

STUDY FOR THE DESIGN OF A NEW COMMUNITY REGULATORY FRAMEWORK GOVERNING THE DIGITAL ECONOMY SECTOR IN WEST AFRICA

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Draft basic single Regulation governing electronic communications *- Preliminary draft -*

EU Delegation to Burkina, on behalf of the WAEMU
Commission



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For the WAEMU space¹:

REGULATION N°...../CM/WAEMU ESTABLISHING THE COMMUNITY REGULATORY FRAMEWORK GOVERNING THE ELECTRONIC COMMUNICATIONS SECTOR TO BOOST THE DIGITAL ECONOMY IN WEST AFRICA

For the ECOWAS space²:

REGULATION [C/REG.....] ESTABLISHING THE COMMUNITY REGULATORY FRAMEWORK GOVERNING THE ELECTRONIC COMMUNICATIONS SECTOR TO BOOST THE DIGITAL ECONOMY IN WEST AFRICA

¹ *ToDo: In the ECOWAS version of this Regulation, delete the " For the WAEMU space", as well as the related 3 recitals.*

² *ToDo: In the WAEMU version of this Regulation, delete the "For the ECOWAS space", as well as the related 4 recitals.*

0 Preamble (= Recitals)

For the WAEMU space³:

THE COUNCIL OF MINISTERS OF THE WEST AFRICAN ECONOMIC AND MONETARY UNION (WAEMU)

Having Regard to the WAEMU Treaty, in particular in its Articles 3, 4, 6, 7, 16, 20 to 23, 25, 26, 42 to 45, 61, 91 to 93, 101 and 102;

HAVING REGARD to Additional Protocol No. II relating to sectoral policies of WAEMU, in particular in its Articles 7 and 8;

MINDFUL of Recommendation No.03/2000/CM/UEMOA of 22 November 2000 relating to the implementation of an action program for the improvement of electronic communications in WAEMU;

For the ECOWAS space⁴:

THE COUNCIL OF MINISTERS OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

HAVING REGARD to Articles 10, 11 and 12 of the ECOWAS Treaty, as amended, establishing the Council of Ministers and defining its composition and functions;

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

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

³ *ToDo: In the ECOWAS version of this Regulation, delete the " For the WAEMU space", as well as the related 3 recitals.*

⁴ *ToDo: In the WAEMU version of this Regulation, delete the "For the ECOWAS space", as well as the related 4 recitals.*

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

- (1) **CONCERNED** with the harmonious and balanced development of the Community territory in the field of electronic communications;
- (2) **CONSIDERING** that the **Union/Community** is resolutely committed to the process of liberalizing electronic communications services and infrastructures and that this liberalization creates growth markets, which require a framework that is favorable and attractive for investment as well as facilitates access to these markets for new electronic communications operators and/or providers, in particular by granting licenses or authorizations to establish and/or operate networks or use frequencies;
- (3) **CONSIDERING** the need to define identical types of regime for each electronic communications activity in the Member States;
- (4) **WHEREAS** the harmonization of policies, by issuing minimum requirements and Community framework regulations, appears to be a means of accelerating the achievement of the economic and social integration of Member States;
- (5) **CONCERNED** with ensuring an appropriate level of international and regional harmonization, also for the sake of ensuring that best regulatory practices on relevant issues are widely disseminated, and with adapting the regulatory framework to the level of digital culture and readiness in each country of the sub-region ;
- (6) **CONCERNED** with increasing the readability of the rules applicable to electronic communications network operators and services providers;
- (7) **CONCERNED** with guaranteeing the free game of competition between undertakings in the electronic communications sector in the **WAEMU/ECOWAS** area within the framework of the establishment of the common market;
- (8) **RECOGNIZING** that, in order to shape the digital economy, the promotion of competition is a central regulatory issue, that, in particular, the conditions of access to markets, the rules of the game and above all the measures for regulating positions dominant must be such as to facilitate the dynamism of innovative businesses; that competition policies must therefore succeed in meeting the demands of the digital ecosystem characterized among other things by the interaction of digital platforms, electronic communications operators and/or providers, new types of network operators and the diversity of actors;
- (9) **NOTING** the need for **a WAEMU/an ECOWAS** action due to the increasingly growing competition between, on the one hand, local providers of electronic communications services, which combine network access and supply services, and, on the other hand, global providers of services over

the top of the networks (commonly known as “over the top” or “OTT”), to ensure a level playing field for all ;

