

Subsidiary Legislation made under ss.9 & 33(2).

## Communications (Universal Service and Users' Rights) Regulations 2006

### LN.2006/072

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#### **EU Legislation/International Agreements involved:**

Directive 92/44/EC

Directive 2002/22/EC

Directive 2002/58/EC

Directive 2009/136/EC

Directive (EU) 2018/1972

**ARRANGEMENT OF REGULATIONS**

Regulation

1. Title.
2. Interpretation

**PART I**

**UNIVERSAL SERVICE OBLIGATIONS**

3. Provision of access at a fixed location and provision of telephone services.
4. Directory enquiry services and directories.
5. Public pay telephones and other public voice telephony access points.
6. Measures for disabled users.
7. Designation of universal service providers.
8. Affordability of tariffs for universal services.
9. Control of expenditure.
10. Quality of service of designated universal service providers.
11. Costing of universal service obligations.
12. Sharing of burden of universal service obligations.

**PART II**

**REGULATORY CONTROLS ON PERSONS WITH SIGNIFICANT MARKET  
POWER IN SPECIFIC RETAIL MARKETS**

13. *Repealed.*
14. Regulatory controls on specific retail markets.
15. *Repealed.*
16. *Repealed.*

**PART III**

**END USERS' INTERESTS AND RIGHTS**

- 16A. Exemption of certain microenterprises.
17. Contracts.
18. Transparency, comparison of offers and publication of information.
- 18A. Quality of service related to internet access services and publicly available interpersonal communications services.
19. Availability of services.

- 19A. Ensuring equivalence in access and choice for disabled end-users.
- 20. Interoperability of consumer digital television equipment.
- 21. Telephone directory enquiry services.
- 22. Emergency call numbers.
- 22A. Public warning system.
- 23. European telephone access codes.
- 23A. Harmonised numbers for harmonised services of social value.
- 24. Access to numbers and services.
- 25. Provision of additional facilities.
- 26. Provider switching and number portability.
- 26A. Bundled offers.
- 27. Must-carry obligations.

**PART IV**

**GENERAL PROVISIONS**

- 28. Consultation with interested parties.
- 29. Procedures for the handling of complaints and for the resolution of disputes involving consumers and other end-users.
- 30. Notification, monitoring and review procedures.
- 31. Notices regarding imposition of obligations.
- 32. Enforcement and Compliance.
- 33. Penalty for offences.

**SCHEDULE 1**

**DESCRIPTION OF FACILITIES AND SERVICES REFERRED TO IN  
REGULATION 9 (CONTROL OF EXPENDITURE), REGULATION 25  
(ADDITIONAL FACILITIES) AND REGULATION 26 (PROVIDER SWITCHING  
AND NUMBER PORTABILITY)**

**SCHEDULE 2**

**CALCULATION METHOD FOR DETERMINING THE NET COST OF  
COMPLYING WITH A UNIVERSAL SERVICE OBLIGATION IN THE  
CIRCUMSTANCES DESCRIBED IN REGULATION 11 (5) AND THE PRINCIPLES  
APPLICABLE TO A SHARING MECHANISM IN ACCORDANCE WITH  
REGULATION 12 (7)**

- Part A Calculation method for determining the net cost of complying with a universal service obligation in the circumstances described in regulation 11 (5).

**2006-15**

Communications

**2006/072**      **Communications (Universal Service and Users' Rights)  
Regulations 2006**

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Part B Principles applicable to a sharing mechanism in accordance with regulation 12 (7).

**SCHEDULE 3**

*Repealed.*

**SCHEDULE 4**

**INFORMATION TO BE PUBLISHED IN ACCORDANCE WITH REGULATION 18  
(TRANSPARENCY AND PUBLICATION OF INFORMATION)**

**SCHEDULE 5**

**QUALITY OF SERVICE PARAMETERS**

**SCHEDULE 6**

**MINIMUM SET OF SERVICES WHICH THE ADEQUATE BROADBAND  
INTERNET ACCESS SERVICE IN ACCORDANCE WITH REGULATION (3)  
SHALL BE CAPABLE OF SUPPORTING**

*In exercise of the powers conferred on me by sections 9 and 33 (2) of the Communications Act 2006 and of all other enabling powers and in order to transpose into the law of Gibraltar Directive No. 2002/22/EC of the European Parliament and of the Council of 7 March 2002, on universal service and users' rights relating to electronic communications networks and services, I hereby make the following Regulations.*

**Title.**

1. These Regulations may be cited as the Communications (Universal Service and Users' Rights) Regulations 2006.

**Interpretation.**

2. In these Regulations, except where the context otherwise requires–

“Access Regulations” means the Communications (Access) Regulations 2006;

“Authorisation Regulations” means the Communications (Authorisation and Licensing) Regulations 2006;

“caller location information” means, in a public mobile network, the data processed, derived from network infrastructure or handsets, indicating the geographic position of an end-user's mobile terminal equipment, and, in a public fixed network, the data about the physical address of the network termination point;

“designated universal service provider” means a person designated under regulation 7;

“emergency communication” means communication by means of interpersonal communications services between an end-user and the PSAP with the goal to request and receive emergency relief from emergency services;

“emergency service” means a service, recognised 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;

“geographic number” means a telephone number from a range of numbers in the Gibraltar Numbering Plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point of the subscriber to whom the telephone number has been assigned;

“most appropriate PSAP” means a PSAP established in order to cover emergency communications from a certain area or for emergency communications of a certain type;

“non-geographic number” means a telephone number from the Gibraltar Numbering Plan that is not a geographic number and includes a mobile, free phone and premium rate number.

“public safety answering point” or “PSAP” means a physical location where an emergency communication is first received under the responsibility of a public authority or a private organisation;

“terminal equipment” means terminal equipment as defined in point (1) of Article 1 of Commission Directive 2008/63/EC;

“the Act” means the Communications Act 2006;

“total conversation service” means a multimedia real time conversation service that provides bidirectional symmetric real time transfer of motion video, real time text and voice between users in two or more locations;

“universal service obligation” means an obligation imposed on a universal service provider pursuant to regulation 3, 4, 5, 6 or 8 (2).

## **PART I : UNIVERSAL SERVICE OBLIGATIONS**

### **Provision of access at a fixed location and provision of telephone services.**

3.(1) A designated universal service provider shall satisfy all reasonable requests for connection at a fixed location to a public electronic communications network.

(2) A connection provided by a designated universal service provider in accordance with sub-regulation (1) shall, taking into account prevailing technologies used by the majority of subscribers and to technological feasibility, be capable of supporting–

- (a) voice communications;
- (aa) broadband internet access services;
- (b) facsimile communications; and
- (c) data communications,

at data rates that are sufficient to permit functional Internet access.

(2A) The Authority shall-

- (a) define the adequate broadband internet access service for the purposes of sub-regulation (2);
- (b) ensure that adequate broadband internet access service shall be capable of delivering the bandwidth necessary for supporting at least the minimum set of services set out in Schedule 6.

(3) A designated universal service provider shall satisfy all reasonable requests for the provision of a publicly available telephone service over the network connection referred to in sub-regulation (1) that allows for originating and receiving domestic calls.

(4) Where a designated universal service provider denies any reasonable request made under sub-regulations (1) or (3) he shall inform the person making the request of his right to submit a complaint and pursue the dispute resolution procedures referred to in regulation 29.

(5) For the purposes of the services referred to in this regulation, the Authority may specify requirements to be complied with by a designated universal service provider in relation to-

- (a) functional Internet access, having regard to prevailing technologies used by the majority of subscribers and to technological feasibility;
- (b) the terms and conditions upon which the connection referred to in sub-regulation (1) shall be provided;
- (c) the reasonableness of requests for the connection referred to in sub-regulations (1) and (3); and
- (d) the provision of operator assistance for the purpose of handling calls to the emergency services using the single European emergency call number "112" or any emergency call number in Gibraltar that may be specified by the Authority.

#### **Directory enquiry services and directories.**

4.(1) A designated universal service provider shall ensure that-

- (a) a comprehensive directory is made available to all end-users; and

- (b) a comprehensive telephone directory enquiry service is made available to all end-users, including users of public pay telephones.
- (2) The directory referred to in sub-regulation (1) (a) shall be—
- (a) printed or electronic or both;
  - (b) in a form approved by the Authority; and
  - (c) updated on a regular basis, and at least once a year.
- (3) A directory or directory enquiry service referred to in sub-regulation (1) shall, subject to regulation 20 of the Privacy Regulations—
- (a) comprise all subscribers of publicly available telephone services in Gibraltar, including those with fixed, mobile and personal numbers, who have not refused to be included in such directories; and
  - (b) include the name, address and telephone number of all subscribers of publicly available telephone services in Gibraltar who have not refused to be included in such directories.
- (4) A designated universal service provider shall, subject to regulation 20 of the Privacy Regulations—
- (a) keep a record of all subscribers of publicly available telephone services in Gibraltar, including those with fixed, personal and mobile numbers, who have not refused to be included in that record; and
  - (b) allow access to any information contained in such a record in accordance with such terms and conditions as may be approved by the Authority or as the Authority may direct.
- (5) A designated universal service provider shall, for the purposes of this regulation, apply the principle of non-discrimination to the treatment and presentation of information that has been provided to him by other persons or which he has in his possession or under his control.

**Public pay telephones and other public voice telephony access points.**

5(1). A designated universal service provider shall ensure that public pay telephones or other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of—



- (a) geographical coverage;
- (b) number of such telephones or other public voice telephony access points;
- (c) accessibility of such telephones and other access public voice telephony points to disabled end-users; and
- (d) quality of services.

