H.E. ALHAJI MUSA TIMOTHY KABBA

FOR THE COUNCIL,

THE CHAIRPERSON

Annex 1 Conditions which may apply to an individual license and a general authorization

This Annex contains the list of specific conditions that may be attached to individual licenses and general authorizations, as indicated in paragraph 2 of Article 47 of this Directive. This list is not exhaustive and may be completed by each Member State.

A. Specific conditions which may be attached to an individual license

1. Maximum duration, which must not be unreasonably short, in order, among other things, to ensure the effective use of the radio frequencies or numbers in question or to grant access to public or private property, the foregoing being without prejudice to other provisions relating to withdrawal or suspension of individual licenses.

2. Compliance with universal service obligations, in accordance with the provisions of this Directive relating to interconnection and universal service.

3. Requirements related to the quality, availability and permanence of the service or network, affecting in particular the financial and technical capacities of the candidate and his management skills and conditions setting a minimum operating period and including, where applicable, and in accordance with Community law, the obligation to provide publicly available electronic communications services and public electronic communications networks.

4. Specific requirements in regard to environment, town planning and regional development considerations, in particular conditions relating to the granting of access to public or private property and to the co-location and sharing of facilities.

5. Special conditions that may be attached to the rights of use in terms of numbering:

   a. Description of the service for which the number is used, including any requirements in regard to the provision of that service;

   b. Effective and efficient use of numbers, in accordance with the provisions of this Directive relating to numbering, in particular Chapter XXII;

   c. Requirements in regard to number portability, in accordance with the provisions of this Directive relating to number portability, in particular Article 82 and Chapter XXIX;

   d. Obligation to provide users listed in public directories with information for the purposes of the provisions of this Directive relating to universal service, in particular Chapter II of Title 5Title 6;

e. Transfer of usage rights to a third party at the initiative of the rights-holder, and conditions applicable to such transfer;

f. Charges for usage rights;

g. Any commitment made by the operator or service provider during the individual licensing process;

h. Obligations under relevant international agreements relating to usage of numbers;

i. Obligations concerning the extraterritorial use of numbers within ECOWAS to ensure compliance with user and consumer protection and other number-related rules in Member States other than that of the country code, in accordance with Article 139 of this Directive;

j. Maximum duration of use rights.

6. Special conditions that may be attached to the rights of use of the radio frequency spectrum:

 a. Designation of the service or type of network or technology for which spectrum rights have been granted, including, where applicable, the exclusive use of a frequency for the transmission of content or specific audiovisual services;

 b. Effective and efficient use of frequencies, including, where applicable, coverage requirements;

 c. Technical and operational conditions necessary to avoid harmful interference and to limit exposure of the public to electromagnetic fields, when these conditions differ from those specified in the general authorization;

 d. Transfer of rights of use at the initiative of the holder of these rights and conditions applicable to the transfer;

 e. Charges for usage rights, in accordance with Article 118 of this Directive;

 f. Commitments made during a competitive or comparative selection procedure by the undertaking having obtained the usage right;

 g. Obligations under relevant international agreements relating to frequency usage;

 h. Maximum duration of use rights

7. Conditions relating to access and interconnection obligations applicable to undertakings that provide electronic communications networks or services, in accordance with the provisions of

this Directive relating to access and interconnection and obligations arising from Community legislation.

8. Accessibility to end-users of the numbers in the national numbering plan, including conditions in accordance with the provisions of this Directive relating to universal service and numbering.

9. Rules concerning the protection of personal data and privacy within the electronic communications sector in accordance with relevant provisions of this Directive.

10. Rules and conditions relating to user and consumer protection specific to the electronic communications sector, including those provided for in this Directive.

11. Terms of use for communications from public authorities to the general public for preventing imminent threats and major catastrophes.

12. Terms of use during major disaster to ensure communication between emergency services, authorities and public broadcasting services.

13. The integrity, protection and security of networks and services to ensure a high level of cybersecurity.

B. <u>Specific conditions which may be attached to a general authorization</u>

1. Conditions aimed at ensuring compliance with the relevant essential requirements.

2. Conditions relating to the provision of information reasonably required with a view to verify compliance with applicable conditions and for statistical purposes.

