



The Universal Service Directive in the EU regulatory framework for electronic communications

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**Regulatory Coordination & Users
DG CONNECT B2
European Commission**



Citizens' Rights Directive

Amendments to the Universal Service Directive (USD)

- Directive 2009/136/EC of 25 November 2009;
 - Amending Directive 2002/22/EC, Universal Service Directive.
 - Amending Directive 2002/58/EC, ePrivacy Directive.
 - Amending Regulation EC No 2006/2004.
- ✓ Article 1 of the Citizen's Rights Directive introduces the amendments of the USD;
 - Consolidated text of the Universal Service Directive following the 2009 reform.
 - Objectives of the Citizens Rights Directive amendment of the USD are developed in its recitals (recitals 1-76).



Citizens' Rights Directive

Amendments to the USD

Some key changes introduced by the Citizens Rights Directive amendment of the Universal Service Directive focussing on end-users interests and rights (Chapter IV USD):

- Contracts and transparency, Article 20 USD.
- Transparency and publication of information, Article 21 USD.
- Quality of Service, Article 22 USD.
- Facilitating change of provider, Article 30 USD.
- Analysed now in detail in the consolidated version of Directive 2002/22/EC.





Universal Service Directive

Aim and Scope

Chapter I. Scope, Aims and Definitions

➤ Article 1. Scope and aims

- ✓ Ensure availability in throughout the EU of good-quality publicly available services through effective competition and choice and to deal with the circumstances in which the needs of the end-users are not satisfactorily met by the markets.
- ✓ End-users interests and rights and the corresponding obligations for Member States, national regulatory authorities, and undertakings providing publicly available electronic communications networks and services.
- ✓ The provisions of this Directive concerning end users' rights shall apply without prejudice to Community rules on consumer protection (Article 1(4)).





Universal Service Directive

Definitions

Article 2. Definitions

- ✓ public pay telephone
 - ✓ publicly available telephone service
 - ✓ geographic number
 - ✓ non-geographic number'
 - ✓ electronic communications networks and service
- Completed by definitions in Article 2 of the Framework Directive





Universal Service Directive

Presentation part I

Presentation part I. Universal Service

- Universal service scope and obligations
- Designation of universal service providers
- Costing of universal service obligations
- Financing of universal service obligation
- Transparency requirements
- Annex IV. Calculating the net cost and establishing any sharing mechanism





Universal Service Directive

Chapter II

Chapter II. Universal Service Obligations (USOs)

- Establishes the rights of end-users
- Member States obligations as regards ensuring the provision of USOs
- The corresponding obligations of undertakings providing publicly available electronic communications networks and service
- Article 3: Availability
- Articles 4-11: Universal Service Obligations
- Article 8 and 12-13: designation, costing and financing.





Universal Service Directive

Availability

Article 3. Availability of Universal Service

- ✓ Minimum set of services of specified quality available all end-users, at an affordable price in the light of specific national conditions, without distorting competition.
- ✓ 3 safety-net concept objectives: availability, affordability and accessibility.
- ✓ When the market alone does not provide the defined set of basic services, one or more undertakings may be designated to provide all or some of these services (in part or all of the national territory).
- ✓ Upon reasonable request from a citizen.



Universal Service Directive

Universal Service Obligations

Articles 4-7. Universal Service Obligations (vertical/horizontal)

- ✓ A connection at a fixed location to the public communications network by at least one undertaking.
- ✓ Enabling voice and data communications services, at data rates sufficient to permit functional internet access.
- ✓ Access to publicly available telephone services.
- ✓ Special measures for disabled users and people on low incomes.
- ✓ Comprehensive directory and directory enquiry service.



Universal Service Directive

Access at a fixed location and telephone services

Article 4. Access at a fixed location and telephone services

- ✓ MS to ensure reasonable requests for connection at a fixed location.
- ✓ Connection sufficient to support communications at data rates sufficient to permit functional internet access.
- ✓ MS to ensure that all reasonable requests for the provision of a publicly available telephone service over the network connection.
- ✓ Allowing originating and receiving national and international calls .
- ✓ To be met by at least one undertaking.