(2) The Authority may specify terms and conditions applicable to the provision of public pay telephones for the purpose of ensuring that the requirements specified in sub-regulation (1) are met.

(3) The Authority may, acting in accordance with regulation 28, decide not to make a designation under sub-regulation (1) in relation to all or part of Gibraltar.

(4) A person providing public pay telephones shall ensure that it is possible to make emergency calls from all such telephones using—

- (a) the single European emergency call number “112”; and
- (b) any other emergency call number in Gibraltar that may be specified by the Authority,

in each case free of charge and without the necessity to use coins, cards or any other means of payment.

(5) A person providing public pay telephones shall ensure that the users of those telephones have access to a directory enquiry service referred to in regulation 4(1)(b).

#### **Measures for disabled end-users.**

6.(1) A designated universal service provider shall ensure that the access enjoyed by disabled end-users to the services referred to in regulations 3(3) and 4 is equivalent to that enjoyed by other end-users.

(2) A designated universal service provider shall ensure that disabled end-users can afford access to the services referred to in sub-regulation (1).

(3) For the purposes of sub-regulations (1) and (2), access to the services referred to in sub-regulation 3(3) shall include access to emergency services, directory enquiry services and directories.

(4) The Authority shall, where appropriate, specify and assess obligations applicable to a designated universal service provider pursuant to sub-regulations (1) and (2).

(5) The Authority shall, where appropriate, specify the terms and conditions to be complied with by a designated universal service provider for the purpose of ensuring that disabled end-users can take advantage of the choice of service providers available to the majority of end-users in Gibraltar.

(6) The relevant standards or specifications referred to in section 20 of the Act shall be followed by—

- (a) a designated universal service provider when complying with its obligations under sub-regulations (1) and (2);
- (b) the Authority when taking any action under sub-regulations (4) and (5).

#### **Designation of universal service providers.**

7.(1) As soon as practicable after the commencement of these Regulations, and without prejudice to regulation 5 (3), the Authority shall designate one or more persons, for such period as may be specified by the Authority, to comply with a universal service obligation so that the whole of the territory of Gibraltar is covered in respect of each of the universal services referred to in regulations 3, 4, 5, 6 and, where applicable, 8 (2).

(2) The Authority may designate different persons or sets of persons to comply with one or more of the universal service obligations and, for these purposes, different persons may also be designated in respect of each of the obligations referred to in regulation 4 (1) (a), 4 (1) (b) and 4 (4).

(3) For the purpose of designating a person under sub-regulation (1), the Authority shall, by notice issued under section 12 of the Act, adopt a procedure which—

- (a) is efficient, objective and transparent; and
- (b) does not involve, or tend to give rise to, any undue discrimination against any person or description of persons.

(4) The designation procedure referred to in sub-regulation (3) shall ensure that universal service obligations are complied with in a cost effective manner.

(5) The Authority may from time to time—

- (a) review the designations for the time being in force in accordance with this regulation; and
- (b) on such a review, consider which (if any) universal service obligations should continue to apply to each of the designated universal service providers.

(6) The procedure to be followed in the case of every review referred to in sub-regulation (5) must be contained in a notice issued by the Authority under section 12 of the Act and must be one which complies with the requirements set out in sub-regulation (3).

(7) The procedures adopted by the Authority for the purposes of this regulation must provide for a person's designation under sub-regulation (1) to cease to have effect where, in any such case as may be described in the notice, the universal service obligation applied to that person is revoked.

(7A) When a designated universal service provider intends to dispose of a substantial part or all of its local access network assets to a separate legal entity under different ownership, it will notify the Authority of its intention in advance and as soon as reasonably practicable.

(7B) Upon receiving a notification pursuant sub-regulation (7A), the Authority will assess the effect of the intended transaction on the provision of access at a fixed location and of telephone services pursuant to regulation 3.

(7C) When conducting the assessment referred to in sub-regulation (7B), the Authority may impose, amend or withdraw specific obligations in accordance with, and within the meaning of, the Authorisation Regulations.

(8) Notwithstanding section 99 of the Act, a person who, on the date of commencement of these Regulations, is required to comply with an obligation under—

- (a) Regulation 6 (provision of access at a fixed location);
- (b) Regulation 7 (directory services);
- (c) Regulation 8 (public pay telephones); or
- (d) Regulation 9 (specific measures for disabled users)

of the Telecommunications (Open Network Provision) (Voice Telephony) Regulations of 2001, shall continue to comply with any such obligations until such time as the equivalent obligation is imposed on a person designated under this regulation.

(9) A person who fails to comply with sub-regulation (8) is guilty of an offence.

**Affordability of tariffs for universal services.**

8.(1) The Authority shall monitor the evolution and level of retail tariffs for the provision of the universal services identified in regulations 3, 4, 5 and 6, with particular regard to consumer prices and income in Gibraltar, which are charged by either a designated universal service provider or available on the market if no such provider has been designated.

(1A) The Authority may ensure the affordability of the services referred to in regulation 3 that are not provided at a fixed location where it considers this to be necessary to ensure consumers' full social and economic participation in society.

(1B) The Authority may extend the provisions of this regulation to end-users that are microenterprises and small and medium-sized enterprises and not-for-profit organisations.

(2) The Authority may require a designated universal service provider to establish schemes for one or more of the following purposes—

- (a) the provision of special tariff options or packages to consumers, in particular for the purpose of ensuring that consumers on low income or with special social needs are not prevented from accessing the network referred in regulation 3(1) or from using the services referred to in regulations 3(3), 4, 5 and 6 provided by a designated universal service provider;
- (b) the application of a common tariff, or common tariffs, for the provision of the universal services referred to in sub-regulation (1);
- (c) compliance with price caps for the provision of the universal services referred to in sub-regulation (1).

(3) The conditions of a scheme established by a designated universal service provider pursuant to a requirement imposed upon him under sub-regulation (2), shall be—

- (a) fully transparent;
- (b) published; and

(c) applied in accordance with the principle of non-discrimination.

(4) The Authority may require that the scheme be modified or withdrawn.

(5) The Authority shall ensure the publication of regular reports on how the tariffs which are being charged from time to time for the provision of the universal services referred to in sub-regulation (1) are evolving.

### **Control of expenditure.**

9.(1) A designated universal service provider shall, where he provides facilities and services additional to those in respect of which a universal service obligation has been imposed on him, establish terms and conditions for the provision of such additional facilities and services in such a way that the subscriber is not obliged to pay for facilities or services which are not necessary or not required for the service requested.

(2) A designated universal service provider shall, for the purpose of ensuring that subscribers can monitor and control expenditure and avoid unwarranted disconnection of service, provide the specific facilities and services set out in Schedule 1, Part A including an appropriate mechanism to check continued interest in using the service.

(2A) The Authority may extend the scope of application of sub-regulation (2) to end-users that are micro-enterprises and small and medium sized companies and not for profit organisations.

(3) The Authority may waive a requirement imposed on a designated universal service provider under sub-regulation (2) if it is satisfied that the relevant facility or service is widely available in Gibraltar.

(4) Without prejudice to sub-regulation (3), a universal service provider who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

### **Quality of service of designated universal service providers.**

10.(1) A designated universal service provider shall—

- (a) publish adequate and up to date information concerning the performance of his universal service obligations; and
- (b) supply such published information to the Authority.

(2) The information referred to in sub-regulation (1) shall be framed by reference to the quality of service parameters, definitions and measurement methods set out in Schedule 5.

(3) The information referred to in sub-regulation (1) shall be published–

- (a) in such manner as the Authority shall specify;
- (b) to a level that satisfies the Authority that the information complies with the requirements set out in sub-regulations (1) (a) and (2); and
- (c) at such times as the Authority shall specify.

(4) For the purposes of sub-regulation (3) (a), the Authority may specify the content, form and manner of information to be published in order to ensure that consumers and other end users have access to information which is–

- (a) comprehensive;
- (b) user-friendly; and
- (c) capable of allowing comparisons to be made with information published by other persons.

(5) The Authority may, where relevant parameters have been developed, specify additional quality of service standards in order to assess a designated universal service provider's performance in the provision of services to disabled consumers and disabled end-users.

(6) Sub-regulations (1), (3) and (4) shall apply to the information referred to in sub-regulation (5).

(7) The Authority may impose performance targets on a designated universal service provider. When imposing such targets, the Authority shall have regard to any views expressed by interested parties pursuant to a public consultation carried out in accordance with regulation 28.

(8) The Authority shall monitor a designated universal service provider's compliance with any performance targets that have been imposed on him pursuant to sub-regulation (7).

(9) The Authority may, without prejudice to sub-regulation (1), direct a designated universal service provider to keep and to provide to the Authority, at the Authority's request, all

information necessary to enable the Authority to carry out its function pursuant to sub-regulation (8).

(10) The Authority may, in the case of a designated universal service provider's persistent failure to meet performance targets imposed on him pursuant to sub-regulation (7), issue a direction to that provider for the purpose of ensuring that he complies with those targets.

(11) The Authority may arrange, or require a designated universal service provider to whom a performance target has been imposed pursuant to sub-regulation (7) to arrange, an independent audit of the performance data supplied by that designated provider. The Authority may require that provider to meet the costs of any such independent audit.

(12) The reference in sub-regulation (11) to the independent auditing of information is a reference to that information being audited by a person approved by the Authority—

(a) for accuracy; and

(b) for its usefulness in the making of comparisons by other persons.

(13) A universal service provider who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

#### **Costing of universal service obligations.**

11.(1) Where a designated universal service provider seeks to receive funding for the net cost of complying with a universal service obligation, he shall submit a written application to the Authority for such funding.