3. Accessibility to end-users of the numbers in the national numbering plan, including conditions in accordance with the provisions of this Directive relating to universal service and numbering.

4. Financial contributions pursuant to Article 51 of this Directive .

5. Conditions relating to the protection of users, in particular as regards:

   a. Prior approval by the national regulatory authority of the standard contract concluded with users;

   b. Provision of detailed and accurate invoicing;

   c. The availability of a dispute settlement procedure;

d. The publication of service access conditions, including tariffs, quality and availability, and adequate notification whenever such conditions are modified;

e. Transparency obligations on operators in accordance with the provisions of Chapter XXVII of this Directive .

6. Rules concerning the protection of personal data and privacy within the electronic communications sector in accordance with relevant provisions of this Directive .

7. Rules and conditions relating to user and consumer protection specific to the electronic communications sector, including those provided for in this Directive.

8. Restrictions in regard to the transmission of illegal content and of harmful content relating to television broadcasting activities.

9. Conditions aimed at preventing anti-competitive behavior in electronic communications markets, and in particular measures designed to ensure that tariffs are not discriminatory and do not distort competition.

10. Financial contribution to the provision of the universal service in accordance with Community legislation.

11. Communication of information contained customer databases for the purpose of providing universal directory services.

12. Provision of emergency services.

13. Special arrangements for people with disabilities.

14. Facilitating lawful interception by competent national authorities.

15. Terms of use for communications from public authorities to the general public for preventing imminent threats and major catastrophes.

16. Terms of use during major disaster to ensure communication between emergency services, authorities and public broadcasting services.

17. Measures aimed at limiting exposure of the public to electromagnetic fields generated by electronic communications networks, in accordance with Community legislation.

18. Conditions relating to access and interconnection obligations applicable to undertakings that provide electronic communications networks or services, in accordance with the provisions of

this Directive relating to access and interconnection and obligations arising from Community legislation.

19. Special conditions that may be attached to the rights of use of the radio frequency spectrum:

    a. Designation of the service or type of network or technology for which spectrum rights have been granted, including, where applicable, the exclusive use of a frequency for the transmission of content or specific audiovisual services;

    b. Effective and efficient use of frequencies, including, where applicable, coverage requirements;

    c. Technical and operational conditions necessary to avoid harmful interference and to limit exposure of the public to electromagnetic fields, when these conditions differ from those specified in the general authorization;

    d. Maximum duration of use rights;

    e. Transfer of rights of use at the initiative of the holder of these rights and conditions applicable to the transfer;

    f. Commitments made during a competitive or comparative selection procedure by the undertaking having obtained the usage right;

    g. Obligations under relevant international agreements relating to frequency usage;

    h. Charges for usage rights, in accordance with Article 118 of this Directive.

20. Special conditions that may be attached to the rights of use in terms of numbering:

    a. Description of the service for which the number is used, including any requirements in regard to the provision of that service;

    b. Effective and efficient use of numbers, in accordance with the provisions of this Directive relating to numbering, in particular Chapter XXII;

    c. Requirements with regard to number portability, in accordance with the provisions of this Directive relating to number portability, in particular Article 82 and Chapter XXIX;

    d. Maximum duration of use rights;

    e. Transfer of usage rights to a third party at the initiative of the rights-holder, and conditions applicable to such transfer;

f. Any commitment made by the operator during the individual licensing process;

g. Obligations under relevant international agreements relating to usage of numbers;

h. Charges for usage rights;

i. Obligation to provide users listed in public directories with information for the purposes of the provisions of this Directive relating to universal service, in particular Chapter XXIV;

j. Obligations concerning the extraterritorial use of numbers within ECOWAS to ensure compliance with user and consumer protection and other number-related rules in Member States other than that of the country code, in accordance with Article 139 of this Directive;

21. Conditions relating to interoperability of services in accordance with the provisions of this Directive.

22. The integrity, protection and security of networks and services to ensure a high level of cybersecurity.

C. <u>Principles to be observed</u>

1. The conditions listed above may be imposed only in justified cases and with de respect to the principle of proportionality.