Universal Service Directive

Directory enquiry services and directories

Article 5. Directory enquiry services and directories

- ✓ MS to ensure that at least one comprehensive directory is available to end-users (agreed format and updated regularly)
- ✓ MS to ensure that at least one comprehensive telephone directory enquiry service is available to all end-users, including users of public pay telephones.
- ✓ Directories subject to the provisions of Article 12 of Directive 2002/58/EC
- ✓ Undertaking(s) providing directories to apply the principle of non-discrimination to the treatment of information with other undertakings.





Universal Service Directive

Public pay telephones

Article 6. Public pay telephones and other public voice telephony access points

- ✓ MS to ensure that NRAs may impose obligations on undertakings in order to ensure that public pay telephones or other public voice telephony access points are provided to meet needs of end-users in the terms defined.
- ✓ MS to ensure that NRAs can decide not to impose these obligations in all or part of its territory, if it is satisfied that these facilities or comparable services are widely available.
- ✓ MS to ensure emergency calls from public pay telephones using the single European emergency call number "112" and other national emergency numbers, all free of charge and without having to use any means of payment.





Universal Service Directive

Measures for disabled end-users

Article 7. Measures for disabled end-users

- ✓ MS to take specific measures to ensure that access to, and affordability of, the services identified in Article 4(3) and Article 5 for disabled end-users is equivalent to the level enjoyed by other end-users.
- ✓ Unless requirements under Article 23a achieve the equivalent effect.
- ✓ MS may oblige NRAs to assess the general need and the specific requirements, of such specific measures for disabled end-users.
- ✓ MS may take specific measures to ensure choice of undertakings and service providers available to the majority of end-users.





Universal Service Directive

Affordability of tariffs

Article 9. Affordability of tariffs

- ✓ NRAs shall monitor the evolution and level of retail tariffs of the services falling under the USOs in relation to national consumer prices and income.
- ✓ MS may require that USPs provide to consumers tariff options or packages which depart from those provided under normal commercial conditions.
- ✓ MS may ensure that support is provided to consumers identified as having low incomes or special social needs.
- ✓ MS may require USPs to apply common tariffs.
- ✓ Conditions are fully transparent and are published.





Universal Service Directive

Control of expenditure

Article 10. Control of expenditure

- ✓ MS to ensure that USPs in providing facilities and services additional to the USOs establish terms and conditions.
- ✓ MS to ensure that USPs provide the specific facilities and services set out in **Annex I, Part A**, in order that subscribers can monitor and control expenditure.
- ✓ Member States shall ensure that the relevant authority is able to waive the requirements of paragraph 2 in all or part of its national territory if it is satisfied that the facility is widely available.





Universal Service Directive

Quality of service

Article 11. Quality of service

- ✓ NRAs shall ensure that all USPs publish adequate and up-to-date information concerning their performance in the provision of US.
- ✓ NRAs may specify additional quality of service standards, where relevant parameters have been developed, to assess the performance of undertakings.
- ✓ NRAs may specify the content, form and manner of information to be published.
- ✓ NRAs able to set performance targets for undertakings with USOs and to monitor compliance with these performance targets by USPs.





Universal Service Directive

Designation of undertakings

Article 8. Designation of undertakings

- ✓ MS may designate one or more undertakings to guarantee the US provision.
- ✓ MS may designate different undertakings to provide different elements of universal service and/or to cover different parts of the national territory.
- ✓ Designation using an **efficient, objective, transparent and non-discriminatory designation mechanism**, whereby no undertaking is a priori excluded from being designated.
- ✓ Designation ensuring that US is provided in a cost-effective manner and used as a means of determining the net cost of the USOs.





Universal Service Directive

Costing of universal service obligations

Article 12. Costing of USOs

- ✓ MS may designate one or more undertakings to guarantee the US provision.
- ✓ MS may designate different undertakings to provide different elements of universal service and/or to cover different parts of the national territory (*functional and geographical segmentation*).
- ✓ Designation using an **efficient, objective, transparent and non-discriminatory designation mechanism**, and non a priori exclusion.
- ✓ Designation ensuring that US is provided in a cost-effective manner and used as a means of determining the net cost of the USOs.





Universal Service Directive

Costing of universal service obligations

Article 12. Costing of USOs

- ✓ Where NRAs consider that the provision of US may represent an unfair burden they shall calculate the net costs of its provision:
 - ✓ (a) calculate the net cost taking into account any market benefit in accordance with **Annex IV, Part A**; or
 - ✓ (b) make use of the net costs of providing universal service identified by a **designation mechanism** in accordance with Article 8(2).
- ✓ Accounts and/or other information audited or verified by NRAs or a body independent of the relevant parties approved by the NRAs; publicly available.