(2) An application made pursuant to sub-regulation (1) shall be accompanied by such supporting information as may reasonably be required by the Authority in order to enable it to make a preliminary determination as to whether compliance with a universal service obligation may represent an unfair financial burden on the designated provider.

(3) Where, pursuant to sub-regulation (2), the Authority makes a preliminary determination that compliance with a universal service obligation may represent an unfair financial burden on a designated universal service provider, the Authority shall calculate the net cost for the provision of that service.

(4) Where the designation procedure adopted pursuant to regulation 7 (3) and (4)—

- (a) requires the financial burden of complying with a universal service obligation to be taken into account in determining whom to designate; and
- (b) provides for a particular method of calculating that burden to be used for the purposes of that determination,

that must be the method of calculation applied for the purposes of sub-regulation (3).

(5) Where sub-regulation (4) does not apply, the Authority shall determine the net cost of complying with a universal service obligation in accordance with the calculation method set out in Schedule 2, Part A after allowing for market benefits accruing to the designated universal service provider from–

- (a) his designation; and
- (b) the application to him of universal service obligations.

(6) A designated universal service provider referred to in sub-regulation (1) shall provide such information as is reasonably required by the Authority for the purposes of sub-regulations (3), (4) and (5).

(7) Where the Authority determines that a universal service obligation does not represent an unfair financial burden it shall send a reasoned notification of that determination to the designated provider concerned as soon as reasonably practicable after the determination is made.

(8) The accuracy of the accounts and of any other information which has served as the basis for the calculation of the net cost of a universal service obligation shall be audited or verified, as appropriate, either by–

- (a) a person who appears to the Authority to be independent of the parties concerned;  
or
- (b) the Authority itself.

(9) The Authority must ensure, in the case of every audit carried out under sub-regulation (8), that a report on the audit–

- (a) is prepared; and
- (b) if not prepared by the Authority, is provided to it.



(10) It shall be the duty of the Authority, in the case of every determination under this regulation, to publish–

- (a) its conclusions on the determination; and
- (b) a summary of the report of the audit which was carried out as respects the calculations made for the purposes of that determination.

(11) The publication of anything under sub-regulation (10) must be in such manner as the Authority considers appropriate for bringing it to the attention of the persons who, in its opinion, are likely to be affected by it.

**Sharing of burden of universal service obligations.**

12.(1) This regulation applies where the Authority–

- (a) has concluded, pursuant to a determination made under regulation 11, that complying in relation to any matter with a universal service obligation imposes a financial burden on a particular designated universal service provider; and
- (b) has published that conclusion in accordance with that regulation.

(2) The Authority must determine, in the case of the designated universal service provider, whether it considers it would be unfair for that provider to bear, or to continue to bear, the whole or any part of so much of the burden.

(3) If–

- (a) the Authority determines that it would be unfair for the designated universal service provider to bear, or to continue to bear, the whole or a part of the burden; and
- (b) an application for a determination under regulation 11 (1) is made to the Authority by that provider,

the Authority may determine that contributions are to be made by persons providing electronic communications networks or electronic communications services in Gibraltar for meeting that burden.

(4) The contributions referred to in sub-regulation (3) may only be requested in respect to the net cost of the universal service obligations as determined in accordance with regulation 11.

(5) The making of any of the following must be in accordance with a notice issued by the Authority pursuant to section 12 of the Act—

- (a) a determination by the Authority of the extent of the financial burden that exists for the designated universal service provider of complying in relation to any matter with universal service obligations;
- (b) an application for the purposes of regulation 11 (1) (a);
- (c) a determination by the Authority of whether it is or would be unfair for the designated universal service provider to bear, or to continue to bear, the burden of complying in relation to any matter with universal service obligations;
- (d) a determination of the extent (if any) to which that is or would be unfair.

(6) The assessment, collection and distribution of contributions under sub-regulation (3) is not to be carried out except in accordance with a sharing mechanism to be established by the Authority in a notice issued under section 12 of the Act.

(7) The sharing mechanism established under sub-regulation (6) shall secure that the assessment, collection and distribution of contributions under sub-regulation (3) is carried out—

- (a) in an objective and transparent manner;
- (b) in a manner that does not involve, or tend to give rise to, any undue discrimination against particular persons providing electronic communications networks or electronic communications services or particular designated universal service providers, or against a particular description of them;
- (c) in a manner that avoids, or (if that is impracticable) at least minimises, any distortion of competition or of market demand; and
- (d) in a manner that complies with the principles set out in Schedule 2, Part B.

(8) The Authority shall publish and make publicly available all information in relation to the principles used for cost sharing, including the details of the sharing mechanism used.

(9) The Authority may choose not to require contributions from persons whose relevant turnover in Gibraltar is less than such amount as may, from time to time, be specified by the Authority, having regard to any views expressed to it pursuant to any consultations carried out pursuant to regulation 28.

(10) The sharing mechanism referred to in sub-regulation (6) shall be administered either by–

- (a) the Authority; or
- (b) such other person as may be designated for that purpose by the Authority.

(11) The person referred to in sub-regulation (10) (b) shall act under the supervision of the Authority and shall be a person who the Authority is satisfied is independent of both–

- (a) the designated universal service providers; and
- (b) the persons providing electronic communications networks or electronic communications services in Gibraltar.

(12) Contributions which need to be paid in relation to the sharing of the cost of universal service obligations shall be unbundled and identified separately for each person.

(13) The Authority may not impose an obligation to pay a contribution pursuant to this regulation on persons who are not providing an electronic communications service within Gibraltar.

(14) The Authority shall notify each person required to share the cost of a universal service obligation of his obligation to contribute to such cost and the information in such notification shall include the amount, manner and timing of payments to be made.

(15) A person who has been notified pursuant to sub-regulation (14) shall pay the amount specified by the Authority in the time and manner specified by the Authority in its notification.

(16) Any amount payable to the Authority under this regulation that remains unpaid may be recovered by the Authority as a simple contract debt in any court of competent jurisdiction and any such amount shall include interest at the rate of 4 % above the Gibraltar base rate on the amount or part thereof remaining unpaid in respect of the period between the date when such amount or part thereof fell due and the date of payment of such amount or part.

(17) Where a sharing mechanism has been established pursuant to sub-regulation (6), the Authority shall prepare and publish an annual report which shall–

- (a) set out every determination made by the Authority that has had effect in relation to a time in that period as a determination of the calculated net cost of complying with a universal service obligation;

- (b) identify the contribution made under sub-regulation (3) by every person who has made a contribution during that period; and
- (c) identify the market benefits that may have accrued for each designated universal service provider during that period.

(18) When publishing the report referred to in sub-regulation (17), the Authority shall act in accordance with section 6 of the Act and with any other laws on the protection of privacy and confidential business information applicable in Gibraltar.

(19) The first report under sub-regulation (17) must be prepared in relation to the period of twelve months beginning with the issue of the first notice to be made under sub-regulation (6).

(20) Every subsequent report must be prepared in relation to the period of twelve months beginning with the end of the period to which the previous report applied.

(21) Every report under sub-regulation (17)–

- (a) must be prepared as soon as practicable after the end of the period to which it is to apply; and
- (b) must be published as soon as practicable after its preparation is complete.

(22) The publication of a report under sub-regulation (17) must be a publication in such manner as the Authority considers appropriate for bringing it to the attention of the persons who, in its opinion, are affected by the matters to which it relates.

## **PART II : REGULATORY CONTROLS ON PERSONS WITH SIGNIFICANT MARKET POWER IN SPECIFIC RETAIL MARKETS**

13. *Repealed.*

### **Regulatory controls on specific retail markets.**

14.(1) Where the Authority–

- (a) determines, as a result of a market analysis carried out pursuant to section 40 of the Act, that a given retail market, identified in accordance with section 39 of the Act (“the specific retail market”), is not effectively competitive; and

- (b) concludes that obligations imposed on a person under regulations 10 to 14 of the Access Regulations would not result in the achievement of the objectives set out in section 19 of the Act,

it shall impose such regulatory obligations as it considers appropriate to achieve those objectives on persons whom it has determined under section 40 of the Act as having significant market power in the specific retail market.

(2) An obligation imposed by the Authority pursuant to sub-regulation (1) shall be—

- (a) based on the nature of the problem identified pursuant to the market analysis carried out under section 40 of the Act; and
- (b) proportionate and justified in the light of the objectives set out in section 19 of the Act.

(3) An obligation imposed by the Authority pursuant to sub-regulation (1) may include a requirement to ensure that the person concerned does not—

- (a) charge excessive prices;
- (b) inhibit market entry or restrict competition by setting predatory prices;
- (c) show undue preference to specific end-users; or
- (d) unreasonably bundle services.

(4) The Authority may, in order to protect end-users' interests whilst promoting effective competition, require a person to whom sub-regulation (1) applies to comply with—

- (a) retail price cap measures;
- (b) measures to control individual tariffs; or
- (c) measures to orient tariffs towards costs or prices on comparable markets.

(5) Where a person is subject to retail tariff regulation or other relevant retail controls imposed pursuant to this regulation, he shall operate and maintain a cost accounting system that is—

- (a) based on generally accepted accounting practices;
- (b) suitable for ensuring compliance with this regulation; and

(c) capable of verification by the Authority.

(6) The Authority may specify the format and accounting methodology to be used by a person to whom sub-regulation (5) applies.

(7) Compliance with the cost accounting system referred to in sub-regulation (5) shall be annually verified by a qualified independent person. For this purpose, the Authority may carry out an audit itself, provided it has the necessary qualified staff, or it may require an audit to be carried out by another qualified person, independent of the person concerned.