- (10) **RECOGNIZING** that the same provisions should apply to all electronic communications services, number-independent interpersonal communications services, in particular OTT services, should be subject to obligations only in cases where the public interest requires the application of specific regulatory obligations to all types of interpersonal communications services, regardless of whether they use numbers for the provision of their service;
- (11) **WISHING** to update the existing harmonized framework for electronic communications in the West African sub-region, inter alia the existing regulations on the granting of licenses or authorizations in Member States and thus strengthen the game of free competition in an environment undergoing considerable technological change;
- (12) **CONVINCED** that issues relating to the regulation of market entry are crucial for the development of digital technologies and thereby of the digital economy, that, what sector market players are authorized to do and under which conditions are an essential catalyst with regard to the propensity to invest in the sector, and that the open nature of the digital economy makes flexibility and dynamism essential features of any licensing regime intended to regulate entry into the electronic communications market;
- (13) **NOTING** that, due to the need to combine mobile and fixed technologies to be able to realistically deploy fifth generation (5G) networks, there is a need to lift the exclusivity that incumbent operators still enjoy in several Member States with respect to optical fiber, at least for cases where the incumbent operator fails to satisfy competitors’ demand in terms of optical fiber backhaul links at affordable prices;
- (14) **RECOGNIZING** that technology-neutral spectrum licensing is essential to enable consumers and businesses to have the best possible mobile broadband experience;
- (15) **CONSIDERING** that the direct interconnection of modern electronic communications systems between Member States is a prerequisite for sub-regional economic integration;
- (16) **RECOGNIZING** the need for interconnection of all networks open to the public and interoperability of networks and services in order to build a national network open to all customers;
- (17) **WISHING** to fine-tune the system of access to and interconnection of networks and services in the electronic communications sector in the West African sub-region to promote more profitable competition for operators and/or providers and users of this sector;
- (18) **CONSIDERING** that the **Union/Community** is resolutely committed to putting in place an appropriate legal framework for the reduction or even elimination of Community roaming costs with a view to creating an integrated electronic communications market in the West African sub-region;
- (19) **NOTING** that Community roaming in the **WAEMU/ECOWAS** region is not only a tool for borderless communication and regional integration that significantly improves the daily life of

citizens moving within the Union, but also a business opportunity for mobile communications operators and/or providers;

- (20) **AWARE** that the reduction or elimination of Community roaming charges will allow digital ubiquity and facilitate people's integration in the **WAEMU/ECOWAS**;
- (21) **WISHING** to develop a harmonized regulation of roaming services in the **WAEMU/ECOWAS** region;
- (22) **CONSIDERING** that submarine cable projects aimed at connecting Africa could put an end to the high costs of electronic communications services due to the lack of national and international fiber optic infrastructure, also both on land and sub-marine, and contribute to lowering prices, provided that a regulatory framework is implemented allowing free access and the development of competition on international links;
- (23) **CONSIDERING** the need to strengthen regulation of access to submarine cables to respond to the access, price and capacity problems identified in the sub-region concerning both cable landing stations and capacity services offered as a result, in particular, of monopolies on cable landing stations and backhaul links, which result in excessive prices
- (24) **RECALLING** that Member States should strive to apply the principles of interconnection and open access between operators and/or providers, namely non-discrimination, transparency and cost-oriented pricing, not only with regard to interconnection reference offers and access to submarine and terrestrial capacities from one of these Member States, but also for the granting of licenses to operators of submarine cable landing stations;
- (25) **RECALLING** in particular that these principles of interconnection and open access apply not only between national operators and/or providers, but also between those established in different Member States;
- (26) **RECALLING** the particular challenges of landlocked countries, which can only have access to landing stations by crossing other Member countries with a view to achieving a common electronic communications market in the **WAEMU/ECOWAS** area;
- (27) **CONVINCED** that open access to capacities carried over submarine cables is necessary to make the cost of international bandwidth affordable and, thus, foster the growth of each of the national markets;
- (28) **WISHING** to adopt a harmonized framework for access to submarine cables in West Africa to promote the development of sustainable and fair competition for the benefit of operators and/or providers and users in the electronic communications sector;
- (29) **NOTING** that coastal countries benefit from better access to international capabilities through the landing of new submarine cables while the situation of landlocked Member States has not improved due to the lack of competitiveness of the national infrastructure segment in most Member States;
- (30) **CONSIDERING** that transit costs remain a major component of the overall price of international connectivity charged to landlocked Member States, and that international connectivity costs are falling while transit costs remain high;