2. That list of conditions is without prejudice:

   a. any other legal condition that is not specific to the electronic communications sector or that are necessary in view of the national environment; and

   b. measures taken by Member States in accordance with requirements affecting the public interest recognized by the Treaty, national legislation and regulations, and which concern in particular public morals, public security, including criminal investigations, and public order.

ECOWAS CERTIFIED DILEGAL COMMISSION

Annex 2 Conditions that may apply to a declaration

This Annex contains the list of specific conditions that may be attached to declarations, as indicated in Article 43 of this Directive. This list is not exhaustive and may be completed by each Member State.

1. Financial participation in universal service in accordance with the relevant provisions of Chapter XXIV of this Directive;
2. Financial contributions in accordance with Article 51 of this Directive;
3. Interoperability of services and interconnection of networks in accordance with the provisions of this Directive relating to interconnection;
4. Accessibility of the numbers of the national numbering plan to end-users;
5. Requirements concerning the environment, urban planning and regional development considerations, as well as requirements relating to the allocation of rights of access to public or private property, rights of use thereof, and conditions related to infrastructure sharing;
6. Quality and continuity of the network and services;
7. Protection of communications, personal data and the rights of users and consumers;
8. Information to be provided under the declaration procedure as provided for under this Directive;
9. Utilization in the event of force majeure or major disaster to provide emergency and defense services;
10. Obligation to access networks/services under objective, transparent and non-discriminatory conditions;
11. The integrity, protection and security of networks and services to ensure a high level of cybersecurity.

Annex 3 **Information relating to contracts**

This Annex contains the list of information to be communicated by operators (other than transmission services used for the provision of machine-to-machine services), to the attention of the consumer concerned, in accordance with the Articles 181 and 201 of this Directive. This list is not exhaustive and may be completed by each Member State.

A. <u>Information requirements for contracts other than distance or off-premises contracts</u>

1. Before the consumer is bound by a contract other than a distance or an off-premises contract, or any corresponding offer, the operator shall provide the consumer with the following information in a clear and comprehensible manner, if that information is not already apparent from the context:

    a. The main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;

    b. The identity of the operator, such as the company name, geographical address of their establishment and telephone number;

    c. The total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;

    d. Where applicable, the arrangements for payment, delivery, performance, the time by which the operator undertakes to deliver the goods or to perform the service, and the operator's complaint handling policy;

    e. In addition to a reminder of the existence of a legal guarantee of conformity for goods, the existence and the conditions of after-sales services and commercial guarantees, where applicable;

    f. The duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;

    g. Where applicable, the functionality, including applicable technical protection measures, of digital content;

h. Where applicable, any relevant interoperability of digital content with hardware and software that the operator is aware of or can reasonably be expected to have been aware of.

2. Member States may adopt or maintain additional pre-contractual information requirements for contracts to which the provisions above apply.

B. Information requirements for distance and off-premises contracts

1. Before the consumer is bound by a distance or off- premises contract, or any corresponding offer, the operator shall provide the consumer with the following information in a clear and comprehensible manner:

   a. The main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;

   b. The identity of the operator, such as its trade name;

   c. The geographical address at which the operator is established and the operator's telephone number, fax number and e-mail address, where available, to enable the consumer to contact the trader quickly and communicate with him efficiently and, where applicable, the geographical address and identity of the operator on whose behalf he is acting;

   d. If different from the address provided in accordance with point (c), the geographical address of the place of business of the operator, and, where applicable, that of the operator on whose behalf he is acting, where the consumer can address any complaints;

   e. The total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable. In the case of a contract of indeterminate duration or a contract containing a subscription, the total price shall include the total costs per billing period. Where such contracts are charged at a fixed rate, the total price shall also mean the total monthly costs. Where the total costs cannot be reasonably calculated in advance, the manner in which the price is to be calculated shall be provided;

   f. The cost of using the means of distance communication for the conclusion of the contract where that cost is calculated other than at the basic rate;

g. The arrangements for payment, delivery, performance, the time by which the operator undertakes to deliver the goods or to perform the services and, where applicable, the operator's complaint handling policy;