(8) A person to whom sub-regulation (5) applies shall publish in his annual accounts a statement concerning his compliance with the cost accounting system he is required to operate pursuant to that sub-regulation.

(9) Without prejudice to regulations 8 (2) and 9, the Authority shall not apply retail control mechanisms under sub-regulation (1) in a relevant retail market in which the Authority is satisfied that effective competition exists.

(10) *Deleted.*

15. *Repealed.*

16. *Repealed.*

### **PART III : END USERS' INTERESTS AND RIGHTS**

#### **Exemption of certain microenterprises.**

16A.(1) This Part shall not apply to microenterprises providing number-independent interpersonal communications services unless they also provide other electronic communications services.

(2) The Authority shall inform end-users of an exemption under sub-regulation (1) before concluding a contract with a microenterprise benefitting from such an exemption.

#### **Contracts.**

17.(1) A person who provides to his subscribers connection to a public communications network and/or to publicly available electronic communications services, shall do so in accordance with a written contract with each of his subscribers.

(2) A contract referred to in sub-regulation (1) shall specify, in a clear, comprehensive and easily accessible manner, at least the following matters–

- (a) the identity and address of the provider;
- (b) the services provided, including in particular–
  - (i) whether or not access to emergency services and caller location information is being provided, and any limitations on the provision of emergency services under regulation 22;
  - (ii) information on any other conditions limiting access to and/or use of services and applications, where such conditions are permitted under Gibraltar or Community law;
  - (iii) the minimum service quality levels offered, namely, the time it will take for the initial connection of the subscriber's equipment to the network, and any other service quality parameters as defined by the Authority;
  - (iv) information on any procedures put in place by the person to measure and shape traffic so as to avoid filling or over-filling a network link, and information on how those procedures could impact on service quality;
  - (v) the types of maintenance service offered to the subscriber, customer support services provided and the means of contacting these services;
  - (vi) any restrictions imposed by the person on the use of terminal equipment supplied;
- (c) where an obligation exists under regulation 21, the subscriber's options as to whether or not to include his personal data in a directory, and the data concerned;
- (d) details of prices and tariffs, the means by which up to date information on all applicable tariffs and maintenance charges may be obtained, methods of payment offered and any differences in costs due to the method of payment by the subscriber;
- (e) the duration of the contract and the conditions for renewal and termination of services and of the contract, including–
  - (i) any minimum usage or duration required to benefit from promotional terms,

- (ii) any charges related to portability of numbers and other identifiers,
  - (iii) any charges due on the termination of the contract, including any cost recovery with respect to terminal equipment;
  - (f) any compensation and refund arrangements which apply if contracted service quality levels are not met;
  - (g) the method for submitting complaints and for initiating procedures for the settlement of disputes in accordance with regulation 29;
  - (h) the type of action that might be taken by the person in reaction to security or integrity incidents or threats and vulnerabilities; and
  - (i) information, if any, provided by the Authority on the use of electronic communications networks and services to engage in unlawful activities or to disseminate harmful content, and on the means of protection against risks to personal security, privacy and personal data and relevant to the service provided.
- (3) The information specified in sub-regulation (2) shall also be provided, upon request, to end-users other than subscribers.
- (4) A person referred to in sub-regulation (1) shall, not less than one month prior to the date of implementation of any proposed modification to the contract, notify all of his subscribers who are likely to be affected by the proposed modification—
- (a) of the proposed modification in the conditions of the contract; and
  - (b) their right to withdraw without penalty from the contract if they do not accept the modification.
- (4A) The Authority shall specify the format of the notification to subscribers referred to in sub-regulation (4).
- (5) A subscriber referred to in sub-regulation (4) shall have the right to withdraw from the contract without penalty if he does not accept the proposed modification.
- (6) This regulation shall apply without prejudice to the consumer protection laws from time to time applicable in Gibraltar and, in particular, the Unfair Terms in Consumer Contracts Act (No. 37 of 1998) and any law from time to time in force in Gibraltar regulating distance selling contracts.



(7) The Authority may, on its own initiative or following a request by a body representing user or consumer interests, direct that the conditions of—

- (a) a contract referred to in sub-regulation (1) or (3); and
- (b) the compensation and refund arrangements referred to in sub-regulation (2) (f),

insofar as such conditions concern matters subject to the provisions of these Regulations, shall be altered in order to protect the rights of users or subscribers.

(7A) Before a subscriber is bound by a contract or any corresponding offer, providers of publicly available electronic communications networks and/or electronic communications services other than transmission services used for the provision of machine-to-machine services shall provide the information referred to in Articles 5 and 6 of Directive 2011/83/EU, and the information listed in Article 102 and Annex VIII of the Directive to the extent that the information relates to a service they provide.

(7B) Article 105 of the Directive shall apply to matters of contract duration and termination.

(8) Any person who is a party to a contract referred to in sub-regulation (1) or (3) shall comply with any direction given in accordance with sub-regulation (7).

(9) A person referred to in sub-regulations (1) or (3) who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

#### **Transparency, comparison of offers and publication of information.**

18.(1) The Authority shall ensure that, where providers of internet access services or publicly available interpersonal communication services make the provision of those services subject to terms and conditions, the information referred to in Schedule 4 is published—

- (a) in a clear, comprehensive, machine-readable manner;
- (b) in an accessible format for end-users with disabilities in accordance with European Union law harmonising accessibility requirements for products and services;
- (c) by all such providers, or by the Authority itself.

(2) The Authority may specify additional requirements regarding the form in which such information is to be published. That information shall, on request, be supplied to the Authority before its publication.

(3) The Authority shall ensure that end-users have free of charge access 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, with regard to:

- (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 person is required to publish such information pursuant to regulation 18A.

(4) The comparison tool referred to in sub-regulation 3 shall:

- (a) be operationally independent from the providers of such services;
- (b) clearly disclose the owners and operators 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 the Authority, between those offers and the standard offers publicly available to other end-users.

(5) Comparison tools fulfilling the requirements in paragraphs (a) to (h) of sub-regulation (4) shall, upon request by the provider of the tool, be certified by the Authority.

(6) Third parties 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, for the purposes of making available such independent comparison tools.

(7) Providers of internet access services or publicly available number-based interpersonal communications services, or both, shall distribute public interest information free of charge to existing and new end-users and that public interest information shall be provided in a standardised format and shall cover the following-

- (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 where it may-
  - (i) prejudice respect for the rights and freedoms of others;
  - (ii) infringe 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.

**Quality of service related to internet access services and publicly available interpersonal communications services.**

18A.(1) The Authority may require providers of internet access services and of publicly available interpersonal communications services to publish-

- (a) comprehensive, comparable, reliable, user-friendly and up-to-date information for end-users on 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; and
- (b) information on measures taken to ensure equivalence in access for end-users with disabilities.

(2) The Authority may require providers of publicly available interpersonal communication services to inform consumers if the quality of the services they provide depends on any external factors, such as control of signal transmission or network connectivity.

- (3) The information shall, on request, be supplied to the Authority before its publication.
- (4) The Authority shall specify-
- (a) the quality of service parameters to be measured;
  - (b) the applicable measurement methods; and
  - (c) the content, form and manner of the information to be published which shall include possible quality certification mechanisms.
- (4A) Where appropriate, the parameters, definitions and measurement methods set out in Schedule 5 shall be used.
- (5) The Authority may set minimum quality of service requirements on a person providing a public electronic communications network in order to prevent the-
- (a) degradation of service;
  - (b) hindering or slowing down of traffic over networks.
- (6) Before setting any requirements pursuant to sub-regulation (5), the Authority shall provide the European Commission the following information in a timely manner-
- (a) a summary of the grounds for action;
  - (b) the requirements envisaged; and
  - (c) the proposed course of action.
- (7) The information referred to in sub-regulation (6) shall also be made available to BEREC.
- (8) The Authority shall take the utmost account of any comments or recommendations made by the European Commission when deciding on the requirements referred to in sub-regulation (5).
- (9) A person shall comply with any requirement imposed on him under sub-regulations (1) and (5) within such reasonable period as the Authority shall specify in the notice it issues for the purpose of those sub-regulations.

(10) The Authority shall, before issuing a notice for the purpose of sub-regulations (1) or (5), have regard to any views expressed to it pursuant to a public consultation carried out in accordance with regulation 28.

(11) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

#### **Availability of services.**

19.(1) The Authority may specify, by notice issued under section 12 of the Act, obligations to be complied with by a person providing a publicly available electronic communications network and/or a publicly available electronic communications service, in order to ensure the fullest possible availability of publicly available telephone services provided over public communications networks in the event of catastrophic network breakdown or in cases of force majeure.

(2) The Authority shall ensure that a person providing a publicly available telephone service shall take all necessary measures—

- (a) to ensure uninterrupted access to emergency services; and
- (b) to maintain, insofar as is practicable, the highest level of service in order to meet any priorities that the Minister, after consultation with the Authority, may specify.

(2A) The Authority shall act in accordance with the provision of Article 86 of the Directive in connection with the availability of universal services.

(3) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

#### **Ensuring equivalence in access and choice for disabled end-users.**

19A.(1) The Authority may specify, where appropriate, the requirements to be met by persons providing publicly available electronic communications services to ensure that disabled end-users—

- (a) have access to electronic communications services, including the related contractual information provided pursuant to regulation 17 and Annex VIII of the Directive, equivalent to that enjoyed by the majority of end-users; and

- (b) benefit from the choice of persons and services available to the majority of end-users.

(2) The Authority shall encourage-

- (a) the availability of terminal equipment offering the necessary services and functions for disabled end-users; and
- (b) compliance with the relevant standards or specifications laid down in accordance with section 40 of the Act.