Universal Service Directive

Financing of universal service obligations I

Article 13. Financing of USOs

- ✓ Where USP is subject to an unfair burden, MS upon request:
- ✓ (a) to introduce a compensation mechanism under transparent conditions from public funds.
- ✓ (b) to share the net cost of universal service obligations between providers ECN/S.
- ✓ In the second case, MS shall establish a sharing mechanism administered by the NRA.





Universal Service Directive

Financing of universal service obligations II

Article 13. Financing of USOs

- ✓ Only the net cost stemming from the USOs may be financed.
- ✓ Sharing mechanism shall respect the principles of transparency, least market distortion, non-discrimination and proportionality - **Annex IV, Part B.**
- ✓ MS may choose not to require contributions from undertakings whose national turnover is less than a set limit (*de minimis rules*).
- ✓ Charges related to the sharing of the cost of USOs shall be unbundled and identified separately for each undertaking.





Universal Service Directive

Transparency requirements

Article 14. Transparency

Where a sharing mechanism is established in accordance with article 13;

- ✓ NRAs to ensure that the principles for cost sharing, and details of the mechanism used, are publicly available.
- ✓ NRAs to ensure that an annual report is published giving the calculated cost of USOs, identifying the contributions made by all the undertakings involved, and identifying any market benefits, that may have accrued to the USPs, where a fund is actually in place and working.
- ✓ Subject to EU and national rules on business confidentiality.





Universal Service Directive

Presentation Part II – End-users interests and rights

Presentation part II. End-users interests and rights (Chapter IV)

- Contracts, transparency and obligation of information.
- Quality of service.
- Availability of services & equivalence in access/choice for disabled end-users.
- Telephone directory enquiry services.
- 112 and 116.
- Access to numbers and services.
- Facilitating change of provider.
- Must carry obligations.





Universal Service Directive

Contracts

Article 20. Contracts

- ✓ MS to ensure that and other end-users so requesting have a right to a contract with undertakings providing electronic communications connection/services.
- ✓ Contracts shall specify in a clear, comprehensive and easily accessible form at least: Article 20(1) (a) to (h).
- ✓ Subscribers have a right to withdraw from their contract without penalty upon notice of modification to the contractual conditions.
- ✓ Subscribers shall be given adequate notice, not shorter than one month, of any modification and be informed of their right to withdraw, without penalty, from their contract if they do not accept the new conditions.





Universal Service Directive

Transparency and publication of information

Article 21. Transparency and publication of information

- ✓ NRAs able to oblige undertakings to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs; charges due on termination of a contract and on standard terms; conditions of access to, and use of services provided by them (Annex II).
- ✓ Information published in a clear, comprehensive and easily accessible form.
- ✓ NRAs to encourage the provision of comparable information to make an independent evaluation of the cost of alternative usage patterns.
- ✓ NRAs to oblige undertakings to the following requirements: (a) to (f).





Universal Service Directive

Quality of service

Article 22. Quality of service

- ✓ Adequate and up-to-date information for end-users on the quality of their services; also measures to ensure equivalence for disabled end-users.
- ✓ Quality of service parameters to be measured and the content, form and manner of the information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information (Annex III).
- ✓ In order to prevent the degradation NRAs to set minimum quality of service requirements on undertakings providing public communications networks.





Universal Service Directive

Availability of services and disabled end-users

Article 23. Availability of services

- ✓ MS to take all necessary measures to ensure the fullest possible availability of publicly available telephone services in the event of catastrophic network breakdown or in cases of force majeure.
- ✓ MS to ensure that undertakings take all necessary measures to ensure uninterrupted access to emergency services.
- ✓ Article 23a. Ensuring equivalence in access and choice for disabled end-users:
 - ✓ Access equivalent to the majority of end-users.
 - ✓ Benefit from the choice available to the majority of end-users.





Universal Service Directive

Telephone directory enquiry services

Article 25. Telephone directory enquiry services

- ✓ Subscribers have the right to have an entry in the publicly available directory referred to in Article 5(1)(a) and their information made available to providers.
- ✓ Undertakings to meet all reasonable information requests in an agreed format on terms which are fair, objective, cost oriented and non-discriminatory.
- ✓ End-users provided with a publicly available telephone service can access directory enquiry services.
- ✓ NRAs to impose obligations and conditions.
- ✓ Article 12 of Directive on privacy and electronic communications.