h. Where a right of withdrawal exists, the conditions, time limit and procedures for exercising that right, as well as the model withdrawal form;

i. Where applicable, that the consumer will have to bear the cost of returning the goods in case of withdrawal and, for distance contracts, if the goods, by their nature, cannot normally be returned by post, the cost of returning the goods;

j. The information that, if the consumer exercises the right of withdrawal after having made a request, he shall be liable to pay the operator reasonable costs;

k. Where a right of withdrawal is not provided for, the information that the consumer will not benefit from a right of withdrawal or, where applicable, the circumstances under which the consumer loses his right of withdrawal;

l. A reminder of the existence of a legal guarantee of conformity for goods;

m. Where applicable, the existence and the conditions of after sale customer assistance, after-sales services and commercial guarantees;

n. The duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;

o. Where applicable, the minimum duration of the consumer's obligations under the contract;

p. Where applicable, the existence and the conditions of deposits or other financial guarantees to be paid or provided by the consumer at the request of the operator;

q. Where applicable, the functionality, including applicable technical protection measures, of digital content;

r. Where applicable, any relevant interoperability of digital content with hardware and software that the operator is aware of or can reasonably be expected to have been aware of;

s. Where applicable, the possibility of having recourse to an out-of-court complaint and redress mechanism, to which the trader is subject, and the methods for having access to it.

2. The information referred to in paragraph 1 shall form an integral part of the distance or off-premises contract and shall not be altered unless the contracting parties expressly agree otherwise.

3. If the operator has not complied with the information requirements on additional charges or other costs as referred to in point e) of paragraph 1, or on the costs of returning the goods as referred to in point (i) of paragraph 1, the consumer shall not bear those charges or costs.

4. Member States may maintain or introduce in their national law language requirements regarding the contractual information, so as to ensure that such information is easily understood by the consumer.

5. The information requirements laid down above do not prevent Member States from imposing additional information requirements. Without prejudice to the paragraph 1 above, if a provision of the Community legal framework on the content and the manner in which the information is to be provided conflicts with a provision stipulated above, the latter shall prevail.

6. As regards compliance with the information requirements laid down in this Part, the burden of proof shall be on the operator.

C. **<u>Information requirements for operators, other than providers of transmission services used for the provision of machine-to-machine services</u>**

Operators of publicly available electronic communications services, other than providers of transmission services used for the provision of machine-to-machine services shall provide the following information:

1. As part of the main characteristics of each service provided, any minimum levels of quality of service to the extent that those are offered and, for services other than internet access services, the specific quality parameters assured. Where no minimum levels of quality of service are offered, a statement to this effect shall be made.

2. As part of the information on price, where and to the extent applicable, the respective prices for activating the electronic communications service and for any recurring or consumption-related charges.

3. As part of the information on the duration of the contract and the conditions for renewal and termination of the contract, including possible termination fees, to the extent that such conditions apply:

a. Any minimum use or duration required to benefit from promotional terms;

b. Any charges related to switching and compensation and refund arrangements for delay or abuse of switching, as well as information about the respective procedures;

c. Information on the right of consumers using pre-paid services to a refund, upon request, of any remaining credit in the event of operator switching;

d. Any fees due on early termination of the contract, including information on unlocking the terminal equipment and any cost recovery with respect to terminal equipment.

4. Any compensation and refund arrangements, including, where applicable, explicit reference to rights of consumers, which apply if contracted levels of quality of service are not met or if the operator responds inadequately to a security incident, threat or vulnerability.

5. The type of action that the operator might be taken by the provider in reaction to security incidents or threats or vulnerabilities.

D. <u>Information requirements for providers of internet access services and publicly available interpersonal communications services</u>

I. <u>In addition to the requirements set out in Part C, providers of internet access services and publicly available interpersonal communications services shall provide the following information:</u>

1. As part of the main characteristics of each service provided:

   a. Any minimum levels of quality of service to the extent that these are offered, and taking utmost account of the guidelines adopted in accordance with paragraph 2 of Article 185 by national regulatory authorities within the framework of sub-regional regulatory coordination as referred to in Article 28 of this Directive and regarding:

      i. For internet access services: at least latency, jitter, packet loss;

      ii. For publicly available interpersonal communications services, where they exert control over at least some elements of the network or have a service level agreement to that effect with undertakings providing access to the network: at least the time for the initial connection, failure probability, call signaling delays; and

b. Without prejudice to the right of consumers to use terminal equipment of their choice, any conditions, including fees, imposed by the provider on the use of terminal equipment supplied.