**Interoperability of consumer digital television equipment.**

20.(1) No person shall sell or rent out or otherwise make available, or offer or expose for sale or rent or otherwise for making available, any equipment to which this sub-regulation applies unless that equipment possesses the capability to-

- (a) allow the descrambling of signals according to the common European scrambling algorithm as administered by the European Telecommunications Standards Institute (ETSI); and
- (b) display television programmes that have been transmitted unscrambled:

save that if the equipment is rented, this regulation applies only if the rentee is in compliance with the relevant rental agreement.

(2) Sub-regulation (1) applies to all consumer equipment intended for the reception of conventional digital television signals and capable of descrambling such signals, except equipment which was put on the market in the European Community before the date of commencement of these Regulations.

(3) No person shall sell or rent out, or offer or expose for sale or rent, an analogue television set to which this sub-regulation applies unless it is fitted with at least one standardised open interface socket permitting the simple connection of peripherals.

(4) Sub-regulation (3) applies to any analogue television set with an integral viewing screen of visible diagonal greater than 42 centimetres, except a television set which was put on the market in the European Community before the date of commencement of these Regulations.

(5) In sub-regulation (3)-

“a standardised open interface socket” means an interface that would be recognised as such in Gibraltar and in all the Member States;

“peripherals” includes additional decoders and digital receivers.

(6) No person shall sell or rent out, or offer or expose for sale or rent, a digital television set to which this sub-regulation applies unless it is fitted with at least one standardised open interface socket that permits the—

- (a) simple connection of peripherals; and
- (b) passage of all the elements of a digital television signal.

(7) Sub-regulation (6) applies to any digital television set with an integral screen of visible diagonal greater than 30 centimetres, except a television set that was put on the market in the European Community before the date of commencement of these Regulations.

(8) In sub-regulation (6)—

“a standardised open interface socket” means an interface that would be recognised as such in Gibraltar and in all the Member States or conforms to an industry-wide specification;

“digital television signal” includes information relating to interactive and conditionally accessed services.

(9) It shall be a function of the Authority to monitor compliance with sub-regulation (1).

(10) The Minister shall designate the person who shall be responsible for monitoring compliance with sub-regulations (3) and (6).

(11) A person who fails to comply with sub-regulations (1), (3) or (6) is guilty of an offence.

#### **Telephone directory enquiry services.**

21.(1) A person providing a publicly available telephone service shall ensure that his subscribers have the right, without charge, to—

- (a) have an entry in the directory referred to in regulation 4 (1) (a);
- (b) have an entry in the directory enquiry service referred to in regulation 4 (1) (b);

- (c) have their information made available to persons providing directory enquiry services or directories, or both such services and directories; and
  - (d) verify, correct or request the removal of any of the entries referred to in paragraphs (a) and (b).
- (2) A person who assigns telephone numbers to subscribers shall meet all reasonable requests from a person to whom sub-regulation (1) applies to make available to that person the information referred to in regulation 4 (3).
- (3) The requirement set out in sub-regulation (2) shall apply whether or not the person to whom sub-regulation (1) applies has been designated to provide any of the services set out in regulation 4.
- (4) When providing information pursuant to sub-regulation (2), a person who assigns telephone numbers to subscribers shall provide the information—
- (a) on terms that are fair, objective, cost oriented and non-discriminatory; and
  - (b) in a format which he has agreed with the person requiring the information or, where no such agreement is reached, in a format which is approved by the Authority.
- (5) A person providing a publicly available telephone service to end-users shall ensure that all such end-users can access directory enquiry services in accordance with regulation 4.
- (6) The Authority may impose obligations and conditions on persons that control access of end-users for the provision of directory enquiry services in accordance with the provisions of regulation 6 of the Access Regulations.
- (7) The obligations and conditions referred to in sub-regulation (6) shall be objective, equitable, non-discriminatory and transparent.
- (8) The Authority shall not maintain any regulatory restriction in Gibraltar which prevents—
- (a) an end-user in Gibraltar from having direct access to a directory enquiry service in a Member State; or
  - (b) an end-user in a Member State from having direct access to a directory enquiry service in Gibraltar,



by voice call or SMS, and shall take measure to ensure such access in accordance with regulation 24.

(9) This regulation applies subject to the requirements of the Privacy Regulations.

(10) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

### **Emergency call numbers.**

22.(1) A person providing a publicly available telephone service (including public pay telephones) shall ensure that end-users are able to access the emergency services through emergency communications free of charge, and without having to make any payment, by using—

- (a) the single European emergency call number “112”; and
- (b) any other emergency call number in Gibraltar that may be specified by the Authority.

(1A) The Authority shall promote the access to emergency services through the single European emergency number ‘112’ from electronic communications networks which are not publicly available but which enable calls to public networks, in particular when the person responsible for that network does not provide an alternative and easy access to an emergency service.

(2) The Authority, in consultation with the emergency services and persons providing a publicly available telephone service and/or a publicly available number-based interpersonal communications service as appropriate, shall ensure that persons providing end-users with an electronic communications service for originating calls in Gibraltar to a number or numbers in the Gibraltar Telephone Numbering Plan provide access to emergency services.

(3) A person to whom sub-regulation (1) applies shall ensure that communications to the emergency call numbers referred to in that sub-regulation are—

- (a) appropriately answered;
- (b) handled in a manner best suited to the organisation of emergency services in Gibraltar; and
- (c) answered equally expeditiously and effectively.

(4) The Authority shall ensure that –

- (a) access for end-users with disabilities to emergency services is available through emergency communications and is equivalent to that enjoyed by other end-users;
- (b) measures taken to ensure that end-users with disabilities can access emergency services on an equivalent basis with other end-users, without any pre-registration, where appropriate;
- (c) the measures referred to in paragraph (b), where possible, ensure interoperability across the European Union and shall be based, to the greatest extent possible, on the standards or specifications referred to in section 20 of the Act;
- (d) the measures referred to in this sub-regulation shall not prevent additional requirements being adopted.

(5) The Authority shall ensure that caller location information is made available to the most appropriate PSAP without delay after the emergency communication is set up which shall include-

- (a) network-based location information; and
- (b) where available, handset-derived caller location information.

(6) The Authority shall ensure that the establishment and the transmission of the caller location information are free of charge for the end-user and the PSAP with regard to all emergency communications to the single European emergency number '112'.

(6A) The Authority may extend the obligation referred to in sub-regulation (6) to cover emergency communications to national emergency numbers.

(6B) The Authority shall establish the accuracy and reliability of the caller location information provided.

(6C) The Authority shall ensure, through accessible formats which address different types of disabilities, that end-users are adequately informed about the existence and the use of the single European emergency number '112'.

(7) The Authority may impose obligations on persons of any particular class or classes that may be specified by the Authority, for the purpose of ensuring that members of the public are adequately informed about the existence and use of the emergency call numbers referred to in

sub- regulation (1), in particular through initiatives specifically targeting individuals travelling in the European Union.

(8) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

**Public warning system.**

22A.(1) By 21 June 2022, the Authority shall ensure that providers of mobile number-based interpersonal communications services transmit public warnings to the end-users concerned when public warning systems regarding imminent or developing major emergencies and disasters are in place.

(2) Notwithstanding sub-regulation (1), the Authority may determine that public warnings be transmitted through publicly available electronic communications services other than those referred to in sub-regulation (1), 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 end-users, including those only temporarily present in the area concerned.

**European telephone access codes.**

23.(1) The “00” code is the standard international access code for international calls made from Gibraltar.

(2) Notwithstanding sub-regulation (1), the Minister may specify requirements to be complied with for the purpose of ensuring that—

- (a) special arrangements for making calls from Gibraltar to any other geographical area recognised by the International Telecommunication Union may be established or continued; and
- (b) the end-users in Gibraltar are fully informed of any such arrangements.

(3) A person providing publicly available telephone services shall convey all calls to the European telephony numbering space.

(3A) Special arrangements for the use of number-based interpersonal communications services between locations adjacent to Gibraltar across borders may be established or continued.

(3B) Without prejudice to regulation 26, the Authority shall promote over-the-air provisioning, where technically feasible, to facilitate switching of providers of electronic communications networks or services by end-users, in particular providers and end-users of machine-to-machine services.

(4) *Deleted.*

(5) The Authority may by notice issued under section 12 of the Act specify requirements for the purposes of ensuring that sub-regulations (3) are complied with.

(6) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Minister or the Authority pursuant to this regulation, is guilty of an offence.

#### **Harmonised numbers for harmonised services of social value.**

23A. (1) The Authority shall promote the specific numbers in the numbering range beginning with “116” identified by Commission Decision 2007/116/EC<sup>1</sup> on reserving the national numbering range beginning with “116” for harmonised numbers for harmonised services of social value.

(2) The Authority shall encourage the provision within Gibraltar of the services for which numbers are reserved.

(3) The Authority shall ensure that disabled end-users are able to access services provided under the “116” numbering range to the greatest extent possible.

(4) The Authority shall ensure that end-users, including visitors to Gibraltar, are adequately informed of the existence and use of services provided under the “116” numbering range.

(5) The Authority shall ensure that end-users have access to a service operating a hotline to report cases of missing children using the number “116000”.

#### **Access to numbers and services.**

24.(1) The Authority shall ensure that, where technically and economically feasible, end-users have the ability to—

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<sup>1</sup> OJ L 49, 17.2.2007, p30.

- (a) access and use services using non-geographic numbers within the European Union, and
- (b) access all numbers provided in the European Union, regardless of the technology and devices used by the operator, including those in the national numbering plan of Member States, those from ETNS and Universal International Freephone Numbers (UIFN).