- (31) **CONVINCED** that open and affordable access to capacities transported over terrestrial electronic communications networks is necessary to make the cost of international bandwidth affordable and thus foster the growth of national markets while enhancing sub-regional economic integration;
- (32) **WISHING** to adopt a harmonized framework for access to national and international bandwidth on terrestrial networks in West Africa to promote the development of long-lasting and fair competition for the benefit of both operators and/or providers and users of electronic communications within the **WAEMU/ECOWAS** space;
- (33) **CONSIDERING** that civil engineering assets that can host an electronic communications network are essential for the successful deployment of new networks, due to the high cost of their duplication and the significant savings that can be achieved when they are reused, it is advisable to provide for the possibility for national regulatory and other competent authorities to be able to take appropriate measures to facilitate access to civil engineering infrastructure and the coordination of related work both in the electronic communications sector and beyond;
- (34) **NOTING** that the strong growth in users of electronic communications services is likely to lead to a real deficit in numbering resources; **WISHING** therefore to develop sub-regional regulations relating to the optimal management of the numbering plan in the use of electronic communications services;
- (35) **CONVINCED** that access to numbering resources based on transparent, objective and non-discriminatory criteria is essential for undertakings to compete in the electronic communications sector, and that Member States should be able to grant rights of use for numbering resources to undertakings other than electronic communications network operators or service providers, considering the increasing relevance of numbers for various Internet of Things services;
- (36) **CONVINCED** that, in order to effectively support the free movement of goods, services and persons within the **Union/Community**, it should be possible to use certain national numbering resources, in particular certain non-geographic numbers, in an extraterritorial manner, that is to say outside the territory of the assigning Member State. Giving the considerable risk of fraud with respect to interpersonal communications, such extraterritorial use should be allowed only for the provision of electronic communications services other than interpersonal communications services. Member States should ensure enforcement of relevant national laws, in particular consumer protection rules and other rules related to the use of numbering resources, independently of where the rights of use have been granted and where the numbering resources are used within the **Union/Community**. Member States should remain competent to apply their national law to numbering resources used in their territory, including where rights have been granted in another Member State;
- (37) **AWARE** of the need to guarantee to the entire population of the **Union/Community**, regardless of their geographical location, economic and social conditions, a set of minimum electronic communications services of good quality and at affordable price conditions;
- (38) **RECOGNIZING** that the concept of universal service is bound to evolve in line with technological progress, market development and user needs;

- (39) **RECOGNIZING** that the development of a truly digital economy cannot be imagined without people's access to appropriate electronic communications services, especially broadband, and that this implies broadband connectivity that is not only available, relevant and affordable, but also secure, reliable and empowers users;
- (40) **NOTING** that, despite all the progress that has been made in recent years, many people in the **WAEMU/ECOWAS** space are still either not connected, or connected by unaffordable or unreliable infrastructure;
- (41) **RECOGNIZING** that economic actors, which generally operate on a commercial basis, have little incentive to develop their network infrastructure in less profitable areas, there is a role for national policies in facilitating, directly or indirectly, universal access and service;
- (42) **CONSIDERING** that the need for access to the internet for all has been stressed as a sine qua non for the development of the digital economy and for the competitiveness of businesses and economic growth, and that it has become urgent to make the internet accessible to everyone and affordable;
- (43) **NOTING** that the absence of fairly sophisticated and extensive copper networks makes mobile broadband solutions particularly fast and less expensive in the deployment of broadband in developing countries in general and West Africa in particular, that this feature of mobile broadband is particularly eloquent in the connection of rural and underserved areas, and that this finding is valid in particular for the **WAEMU/ECOWAS** region where mobile connectivity is expected to occupy a prominent place in high-speed internet access;
- (44) **RECOGNIZING** that, due to its fairly affordable cost to the consumer and especially with the ever-increasing proliferation of so-called "smart" mobile terminals, mobile broadband is positioned as the solution that can allow a qualitative leap in terms of penetration also in West African countries;
- (45) **RECOGNIZING** that, given the prospects for the development of mobile technologies in sub-Saharan Africa in general and in West Africa in particular, the ambition of a 5G universe for all in the short and medium term is not realistic in the region, and that, therefore, a minimum of regulatory realism is required;
- (46) **NOTING** that such realism would suggest that decision-makers focus on technologies that are much more within reach, i.e. 3G or 4G, the availability and quality of which should be improved for all, however, without losing sight of promoting 5G for the long term, given its promises;
- (47) **NOTING** that, to allow each community to play its part in the digital economy, it should have access to broadband connection, which would involve extending the scope of universal service to include broadband internet;
- (48) **CONSIDERING** the need to lay down common principles between Member States that makes it possible to supervise and/or determine the costs and tariffs of electronic communications services in line with users' expectations;
- (49) **NOTING** that divergent implementation of the rules on consumer protection has created significant internal market barriers affecting both providers of electronic communications