2. As part of the information on price, where and to the extent applicable, the respective prices for activating the electronic communications service and for any recurring or consumption-related charges:

   a. Details of specific tariff plan or plans under the contract and, for each such tariff plan the types of services offered, including where applicable, the volumes of communications (such as MB, minutes, messages) included per billing period, and the price for additional communication units;

   b. In the case of tariff plan or plans with a pre-set volume of communications, the possibility for consumers to defer any unused volume from the preceding billing period to the following billing period, where this option is included in the contract;

   c. Facilities to safeguard bill transparency and monitor the level of consumption;

   d. Tariff information regarding any numbers or services subject to particular pricing conditions; with respect to individual categories of services, competent authorities in coordination, where relevant, with national regulatory authorities may require in addition such information to be provided immediately prior to connecting the call or to connecting to the provider of the service;

   e. For bundled services and bundles including both services and terminal equipment the price of the individual elements of the bundle to the extent they are also marketed separately;

   f. Details and conditions, including fees, of any after-sales service, maintenance, and customer assistance; and

   g. The means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;

3. As part of the information on the duration of the contract for bundled services and the conditions for renewal and termination of the contract, where applicable, the conditions of termination of the bundle or of elements thereof.

4. Without prejudice to relevant provisions of this Directive concerning the protection of personal data, information on what personal data shall be provided before the performance of the service or collected in the context of the provision of the service.

5. Details on products and services designed for consumers with disabilities and how updates on this information can be obtained.

6. The means of initiating procedures for the resolution of disputes including national and cross-border disputes.

II. <u>In addition to the requirements set out in Part C and under Chapter I of the present Part D, providers of publicly available number-based interpersonal communications services shall also provide the following information:</u>

1. Any constraints on access to emergency services or caller location information due to a lack of technical feasibility insofar as the service allows consumers to originate calls to a number in a national or international numbering plan.

2. The consumer's right to determine whether to include his or her personal data in a directory, and the types of data concerned, in accordance with relevant provisions of this Directive concerning the protection of personal data, namely its Article 180.

III. <u>In addition to the requirements set out in Part C and under Chapter I of the present Part D, providers of internet access services shall also provide the following information:</u>

1. Information on how traffic management measures applied by that provider could impact on the quality of the internet access services, on the privacy of consumers and on the protection of their personal data.

2. A clear and comprehensible explanation as to how any volume limitation, speed and other quality of service parameters may in practice have an impact on internet access services, and in particular on the use of content, applications and services.

3. A clear and comprehensible explanation of how any services other than internet access services which are optimized for specific content, applications or services, or a combination thereof, to which the consumer subscribes might in practice have an impact on the internet access services provided to that consumer.

4. A clear and comprehensible explanation of the minimum, normally available, maximum and advertised download and upload speed of the internet access services in the case of fixed networks, or of the estimated maximum and advertised download and upload speed of the internet access services in the case of mobile networks, and how significant deviations from the

respective advertised download and upload speeds could impact the exercise of the consumers' rights laid down in paragraph 1 of Article 182 of this Directive.

5. A clear and comprehensible explanation of the remedies available to the consumer in accordance with national law in the event of any continuous or regularly recurring discrepancy between the actual performance of the internet access service regarding speed or other quality of service parameters and the performance indicated in accordance with paragraphs 1 to 4.

E. Information requirements regarding internet access services: Transparency measures ensuring access to an open internet

Providers of internet access services shall ensure that any contract which includes internet access services specifies at least the following:

1. Information on how traffic management measures applied by that provider could impact on the quality of the internet access services, on the privacy of consumers and on the protection of their personal data.

2. A clear and comprehensible explanation as to how any volume limitation, speed and other quality of service parameters may in practice have an impact on internet access services, and in particular on the use of content, applications and services.