(2) Sub-regulation (1) shall not apply where a called subscriber has chosen for commercial reasons to limit access to calling parties located in specific geographical areas.

(3) A person providing a public communications network and/or a publicly available electronic communications service, shall, at the request of a law enforcement agency in Gibraltar, block, on a case by case basis, access to numbers or services where this is justified by reasons of fraud or misuse.

(4) A person providing an electronic communications service shall withhold relevant interconnection or other service revenues if requested to do so by a law enforcement agency in Gibraltar for the purposes of sub-regulation (3).

(5) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to sub-regulation (1), is guilty of an offence.

#### **Provision of additional facilities.**

25.(1) Without prejudice to regulation 9(2) and subject to sub-regulation (5), the Authority shall ensure that every person providing publicly available telephone services, access to public communications networks and publicly available number-based interpersonal communications services shall make available all or part of the additional facilities listed in Schedule 1, Part A, and, where technically feasible and economically viable, all or part of the additional facilities listed in Schedule 1, Part B.

(2) Where the person referred to in sub-regulation (1) decides that the provision of the facilities listed in Schedule 1, Part B is not technically feasible or economic viable, he shall promptly notify the Authority of his decision and provide to the Authority all the information which has led him to take such a decision.

(3) The Authority shall consider the information provided to it pursuant to sub-regulation (2) and any other information it considers relevant and shall either agree or disagree with the decision notified to it pursuant to sub-regulation (2).

(4) Where the Authority disagrees with the decision notified to it pursuant to sub-regulation (2), it may issue a direction to the person concerned requiring him to provide the facilities listed in Schedule 1, Part B.

(5) If the Authority considers, after taking into account any views expressed to it pursuant to a public consultation carried out in accordance with regulation 28, that there is sufficient access to the facilities referred to in sub-regulation (1), it may decide not to apply the obligation under sub-regulation (1) on any person.

(6) *Deleted.*

(7) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

#### **Provider switching and number portability.**

26(1) When switching between providers of internet access services occurs, the providers concerned shall –

- (a) provide the end-user with adequate information before and during the switching process; and
- (b) 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 occurs within the shortest possible time on the date and within the timeframe expressly agreed with the end-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. Loss of service during the switching process shall not exceed one working day.

(4) The Authority shall ensure the efficiency and simplicity of the switching process for the end-user.

(5) The Authority shall ensure that all end-users with numbers from the Gibraltar Numbering Plan have the right to retain their numbers, upon request, independently of the person providing the service, in accordance with Part C of Schedule 1.

(6) Where an end-user terminates a contract, the Authority shall ensure that the end-user can retain the right to port a number from the Gibraltar Numbering Plan to another provider for a

minimum of one month after the date of termination, unless that right is renounced by the end-user.

(7) The Authority shall ensure that pricing among providers related to the provision of number portability is cost-oriented, and that no direct charges are applied to end-users.

(8) The porting of numbers and their subsequent activation shall be carried out within the shortest possible time on the date explicitly agreed with the end-user.

(9) End-users who have concluded an agreement to port a number to a new provider shall have that number activated within one working day from the date agreed with the end-user.

(10) In the case of failure of the porting process, the transferring provider shall reactivate the number and related services of the end-user until the porting is successful and shall continue to provide its services on the same terms and conditions until the services of the receiving provider are activated

(11) The loss of service during the process of provider switching and the porting of numbers shall not exceed one working day.

(12) 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.

(13) The receiving provider shall lead the switching and porting processes and both the receiving and transferring providers shall-

- (a) cooperate in good faith;
- (b) not delay or abuse the switching and porting processes;
- (c) not port numbers or switch end-users without the end-users' explicit consent.

(14) The end-users' contracts with the transferring provider shall be terminated automatically upon conclusion of the switching process.

(15) The Authority may establish the details of the switching and porting processes and shall take into account-

- (a) provisions on contracts in Gibraltar law;
- (b) technical feasibility; and

(c) the need to maintain continuity of service to the end-users.

(16) The Authority shall take appropriate measures ensuring that end-users are adequately informed and protected throughout the switching and porting processes and are not switched to another provider without their consent.

(17) Transferring providers shall refund, upon request, any remaining credit to the consumers using pre-paid services.

(18) The refund may be subject to a fee only if provided for in the contract and such fee shall be proportionate and commensurate with the actual costs incurred by the transferring provider.

(19) The Authority may make a compensation order under this regulation where it considers that a subscriber has suffered damage as a result of delay or abuse of the porting process.

(20) In addition to the information required under Schedule 1, the Authority shall ensure that end-users are adequately informed about the existence of the rights to compensation referred to in these regulations.

(21) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

#### **Bundled offers.**

26A.(1) If a bundle of services or a bundle of services and terminal equipment offered to a consumer comprises at least-

- (a) an internet access service; or
- (b) a publicly available number-based interpersonal communications service,

regulation 17, regulation 18(1) and (2), and regulation 26(1)-(4) shall apply to all elements of the bundle including those not otherwise covered by those provisions.

(2) Where the consumer has a legal right to terminate any element of the bundle before the end of the agreed contract term due to-

- (a) a lack of conformity with the contract or;



(b) a failure to supply,

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) Sub-regulations (1) and (3) shall also apply to end-users that are microenterprises, small enterprises, or not-for-profit organisations, unless they have explicitly agreed to waive all or parts of those provisions.

(5) The Authority may apply sub-regulation (1) as regards other provisions laid down in this Part.

#### **Must-carry obligations.**

27.(1) The Authority may, by notice issued under section 12 of the Act, set obligations to be complied with for the purpose of securing that particular services are broadcast or otherwise transmitted by means of the electronic communications networks and services described in the obligations.

(1A) The services referred to in sub-regulation (1) shall include accessibility services to enable appropriate access for disabled end-users and data supporting connected television services and EPGs.

(2) An obligation set pursuant to this regulation is not (subject to sub-regulation (4)) to require a service to be broadcast or otherwise transmitted by means of an electronic communications network unless—

(a) the service is included in the list of must-carry services; and

(b) the effect of the requirement is confined to networks by means of which public electronic communications services are provided that are used by a significant number of end-users as their principal means of receiving television programmes.

(3) That list shall be set out by the Minister in a direction.

(4) Obligations set pursuant to this regulation in relation to a listed service must, to such extent as the Authority considers appropriate (and subject to sub-regulation (5))–

- (a) apply the requirement to broadcast or otherwise transmit that service to every service which is an ancillary service by reference to the listed service; and
- (b) provide for the listed service to be treated for the purposes of the obligations as constituting such other services comprised in or provided with that service as may be determined by the Authority.

(5) Obligations set pursuant to this regulation must also comply with all such restrictions (if any) as may be imposed by a direction issued by the Minister as to the maximum and minimum amounts, or proportions, of available capacity that are to be required by such obligations to be used in the case of a network for the broadcasting or other transmission of particular services, or descriptions of service.

(6) In issuing a direction for the purpose of sub-regulation (5) the Minister must have regard to–

- (a) the objective of securing that services included in the list of must-carry services, and the other services to which obligations set in accordance with this regulation are likely to be applied by virtue of sub-regulation (4), are available for reception by as many members of the public in Gibraltar as practicable; and
- (b) the need to secure that the amount of capacity available in the case of every network for making other services available is reasonable and, accordingly, that the burden of complying with obligations set in accordance with this regulation is proportionate to the public benefit to be secured by that objective.

(7) It shall be the duty of the Minister from time to time to review–

- (a) the list of must-carry services; and
- (b) any requirements for the time being in force under this regulation with respect to the terms on which services must be broadcast or otherwise transmitted.

(8) Where the Minister carries out such a review, he must consult the following about the matters under review–

- (a) the Authority; and

- (b) such persons who, in his opinion, are likely to be affected by a modification of the list of must-carry services, or who represent any of those persons, as he thinks fit.

(9) If, on such a review, he considers it appropriate to do so, the Minister may by direction modify the list of must-carry services.

(10) In determining whether it is appropriate for the purposes of sub-regulation (9) to add a service to the list of must-carry services or to remove it, the Minister must have regard, in particular, to—

- (a) the public benefit to be secured by the addition of the service to the list, or by its retention in the list;
- (b) the extent to which the service (if it were not included in the list) would nevertheless be made available to an acceptable technical standard by means of the networks to which obligations set in accordance with this regulation apply;
- (c) the capacity left available, after the requirements of those obligations have been complied with, for the broadcasting or other transmission of material by means of each of those networks; and
- (d) the need to secure that the burden of complying with obligations so set is proportionate to the objective of securing that the services in the list of must-carry services, and the other services to which obligations set in accordance with this regulation are likely to be applied by virtue of sub-regulation (4), are available for reception by as many members of the public in Gibraltar as practicable.

(11) The Minister may also, if (whether on such a review or in any other circumstances) he considers it appropriate to do so, by direction make provision imposing requirements as to what, as between—

- (a) the person providing a must-carry service; and
- (b) the person providing a network by means of which it is to be provided,

are to be the terms on which the service is to be broadcast or otherwise transmitted, in pursuance of obligations set in accordance with this regulation, by means of that network.

(12) A direction issued for the purpose of sub-regulation (11) may provide for the terms to be determined by the Authority in accordance with the provisions of the direction.

(13) Before issuing a direction for the purpose of sub-regulation (5), and before issuing a direction for the purpose of sub-regulation (11) in a case in which there has been no review under sub-regulation (7), the Minister must consult–

- (a) the Authority; and
- (b) such persons who, in his opinion, are likely to be affected by the direction, or who represent any of those persons, as he thinks fit.