services and consumers., and that those barriers should be reduced by the applicability of the same rules ensuring a high common level of protection across the **Union/Community**;

- (50) **CONVINCED** that harmonious strengthening of the consumer rights as provided for in the present Regulation should considerably increase legal certainty for both consumers and providers of electronic communications services, and should significantly lower entry barriers and unnecessary compliance burden stemming from the fragmentation of the rules;
- (51) **NOTING** also that the strong growth of electronic communications network operators and services providers is likely to lead to a serious shortfall in radio frequency spectrum resources, hence the desire to develop sub-regional regulations with regard to optimal management of the radio frequency spectrum;
- (52) **RECOGNIZING** that, more than ever, spectrum is identified as a major asset to support the growth of the digital economy, that mobile broadband deployment projects, in particular 5G, as well as the growing number of devices connected to the internet, make spectrum a more than scarce resource requiring good management on the part of the various national organizations involved in their administrative management; that this finding is particularly relevant for developing countries, particularly sub-Saharan Africa, and more precisely in the **WAEMU/ECOWAS** space, where the mobile connection is expected to occupy a prominent place in access to broadband internet;
- (53) **WHEREAS** 5G use cases could potentially be realized using a variety of spectral frequencies, and the challenge for national regulatory authorities in this context will be to select globally harmonized spectrum bands for 5G, and this would enable economies of scale, facilitating cross-border coordination to minimize radio interference along borders, international roaming and reduces the cost of equipment
- (54) **NOTING** that, to meet the fairly diverse requirements of the various usage scenarios envisaged for 5G, it should have access to both low frequencies (<1 GHz), high frequencies (between 1 GHz - 6 GHz) and very high frequencies, so-called "millimeter" (> 6 GHz);
- (55) **RECOGNIZING** that, given the main challenges facing electronic communications operators and/or providers in order to deploy 5G networks, appropriate government regulations and policy could help mobile operators and/or providers, especially in the deployment of small cells, fiber links as well as the use of the spectrum;
- (56) **CONSIDERING** the significant progress made in the fields of information and communication technologies (ICT), with the advent of new digital technologies as well as the internet, the inappropriate use of which in everyday life poses problems relating to the private and professional life of users;
- (57) **NOTING** that these new advanced digital technologies not only have large capacities and possibilities for processing personal data, but also give rise to specific requirements concerning the protection of personal data and privacy of the user, and that, therefore, the successful cross-border development of these services is partly dependent on the confidence of users that their privacy will not be at risk;