Universal Service Directive

112

Article 26. Single European emergency call number - 112

- ✓ MS to ensure that all end-users are able to call the emergency services (112/national) free of charge and without using any means of payment.
- ✓ Undertakings to provide access to emergency services.
- ✓ Calls to 112 appropriately answered and handled in the manner best suited to the national organisation of emergency systems.
- ✓ Access for disabled end-users to emergency services is equivalent.
- ✓ Undertakings to make caller location information available free of charge.





Universal Service Directive

Harmonised numbers for harmonised services of social value – missing children

Article 27a. Harmonised numbers – 116

- ✓ MS to promote the specific numbers in the numbering range "116"
Commission Decision 2007/116/EC of 15 February 2007.
- ✓ Encourage the provision within their territory of the services for which such numbers are reserved ; disabled end users.
- ✓ Citizens to be adequately informed of the existence and use of services provided under the "116" numbering range.
- ✓ MS to ensure that citizens have access to a service operating a hotline to report cases of missing children - "116000".





Universal Service Directive

Access to numbers and services

Article 28. Access to numbers and services

- ✓ MS relevant national authorities take all necessary steps to ensure that end users are able to:
 - (a) access and use services using non-geographic numbers within the EU.
 - (b) access all numbers provided in the EU.

- ✓ MS to ensure that the relevant authorities are able to require undertakings providing public communications networks and/or publicly available electronic communications services to block, on a case-by-case basis, access to numbers or services where this is justified by reasons of fraud or misuse and to require withholding of relevant interconnection or other service revenues.





Universal Service Directive

Facilitating change of provider

Article 30. Facilitating change of provider

- ✓ Subscribers with who so request can retain their number(s) - Part C of Annex I.
- ✓ Pricing related to NP to be cost-oriented; not acting as a disincentive for subscribers against changing service provider; not distort competition.
- ✓ Porting and activation within the shortest possible time; and subscribers with agreement to NP have it activated within one working day.
- ✓ Loss of service during the process of porting shall not exceed one working day; and compensate subscribers in case of delay in porting.
- ✓ Contracts not to mandate an initial commitment period exceeds 24 months; and undertakings to offer contract with a max. of 12 months; conditions/procedures for contract termination do not act as a disincentive.





Universal Service Directive

Must carry obligations

Article 31. Must carry obligations

- ✓ MS may impose reasonable "must carry" obligations for the transmission of specified radio/television broadcast channels and complementary services.
- ✓ Must carry obligations shall only be imposed where they are necessary to meet general interest objectives as clearly defined by each Member State and shall be proportionate and transparent.
- ✓ Review of the "must carry" obligations on a regular basis.
- ✓ MS to determine appropriate remuneration; no discrimination in treatment.
- ✓ Proportionate and transparent manner.





Universal Service Directive

Chapter V. General and final provisions

Article 34. Out-of-court dispute resolution

- ✓ MS to ensure transparent, non-discriminatory, simple and inexpensive out-of-court procedures available for dealing with unresolved disputes.
- ✓ Relating to the contractual conditions and/or performance of contracts concerning the supply of those networks and/or services.
- ✓ Disputes to be settled fairly and promptly and adopt a system of reimbursement and/or compensation.
- ✓ Legislation not to hamper the establishment of complaints offices and the provision of on-line services at the appropriate territorial level.
- ✓ Disputes in different Member States, Member States shall coordinate their efforts with a view to bringing about a resolution of the dispute.





Universal Service Directive

Annexes

Annexes

- ✓ Annex I. Facilities and services referred to in Article 10 (control of expenditure), Article 29 (additional facilities) and Article 30 (facilitating change of provider).
- ✓ Annex II. Information to be published in accordance with Article 21 (transparency and publication of information).
- ✓ Annex III. Quality of service parameters.
- ✓ Annex IV. Calculating the net cost, if any, of USOs and establishing any recovery or sharing mechanism in accordance with Articles 12 and 13.
- ✓ Annex V. Process of reviewing the scope of US in accordance with Article 15.
- ✓ Annex VI. Interoperability of digital consumer equipment referred to in Article 24.





Universal Service Directive

Thank you for your attention!