(14) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

#### **PART IV : GENERAL PROVISIONS**

##### **Consultation with interested parties.**

28.(1) The Authority shall, where specified in these Regulations and otherwise where it considers it appropriate to do so, have regard to the views of–

- (a) end-users (including end-users with disabilities);
- (b) consumers (including, in particular, disabled consumers);
- (c) persons who provide electronic communications services or electronic communications networks; and
- (d) manufacturers of electronic communications equipment,

on issues related to all end-user and consumer rights, including equivalent access and choice for end-users with disabilities, concerning publicly available electronic communications services, in particular where such issues have a significant impact on the market.

(2) The Authority shall conduct the consultations referred to in sub-regulation (1) in accordance with the public consultation procedure.

(2A) Interested parties may develop, with the guidance of and in co-operation with the Authority mechanisms involving–

- (a) consumers;
- (b) user groups; and

(c) service providers.

(3) Without prejudice to any enactment promoting cultural and media policy objectives, the Authority may promote co-operation between persons providing electronic communications networks and/or electronic communications services, and sectors interested in the promotion of lawful content in electronic communications networks and electronic communications services. That co-operation may also include coordination of the public-interest information to be provided pursuant to regulation 18(7).

**Procedures for the handling of complaints and for the resolution of disputes involving consumers and other end users.**

29.(1) This regulation applies to every person who is required to comply with an obligation, condition or any other requirement imposed upon him under or pursuant to these Regulations.

(2) The Authority shall ensure that every person to whom this regulation applies implements and publishes a code of practice which sets out the procedures he will apply for the purpose of—

- (a) handling complaints made to him by; and
- (b) resolving disputes he may have with,

consumers, and any other end-users as the Authority may specify, concerning an alleged infringement of these Regulations or of an obligation, condition or any other requirement imposed upon him pursuant to these Regulations.

(3) The code of practice referred to in sub-regulation (2) shall make provision for at least the following matters—

- (a) a first point of contact for complainants;
- (b) a means of recording complaints;
- (c) a time frame within which the person concerned shall respond to complaints;
- (d) the procedures for resolving disputes;
- (e) the remedies and redress available in respect of matters that form the subject matter of a complaint or dispute;

- (f) appropriate cases where reimbursement of payments and payments in settlement of losses incurred will be made; and
- (g) retention of records of complaints (including copies of the complaint, any response thereto, any determination in respect of the complaint and any documentation considered in the course of such determination) for a period of not less than one year following the resolution of the complaint or the dispute, as the case may be.

(4) A person to whom this regulation applies shall submit to the Authority, for the Authority's approval, the code of practice he intends to implement for the purpose of complying with his obligation under sub-regulation (2) and such a person shall not apply or publish the code until such time as it has been approved by the Authority.

(5) The Authority may issue a direction to a person who has complied with his obligation under sub-regulation (4) requiring him to make such modifications or additions to his code of practice as the Authority considers appropriate and specifies in the direction.

(6) Sub-regulations (4) and (5) shall apply to any modification or addition which a person intends to make to his code of practice after it has been approved by the Authority and no such modification or addition shall be applied or published by that person until such time as it has been approved by the Authority.

(7) The Authority shall not approve a code of practice or any modification or addition to it, unless it is satisfied that the procedures set out in the code for the handling of complaints and for the resolution of disputes are simple, inexpensive and such as to enable disputes to be settled fairly, promptly and in a transparent and non-discriminatory manner.

(8) A person shall publish the approved code of practice in such manner as the Authority considers appropriate for bringing it to the attention of the persons who, in the Authority's opinion, are likely to be affected by it.

(9) It shall be the duty of the Authority to keep under review the codes of practice for the time being approved by it.

(10) The Authority may at any time, by a notice issued or published in such manner as it considers appropriate—

- (a) approve a code;
- (b) approve modifications or additions that have been made to an approved code;
- (c) withdraw its approval from a code; or

- (d) advise that the withdrawal of its approval will take effect from such time as may be specified in the notice unless such modifications of the code as are specified in the notice are made before that time.

(11) The Authority, or an independent person appointed by the Authority, may, in accordance with such procedures as may be specified by the Authority, resolve disputes which remain unresolved after due completion of the dispute resolution procedure contained in a code of practice referred to in sub-regulation (2).

(12) It shall be the duty of the Authority to ensure that the procedures established pursuant to sub-regulation (11) are simple, inexpensive and such as to enable disputes to be settled fairly, promptly and in a transparent manner.

(13) The Authority shall publish the procedures established pursuant to sub-regulation (11) and any modifications or additions made to those procedures in such manner as it considers appropriate for bringing them to the attention of the persons who, in its opinion, are likely to be affected by them.

(14) The Authority may, for the purposes of sub-regulation (11), issue a direction to a person requiring that person to comply with such measures as it, or the independent person, as the case may be, may specify for the resolution of the dispute. Such measures may include, where appropriate, a requirement for the reimbursement of payments and payments in settlement of losses incurred.

(15) Unless alternative arrangements for payment of remuneration and expenses of an independent person referred to in sub-regulation (11) exist, the Authority may pay that person such remuneration and expenses as the Authority considers appropriate and the amount of such payments shall be included in the expenses of the Authority for the purposes of section 9 of the Gibraltar Regulatory Authority Act 2000.

(16) A person may, where a dispute involves parties in Gibraltar and one or more Member States, request the Authority to co-ordinate its efforts with the regulatory authority in the Member State or States concerned with a view to resolving the dispute.

(17) The procedures for the resolution of disputes referred to in this regulation shall be without prejudice to the rights of any person to apply to a court, save insofar as the parties concerned have entered into an agreement for the resolution of disputes between them which provides otherwise.

(18) A person who fails to comply with this regulation, or with any obligation, condition or requirement imposed upon him by the Authority pursuant to this regulation, is guilty of an offence.

**Notification, monitoring and review procedures.**

30.(1) The Authority shall, by the date of commencement of these Regulations, notify to the European Commission the names of the persons who have been designated under regulation 7(1).

(2) The Authority shall notify to the European Commission any changes in the names notified pursuant to sub-regulation (1) immediately after such changes are made.

(3) The Authority shall notify to the European Commission the universal service obligations imposed upon the persons who have been designated under regulation 7(1).

(4) The Authority shall notify to the European Commission any changes affecting the obligations referred to in sub-regulation (3) or the persons designated under regulation 7(1) immediately after such changes are made.

**Notices regarding imposition of obligations.**

31.(1) The Authority shall ensure the publication of a notice setting out the obligations which have been imposed pursuant to these Regulations and such notice shall include information on where copies of a statement of the obligations can be obtained.

(2) When the Authority amends or revokes any obligations imposed by it pursuant to these Regulations, sub-regulation (1) shall apply accordingly.

**Enforcement and Compliance.**

32.(1) The Authority shall monitor compliance with these Regulations, other than regulation 20 (3) and (5).

(2) Where the Authority finds that a person has contravened an obligation, condition or requirement imposed on him pursuant to a designation under regulation 7 or otherwise under or pursuant to regulations 3, 4, 5, 6, 8 (2), 13, 14, 15 or 16, the Authority shall seek compliance with any such obligation, condition or requirement by that person in accordance with the procedure set out in regulations 19 to 30 of the Authorisation Regulations.

(3) Where an obligation, condition or requirement set out in, or imposed on a person pursuant to, these Regulations forms part of general, numbering or licence condition within the meaning



of regulation 17 of the Authorisation Regulations applicable to that person, a contravention of such an obligation, condition or requirement shall constitute a contravention of a condition within the meaning of regulation 17 of the Authorisation Regulations to which the procedure set out in regulations 19 to 30 of the Authorisation Regulations applies.

**Penalty for offences.**

33. A person guilty of an offence under any provision of these Regulations shall be liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine.

## SCHEDULE 1

**DESCRIPTION OF FACILITIES AND SERVICES REFERRED TO IN  
REGULATION 9 (CONTROL OF EXPENDITURE), REGULATION 25  
(ADDITIONAL FACILITIES) AND REGULATION 26 (PROVIDER SWITCHING  
AND NUMBER PORTABILITY)**

Regulations 9,25 and 26

**Part A: Facilities and services referred to in regulations 9 and 25.**

When applied on the basis of regulation 9, Part A is applicable to consumers and other categories of end-users where the Authority has extended the beneficiaries of regulation 9(2A).

When applied on the basis of regulation 25, Part A is applicable to the categories of end-users determined by the Authority, except for paragraphs (c), (d) and (g) of this Part which are applicable only to consumers.

**(a) Itemised billing**

The Authority may, subject to the requirements of relevant law on the protection of personal data and privacy applicable in Gibraltar, lay down the basic level of itemised bills which are to be offered by providers to end-users free of charge in order that they can:

- (i) allow verification and control of the charges incurred in using internet access services or voice communications services, or number-based interpersonal communications services in the case of regulation 25; and
- (ii) adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills. Where appropriate, additional levels of detail may be offered to end-users at reasonable tariffs or at no charge. Such itemised bills shall include an explicit mention of the identity of the supplier and of the duration of the services charged by any premium numbers unless the end-user has requested that information not to be mentioned. Calls which are free of charge to the calling end-users, including calls to helplines, shall not be required to be identified in the calling end-user's itemised bill.

The Authority may require operators to provide calling-line identification free of charge.

**(b) Selective barring for outgoing calls or premium SMS or MMS, or, where technically feasible, other kinds of similar applications, free of charge.**

This is a facility whereby the end-users can, on request to the providers of voice communications services, or number-based interpersonal communications services in the case of regulation 25, bar outgoing calls or premium SMS or MMS or other kinds of similar applications of defined types or to defined types of numbers free of charge.