- (58) **CONSIDERING** that, in order to respect privacy and freedoms while favoring the promotion and development of electronic communications in Member States, it is urgent to put in place a mechanism to deal with dangers and risks arising from new uses of personal data, which in turn stem from the proliferation of digital communication means;
- (59) **CONSIDERING** that it is critical to the growth of the digital economy that consumer data is portable, that their free movement is absolutely fundamental for online business activity, and that it is also important to find a holy balance between this openness of data on the one hand, and the protection of private data and data of general interest on the other;
- (60) **RECOGNIZING** that, with the increase in digital adoption in Member States, issues relating to internet neutrality are increasingly on the rise, making it necessary to develop regulatory solutions to ensure the proper functioning of networks and inclusive and non-discriminatory access to digital content and services;
- (61) **RECOGNIZING** that, for a true blossoming of the digital economy, consumers should have the right to access and distribute information and content, and to use and provide applications and services without discrimination, through their internet access service;
- (62) **NOTING** the need to establish common rules intended to ensure equal and non-discriminatory treatment of traffic in the provision of internet access services and the corresponding rights of consumers, thereby ensuring, at the same time, the continued functioning of the internet ecosystem as a driver of innovation;
- (63) **CONSIDERING** the need for a periodic review of the provisions of Community legal acts, which constitute the regulatory framework in force and governing the electronic communications sector, in particular with a view to determining the need to modify them to take account of changes in electronic communications and/or the market situation in the electronic communications sector in the sub-region;
- (64) **NOTING** that services used for communications purposes, and the technical means of their delivery, have evolved considerably meanwhile; that end-users increasingly substitute traditional voice telephony, text messages (SMS) and electronic mail conveyance services by functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services; that, although conveyance of signals remains an important parameter for determining the services falling into the scope of the present Regulation, the definition should cover also other services that enable communication. From an end-user's perspective it is not relevant whether a provider conveys signals itself or whether the communication is delivered via an internet access service; that, therefore, the definition of electronic communications services should contain three types of services which may partly overlap, that is to say "internet access services", "interpersonal communications services", and "services consisting wholly or mainly in the conveyance of signals";
- (65) **NOTING** that, after more than a decade of existence, the legal acts below of the regulatory framework governing the electronic communications sector in the **WAEMU/ECOWAS** area need a general update to take into account all developments in the sector since then:

For the WAEMU space⁵:

- a. Directive N°01/2006/CM/UEMOA of 23 March 2006 (Harmonization of control and regulation policies in the telecommunications sector);
- b. Directive N°02/2006/CM/UEMOA of 23 March 2006 (Harmonization of the regimes applicable to network operators and service providers);
- c. Directive N°03/2006/CM/UEMOA of March 23, 2006 (Interconnection of telecommunications networks and services);
- d. Directive N°04/2006/CM/UEMOA of 23 March 2006 (Universal service and network performance obligations);
- e. Directive N°05/2006/CM/UEMOA of 23 March 2006 (Harmonization of the pricing of telecommunications services);
- f. Directive N°06/2006/CM/UEMOA of March 23, 2006 (General framework for cooperation between national regulatory authorities in telecommunications).

For the ECOWAS space⁶:

- a. Supplementary Act A/SA.1/01/07 of 19th January 2007 (Harmonization of policies and of the regulatory framework for the ICT sector);
- b. Supplementary Act A/SA.2/01/07 of 19th January 2007 (Access and interconnection in respect of ICT sector networks and services);
- c. Supplementary Act A/SA.3/01/07 of 19th January 2007 (Legal regime applicable to network operators and service providers);
- d. Supplementary Act A/SA.4/01/07 of 19th January 2007 (Numbering plan management);
- e. Supplementary Act A/SA.5/01/07 of 19th January 2007 (Management of the radio-frequency spectrum);
- f. Supplementary Act A/SA.6/01/07 of 19th January 2007 (Universal access/service);
- g. Regulation C/REG.06/06/12 of 12th June 2012 (Conditions for access to submarine cables landing stations);
- h. Regulation C/REG. 19/12/16 of 16th December 2017 (Conditions for access to national and international bandwidth on terrestrial networks within ECOWAS);

(66) **CONSIDERING** that these legal acts have undergone substantial amendments, and that, owing to the new modifications made to the initial texts, it is necessary, for the sake of clarity, to recast

⁵ **ToDo:** In the ECOWAS version of this Regulation, delete the " For the WAEMU space", as well as the all related Community act listed in a-g.