3. A clear and comprehensible explanation of how any services other than internet access services which are optimized for specific content, applications or services, or a combination thereof, to which the consumer subscribes might in practice have an impact on the internet access services provided to that consumer.

4. A clear and comprehensible explanation of the minimum, normally available, maximum and advertised download and upload speed of the internet access services in the case of fixed networks, or of the estimated maximum and advertised download and upload speed of the internet access services in the case of mobile networks, and how significant deviations from the respective advertised download and upload speeds could impact the exercise of the consumers' rights laid down in paragraph 1 of Article 182 of this Directive.

5. A clear and comprehensible explanation of the remedies available to the consumer in accordance with national law in the event of any continuous or regularly recurring discrepancy between the actual performance of the internet access service regarding speed or other quality of service parameters and the performance indicated in accordance with paragraphs 1 to 4 of the present Part E.

Annex 4 **Transparency and publication of information**

This Annex contains the list of information to be published in relation to the requirements of transparency and publication of information in accordance with Article 182 of this Directive. This list is not exhaustive and may be completed by each Member State.

In coordination, where relevant, with national regulatory authorities, the competent authority shall be in charge of following tasks:

1. Ensuring that the information in this Annex is published, in accordance with Article 182.
2. Decide which information is relevant to be published by the providers of internet access services or publicly available interpersonal communications services, and which information is to be published by the competent authority itself in coordination, where relevant, with the national regulatory authority, in order to ensure that all consumers are able to make informed choices.
3. If considered to be appropriate, promoting self- or co-regulatory measures prior to imposing any obligation.

List of information to be published in accordance with Article 182 of this Directive.

1. Contact details of the undertaking
2. Description of the services offered
    a. Scope of the services offered and the main characteristics of each service provided, including any minimum levels of quality of service where offered and any restrictions imposed by the operator on the use of terminal equipment supplied.
    b. Tariffs of the services offered, including information on communications volumes (such as restrictions of data usage, numbers of voice minutes, numbers of messages) of specific tariff plans and the applicable tariffs for additional communication units, numbers or services subject to particular pricing conditions, charges for access and maintenance, all types of usage charges, special and targeted tariff schemes and any additional charges, as well as costs with respect to terminal equipment.
    c. After-sales, maintenance and customer assistance services offered and their contact details.
    d. Standard contract conditions, including contract duration, charges due on early termination of the contract, rights related to the termination of bundled offers or of

elements thereof, and procedures and direct charges related to the portability of numbers and other identifiers, if relevant.

e. The following information, as applicable

   i. Information on access to emergency services and caller location, or any limitation on the latter, if the undertaking is a provider of number-based interpersonal communications services;

   ii. Information on the degree to which access to emergency services may be supported or not, if the undertaking is a provider of number- independent interpersonal communications services.

f. Details of products and services, including any functions, practices, policies and procedures and alterations in the operation of the service, specifically designed for users with disabilities, in accordance with Community law harmonizing accessibility requirements for products and services.

3. Dispute resolution mechanisms, including those developed by the operator.

Annex 5 Minimum set of services for broadband internet access service within universal service

This Annex contains the minimum set of services that the adequate broadband internet access service shall be capable of supporting, in accordance with paragraph 8 of Article 152 of this Directive. This list is not exhaustive and may be completed by each Member State.

1. E-mail;
2. Search engines enabling search and finding of all type of information;
3. Basic training and education online tools;
4. Online newspapers or news;
5. Buying or ordering goods or services online;
6. Job searching and job searching tools;
7. Professional networking;
8. Internet banking;
9. E-government service use;
10. Social media and instant messaging;
11. Calls and video calls (standard quality).

Annex 6 **Provisions relating to number portability**

This Annex contains the requirements for number portability in accordance with Article 187 of this Directive. These requirements are not exhaustive and may be completed by each Member State.

The requirement that all users with numbers from the national numbering plan, who so request can retain their numbers independently of the undertaking providing the service shall apply as follows:

1. In the case of geographic numbers, at a specific location; and

2. In the case of non-geographic numbers, at any location.

This Part does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.

ECOWAS CERTIFIED ORIGINAL COMMISSION