**(c) Pre-payment systems**

The Authority may require providers to offer means for consumers to pay for access to the public electronic communications network and use of voice communications services, or internet access services, or number-based interpersonal communications services in the case of regulation 25, on pre-paid terms.

**(d) Phased payment of connection fees**

The Authority may require providers to allow consumers to pay for connection to the public electronic communications network on the basis of payments phased over time.

**(e) Non-payment of bills**

The Authority shall authorise specified measures, which are to be proportionate, non-discriminatory and published, to cover non-payment of bills issued by providers. Those measures are to ensure that due warning of any consequent service interruption or disconnection is given to the end-users beforehand. Except in cases of fraud, persistent late payment or non-payment, those measures shall ensure, as far as is technically feasible, that any service interruption is confined to the service concerned. Disconnection for non-payment of bills shall take place only after due warning is given to the end-users. The Authority may allow a period of limited service prior to complete disconnection, during which only calls that do not incur a charge to the end-users (for example, calls to the '112' number) and minimum service level of internet access services, defined by Member States in light of national conditions, are permitted.

**(f) Tariff advice**

This is a facility whereby end-users may request the provider to offer information regarding alternative lower-cost tariffs, if available.

**(g) Cost control**

This is a facility whereby providers offer other means, if determined to be appropriate by competent authorities in coordination, where relevant, with national regulatory authorities, to control the costs of voice communications services or internet access services, or number-

based interpersonal communications services in the case of regulation 25, including free-of-charge alerts to consumers in the case of abnormal or excessive consumption patterns.

**(h) Facility to deactivate third party billing**

This is a facility for end-users to deactivate the ability for third party service providers to use the bill of a provider of an internet access service or a provider of a publicly available interpersonal communications service to charge for their products or services.

**Part B: Facilities referred to in regulation 25.**

**(a) Calling-line identification**

This is a facility whereby the calling party's number is presented to the called party prior to the call being established.

This facility shall be provided in accordance with relevant law on protection of personal data and privacy, in particular Directive 2002/58/EC.

To the extent technically feasible, operators shall provide data and signals to facilitate the offering of calling-line identity and tone dialling across boundaries within the European Union.

**(b) E-mail forwarding or access to e-mails after termination of the contract with a provider of an internet access service.**

This facility shall, on request and free-of-charge, enable end-users who terminate their contract with a provider of an internet access service to either access their e-mails received on the e-mail address(es) based on the commercial name or trade mark of the former provider, during a period that the Authority considers necessary and proportionate, or to transfer e-mails sent to that (or those) address(es) during that period to a new email address specified by the end-user.

**Part C: Implementation of the number portability provisions referred to in regulation 26.**

The requirement that all end-users with numbers from the Gibraltar Numbering Plan, who so request can retain their numbers independently of the person providing the service shall apply:

- (a) in the case of geographic numbers, at a specific location; and
- (b) 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.

## SCHEDULE 2

Regulations 11 (5) and 12 (7)

**CALCULATION METHOD FOR DETERMINING THE NET COST OF  
COMPLYING WITH A UNIVERSAL SERVICE OBLIGATION IN THE  
CIRCUMSTANCES DESCRIBED IN REGULATION 11 (5) AND THE PRINCIPLES  
APPLICABLE TO A SHARING MECHANISM IN ACCORDANCE WITH  
REGULATION 12 (7)****Part A : Calculation method for determining the net cost of complying with a universal service obligation in the circumstances described in regulation 11 (5).**

Universal service obligations are those obligations placed on a person which concern the provision of a network and service throughout Gibraltar, including, where required, averaged prices for the provision of that service or provision of specific tariff options for consumers with low incomes or with special social needs.

The Authority must consider all means to ensure appropriate incentives for persons (designated or not) to provide universal service obligations cost efficiently. In carrying out a calculation exercise, the net cost of universal service obligations is to be calculated as the difference between the net cost for a designated universal service provider of operating with the universal service obligations and operating without such obligations. This applies whether the network in Gibraltar is fully developed or is still undergoing development and expansion. Due attention is to be given to correctly assessing the costs that any designated universal service provider would have chosen to avoid had there been no universal service obligation. The net cost calculation should assess the benefits, including intangible benefits, to the person providing a universal service.

The calculation is to be based upon the costs attributable to—

- (i) elements of the identified services which can only be provided at a loss or provided under cost conditions falling outside normal commercial standards.*

This category may include service elements such as access to emergency telephone services, provision of certain public pay telephones, provision of certain services or equipment for disabled people, etc;

- (ii) specific end-users or groups of end-users who, taking into account the cost of providing the specified network and service, the revenue generated and any*

**2006-15**

**Communications**

**2006/072      Communications (Universal Service and Users' Rights)  
Regulations 2006**

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*geographical averaging of prices imposed by the Authority, can only be served at a loss or under cost conditions falling outside normal commercial standards.*

This category includes those end-users or groups of end-users who would not be served by a person who did not have an obligation to provide universal service.

The calculation of the net cost of specific aspects of universal service obligations is to be made separately in order to avoid the double counting of any direct or indirect benefits and costs. The overall net cost of universal service obligations to any person is to be calculated as the sum of the net costs arising from the specific components of universal service obligations, taking account of any intangible benefits. The responsibility for verifying the net cost lies with the Authority.

**Part B : Principles applicable to a sharing mechanism in accordance with regulation 12 (7).**

The recovery or financing of any net costs of universal service obligations requires designated universal service providers to be compensated for the services they provide under non-commercial conditions. Since such a compensation involves financial transfers, the Authority must ensure that these are undertaken in an objective, transparent, non-discriminatory and proportionate manner. This means that the transfers result in the least distortion to competition and to user demand.

In accordance with Article 90(3) of the Directive, a sharing mechanism based on a fund should use a transparent and neutral means for collecting contributions that avoids the danger of a double imposition of contributions falling on both outputs and inputs of persons.

The independent person administering the fund is to be responsible for collecting contributions from those who are assessed as liable to contribute to the net cost of universal service obligations in Gibraltar and is to oversee the transfer of sums due and/or administrative payments to the persons entitled to receive payments from the fund.

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**SCHEDULE 3**  
*Repealed.*

**SCHEDULE 4****INFORMATION TO BE PUBLISHED IN ACCORDANCE WITH REGULATION 18  
(TRANSPARENCY AND PUBLICATION OF INFORMATION)**

Regulation 18

The Authority shall 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 Authority itself in order to ensure that all end-users are able to make informed choices. If considered to be appropriate, the Authority may promote self- or co-regulatory measures prior to imposing any obligation.

1. Contact details of the person

2. Description of the services offered

2.1. 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 provider on the use of terminal equipment supplied.

2.2. 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.

2.3. After-sales, maintenance and customer assistance services offered and their contact details.

2.4. 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.

2.5. If the person is a provider of number-based interpersonal communications services, information on access to emergency services and caller location, or any limitation on the latter. If the person is a provider of number-independent interpersonal communications services, information on the degree to which access to emergency services may be supported or not.

**2006-15**

**Communications**

**2006/072      Communications (Universal Service and Users' Rights)  
Regulations 2006**

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2.6. Details of products and services, including any functions, practices, policies and procedures and alterations in the operation of the service, specifically designed for end-users with disabilities, in accordance with Union law harmonising accessibility requirements for products and services.



SCHEDULE 5

QUALITY OF SERVICE PARAMETERS

Quality-of-Service Parameters, Definitions and Measurement Methods referred to in Regulations 10 and 18A.

For providers of access to a public electronic communications network

PARAMETER (Note 1)	DEFINITION	MEASUREMENT METHOD
Supply time for initial connection	ETSI EG 202 057	ETSI EG 202 057
Fault rate per access line	ETSI EG 202 057	ETSI EG 202 057
Fault repair time	ETSI EG 202 057	ETSI EG 202 057

For providers of interpersonal communications services who exert control over at least some elements of the network or have a service level agreement to that effect with persons providing access to the network

PARAMETER (Note 2)	DEFINITION	MEASUREMENT METHOD
Call set up time	ETSI EG 202 057	ETSI EG 202 057
Bill correctness complaints	ETSI EG 202 057	ETSI EG 202 057
Voice connection quality	ETSI EG 202 057	ETSI EG 202 057
Dropped call ratio	ETSI EG 202 057	ETSI EG 202 057

**2006-15**

**Communications**

**2006/072 Communications (Universal Service and Users' Rights) Regulations 2006**

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Unsuccessful call ratio (Note 2)	ETSI EG 202 057	ETSI EG 202 057
Failure probability		
Call signalling delays		

**Version number of ETSI EG 202 057-1 is 1.3.1 (July 2008)**

For providers of internet access services

<b>PARAMETER</b>	<b>DEFINITION</b>	<b>MEASUREMENT METHOD</b>
Latency (delay)	ITU-T Y.2617	ITU-T Y.2617
Jitter	ITU-T Y.2617	ITU-T Y.2617
Packet loss	ITU-T Y.2617	ITU-T Y.2617

Note 1

Parameters shall allow for performance to be analysed at a regional level (namely, no less than level 2 in the Nomenclature of Territorial Units for Statistics (NUTS) established by Eurostat).

Note 2

Member States may decide not to require up-to-date information concerning the performance for those two parameters to be kept if evidence is available to show that performance in those two areas is satisfactory

SCHEDULE 6

Regulation 3

**MINIMUM SET OF SERVICES WHICH THE ADEQUATE BROADBAND  
INTERNET ACCESS SERVICE IN ACCORDANCE WITH REGULATION (3)  
SHALL BE CAPABLE OF SUPPORTING**

- (1) Email;
- (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) eGovernment service use;
- (10) social media and instant messaging;
- (11) calls and video calls (standard quality).