⁶ **ToDo:** In the WAEMU version of this Regulation, delete the "For the ECOWAS space", as well as the all related Community act listed in a-h.

those acts, in order to incorporate most of the existing texts and of those texts relating to related topics in a new single consolidated text;

- (67) **NOTING** that the convergence of the telecommunications, media and information technology sectors means that all electronic communications networks and services should be subject as far as possible to a single legal and regulatory instrument to govern electronic communications in West Africa, an instrument established by means of a single Community act, with the exception of issues that it is preferable to deal with through additional texts because of their specificity and the necessary degree of detail ;
- (68) **NOTING** that the experience of the above-mentioned legal acts of the existing regulatory framework reveals difficulties of transposition in several Member States, directly applicable rules were deemed necessary to embody the single Community act resulting from the recast;
- (69) **CONVINCED** that this Regulation is thus the sole legal tool retained for the new regional legislative and regulatory framework that shall govern the electronic communications sector to boost the digital economy in West Africa; that, due to its nature and function, its ability to generate the largest common regulatory denominator in the Community space, the Regulation is best suited to achieve the objective, which is to lay the foundations for the development of a single Community digital economy and avoid regulatory fragmentation in order to facilitate the development of new economic models;
- (70) **NOTING** that, for certain issues that present a particular specificity or/and a considerable degree of detail, it is preferable for the **Union/Community** to deal with them through additional specific texts outside the present Regulation; and that the need for such texts specific to certain matters is also explained by the need to deal with the details and unload this single basic act;
- (71) **NOTING** that, for the Community regulatory system that shall govern the electronic communications sector, the result is a combined approach, namely, on the one hand, this Regulation as a basic legal act that forms the regulatory base with a holistic, global, evolving and dynamic view of the regulatory system governing the electronic communications sector to boost the digital economy, and, on the other hand, additional texts for specific matters according to needs;
- (72) **CONSIDERING** that, in a context of the digital economy, the driving force of which is the electronic communications sector, the role of the national regulatory authorities (NRA) needs to go beyond a simple referee to evolve and consolidate towards that of facilitator and partner in the promotion of electronic communications and digital markets;
- (73) **NOTING** that, since, in many countries, different national institutions have responsibilities for different relevant aspects of the digital economy, it is essential that these authorities interact to avoid undermining the momentum of technological advances, and that, in summary, collaboration is central to facilitate digital transformation across all areas of the economy;
- (74) **NOTING** that the dominant trend is that of a clear transfer of responsibility from the ministries in charge of the electronic communications sector to independent national regulatory authorities (NRAs), as a way of strengthening the mandates of the NRAs and their institutional capacity to

be able to meet the challenges raised by technological advances and the changes that this brings about;

(75) **CONSIDERING** that the scope of the regulator's action is one aspect that also attracts the attention of Member States, considering the pace of convergence and interconnection of networks and services, and that the regulator is now obliged to tackle new problems, acting more and more in all sectors and generally forging a wider role;

(76) **RECOGNIZING** that it is necessary to separate the regulation of electronic communications networks and services from the regulation of content, and that, therefore, this Regulation does not cover the content of services delivered over electronic communications networks using electronic communications services, such as broadcasting content, financial services and certain information society services, and that it is without prejudice to measures taken at **Community/Union** or national level in respect of such services, in accordance with Community law, in order to promote cultural diversity and to ensure the defense of media pluralism;

Taking into account the conclusions of the meeting of the Ministers in charge of communication, telecommunications and information and communication technologies on **[DD / Month / year]**;

For the WAEMU space⁷:

On the proposal of the UEMOA Commission;

After the opinion of the Committee of Statutory Experts dated [DD / Month / year]

ENACTS THE REGULATIONS WITH THE CONTENT AS FOLLOWS:

For the ECOWAS space⁸:

ON THE RECOMMENDATION of the meeting of the Council of Ministers in charge of telecommunications/ICT held in [place] on [DD/Month/Year].

AFTER THE OPINION of the ECOWAS Parliament dated [DD/Month/Year].

ENACTS:

