Electronic communications: universal service, users' rights relating to networks and services

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PURPOSE : to ensure the availability throughout the Community of good quality publicly available services through effective competition and choice and to deal with circumstances in which the needs of end-users are not satisfactorily met by the market. COMMUNITY MEASURE : Directive 2002/22/EC of the European Parliament and of the Council on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive). CONTENT : Within the framework of Directive 2002/21/EC (Framework Directive), this Directive concerns the provision of electronic communications networks and services to end-users. The aim is to ensure the availability throughout the Community of good quality publicly available services through effective competition and choice and to deal with circumstances in which the needs of end-users are not satisfactorily met by the market. This Directive establishes the rights of end-users and the corresponding obligations on undertakings providing publicly available electronic communications networks and services. With regard to ensuring provision of universal service within an environment of open and competitive markets, this Directive defines the minimum set of services of specified quality to which all end-users have access, at an affordable price in the light of specific national conditions, without distorting competition. This Directive also sets out obligations with regard to the provision of certain mandatory services such as the retail provision of leased lines. Member States shall determine the most efficient and appropriate approach for ensuring the implementation of universal service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. They shall seek to minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest. Member States shall ensure that national regulatory authorities can impose obligations on undertakings in order to ensure that public pay telephones are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones, the accessibility of such telephones to disabled users and the quality of services. Member States shall ensure that it is possible to make emergency calls from public pay telephones using the single European emergency call number "112" and other national emergency numbers, all free of charge and without having to use any means of payment. Member States shall, where appropriate, take specific measures for disabled end-users in order to ensure access to and affordability of publicly available telephone services, including access to emergency services, directory enquiry services and directories, equivalent to that enjoyed by other end-users. Member States may designate one or more undertakings to guarantee the provision of universal service so that the whole of the national territory can be covered. Member States may designate different undertakings or sets of undertakings to provide different elements of universal service and/or to cover different parts of the national territory. When Member States designateundertakings in part or all of the national territory as having universal service obligations, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no undertaking is a priori excluded from being designated. Such designation methods shall ensure that universal service is provided in a cost-effective manner and may be used as a means of determining the net cost of the universal service obligation. Where, on the basis of the net cost calculation, national regulatory authorities find that an undertaking is subject to an unfair burden, Member States shall, upon request from a designated undertaking, decide: - to introduce a mechanism to compensate that undertaking for the determined net costs under transparent conditions from public funds; and/or - to share the net cost of universal service obligations between providers of electronic communications networks and services. The Commission shall periodically review the scope of universal service, in particular with a view to proposing to the European Parliament and the Council that the scope be changed or redefined. A review shall be carried out, the first occasion being 24/04/2005 at thje latest. This review shall be undertaken in the light of social, economic and technological developments, taking into account, inter alia, mobility and data rates in the light of the prevailing technologies used by the majority of subscribers. The

Commission shall submit a report to the European Parliament and the Council regarding the outcome of the review. Member States shall ensure that, where subscribing to services providing connection and/or access to the public telephone network, consumers have a right to a contract with an undertaking or undertakings providing such services. The contract shall specify at least: - the identity and address of the supplier; - services provided, the service quality levels offered, as well as the time for the initial connection; - the types of maintenance service offered; - particulars of prices and tariffs and the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained; - the duration of the contract, the conditions for renewal and termination of services and of the contract; - any compensation and the refund arrangements which apply if contracted service quality levels are not met; and - the method of initiating procedures for settlement of disputes. Member States shall ensure that, in addition to any other national emergency call numbers specified by the national regulatory authorities, all end-users of publicly available telephone services, including users of public pay telephones, are able to call the emergency services free of charge, by using the single European emergency call number "112". Member States may impose reasonable "must carry" obligations, for the transmission of specified radio and television broadcast channels and services, on undertakings under their jurisdiction providing electronic communications networks used for the distribution of radio or television broadcasts to the public where a significant number of end-users of such networks use them as their principal means to receive radio and television broadcasts. ENTRY INTO FORCE : 24/04/2002. IMPLEMENTATION : 24 /07/2003.