⁷ *ToDo: Delete in the ECOWAS version of this Regulation*

⁸ *ToDo: Delete in the WAEMU version of this Regulation*



1 Title 1 – Overall sector orientation

1.1 Chapter I: Definitions, objectives and scope

1.1.1 Article 1: Definitions

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

- (1) **“Subscriber”**: Natural person or legal entity who receives and pays for an electronic communications service for a certain period in accordance with the agreement passed with a provider of publicly available electronic communications services for the provision of such services and whose terms have been approved by the national regulatory authority;
- (2) **« Access »** : Service offered by a public electronic communications network operator allowing another public electronic communications network operator or an electronic communications service provider to access its resources or services, in particular its physical infrastructure, under defined conditions, for the provision of electronic communications services. This also applies in cases where the provision of such resources or services serves the provision of information society services or broadcast content services. As such, access includes, among others:
 - (a) Access to network elements and associated facilities, for example the connection of equipment by fixed or non- fixed means, in particular access to the local loop and to facilities and services necessary to provide services over the local loop;
 - (b) Access to physical infrastructure including buildings, ducts and masts;
 - (c) Access to relevant software systems including operational support systems;
 - (d) Access to information systems or databases for ordering preparation, provisioning, ordering, maintaining and repair requests, and billing;
 - (e) Access to number translation or systems offering equivalent functionality;
 - (f) Access to fixed and mobile networks, in particular for roaming;
 - (g) Access to conditional access systems for digital television services; and
 - (h) Access to virtual network services;
- (3) **“Wholesale access to roaming services** (Direct wholesale access or access to the resale of wholesale roaming services)”: Service consisting of the provision of resources and/or services by a public mobile electronic communications network operator to another public electronic communications network operator or electronic communications service provider, under defined conditions, for the latter to provide Community roaming services to roaming customers;
- (4) **“Universal access”**: Public availability and access to a minimum set of good quality services, as defined in this Regulation, in the territory of Member States, for the entire population,

regardless of their sex, ethnic origin, status of disability, socioeconomic level or geographic location, and at affordable prices;

- (5) **"Community roaming agreement"**: Agreement concluded between operators located in different Member States and organizing their relations concerning their offers of Community roaming services;
- (6) **"Community act"**: *Legal act taken by the organs of the Union for the performance of their missions, as provided for in Articles 42 to 46 of the WAEMU Treaty, all or part of the provisions of which are applicable to the electronic communications sector⁹; Legal act taken by the institutions of the Community for the performance of their missions, as provided for in Article 9 of the ECOWAS Treaty, all or part of the provisions of which are applicable to the electronic communications sector¹⁰;*
- (7) **"Assignment (of numbering resource)"**: Provision, according to contractual clauses, of a number or a series of numbers to end-users by the holder, of an assigned resource;
- (8) **"Call"**: Connection established by means of a publicly available interpersonal communications service allowing two-way communication in real time;
- (9) **"Community roaming call"**: Mobile telephone voice call sent by a roaming customer from a visited network and ending on a public electronic communications network within the ECOWAS area, or received by a roaming client coming from a public electronic communications network within the ECOWAS space and ending on the visited network of this customer;
- (10) **"Assignment (of a radio frequency or radio frequency channel)"**: Authorization given by an administration for a radio station to use a radio frequency or determined radio frequency channel under specified conditions;
- (11) **"Allocation (of a numbering resource)"**: Decision taken by the national regulatory authority, after examining the application file, to grant an electronic communications provider the right to use the designated resource for its own account or that of its customers under the conditions of use specified in the present Regulation or recalled by award decision;
- (12) **"Allocation of a frequency band"**: Entry in the table of frequency allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radiocommunication services or the radio astronomy service under specified conditions. This term shall also be applied to the frequency band concerned;
- (13) **"Authorization"**: Administrative act (license or authorization) conferring on an undertaking a set of specific rights and obligations, by virtue of which this undertaking is entitled to establish, operate networks or provide electronic communications services. This term includes the individual license and the general authorization;

⁹ **ToDo: Delete in ECOWAS' version of the present Regulation;**

¹⁰ **ToDo: Delete in WAEMU's version of the present Regulation;**

- (14) "**General authorization**": Type of authorization consisting of a legal framework put in place by a Member State, which guarantees any undertaking meeting the conditions applicable to the electronic communications services and/or networks offered the right to operate these networks or to provide these services, and which sets the sector-specific obligations that may apply to all types of electronic communications networks and services, or to some of them, for example the obligation to communicate the necessary information to the national regulatory authority on the network or service offered to ensure compliance with said conditions, in accordance with the present Regulation;
- (15) "**Data protection authority**": Authority responsible for ensuring that the processing of personal data in the electronic communications sector takes place in accordance with the relevant provisions of this Regulation. This is a department of the national regulatory authority, or, depending on national regulations, another competent authority;
- (16) "**National regulatory authority(ies)**": Body(ies) entrusted by a Member State with any of the regulatory missions of the electronic communications sector provided for by the present Regulation;
- (17) "**Local loop**": Physical path used by electronic communications signals connecting the network termination point to a distribution frame or equivalent facility in the fixed public electronic communications network;
- (18) "**Submarine cable**": Any physical signal medium, which uses the marine environment as an installation space and intended to carry electronic communications or to transport electrical energy;
- (19) "**Interconnection catalog**": Technical and tariff interconnection offer published by the operators of public electronic communications networks in accordance with the provisions of this Regulation;
- (20) "**Roaming customer**": Subscriber of a provider of mobile electronic communications services on a public terrestrial electronic communications network located in the Community, whose contract or agreement with this service provider authorizes it to use mobile roaming services in the ECOWAS area;
- (21) "**Co-location**": Service offered by a public electronic communications network operator consisting of the provision of physical space and technical facilities necessary for hosting and connecting the relevant equipment of a beneficiary, under reasonable conditions;
- (22) "**Physical co-location**": Facility offered by a public electronic communications network operator, consisting in making infrastructure available to other operators, including premises, for installing and, if necessary, operating their equipment there, in particular for interconnection purposes;
- (23) "**Virtual co-location**": Service offered by a public electronic communications network operator, consisting in making available to other operators of a space and the technical facilities required for hosting and connection, on exterior areas belonging to the service provider's operating center building, but under economic, technical and operational conditions equivalent to those of Physical co-location;

- (24) **"Commission or Commission of the Union"**: Management body of the Union as provided for in Article 26 of the WAEMU Treaty¹¹; **"Commission or Commission of the Community"**: Commission of ECOWAS, an institution of the Community established pursuant to Article 17 of the ECOWAS Treaty, in connection with Article 1 of Supplementary Protocol A\SP.1\06\06 amending the revised ECOWAS Treaty¹²;
- (25) **"Communication"**: Any information exchanged or conveyed between a finite number of parties by means of a publicly available electronic communications service. This does not include any information conveyed as part of a broadcasting service to the public over an electronic communications network except to the extent that the information can be related to the identifiable subscriber or user receiving the information;
- (26) **"Electronic communication"**: Any transmission, emission or reception of signs, signals, written documents, images, sounds, of any kind by wire, optics, radioelectricity or other electromagnetic systems;
- (27) **"Interconnection switch"**: The first switch in the Public electronic communications network that receives and routes electronic communications traffic to the point of interconnection;
- (28) **"Council of Ministers or Council"**: A Management body of the Union as provided for in Article 20 of the WAEMU Treaty¹³; An institution of the Community established under Article 10 of the ECOWAS Treaty¹⁴;
- (29) **"Consent"** (of the data subject): Any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;
- (30) **"Consumer"**: Any natural person who uses or requests an electronic communications service accessible to the public for purposes other than professional, that is to say for purposes, which are outside his or her trade, business, craft or profession;
- (31) **"Electronic mail or E-mail"**: Any text, voice, sound or image message sent over a public electronic communications network, which can be stored in the network, in a network server for example, or in the terminal equipment of the recipient, until it is collected by the latter;
- (32) **"Declaration"**: Act of prior notification made by an electronic communications network operator or services provider to the national regulatory authority, in accordance with the requirements of the present Regulation, which does not require the operator or provider to obtain an explicit decision from the national regulatory authority before exercising the rights arising from this act
- (33) **"Unbundling of local loop"**: A facility, which also includes the associated facilities, in particular that of co-location, provided by a public electronic communications networks operator, to enable

¹¹ **ToDo: Delete in ECOWAS' version of the present Regulation;**

¹² **ToDo: Delete in WAEMU's version of the present Regulation;**

¹³ **ToDo: Delete in ECOWAS' version of the present Regulation;**

¹⁴ **ToDo: Delete in WAEMU's version of the present Regulation;**

a third-party operator of a public electronic communications network to access all the elements of the local loop of the first operator in order to directly serve its subscribers;

- (34) **“Recipient (of personal data)”**: Any natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not. This term includes:
- (a) The data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorized to process personal data;
 - (b) The third-party;
 - (c) However, public authorities, which may receive personal data in the framework of a particular inquiry in accordance with the law of the **Union/Community** or Member States, shall not be regarded as recipients; the processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing;
- (35) **“Personal data”**: Any information relating to an identified or identifiable natural person. Such a person is referred to as a “data subject” as defined in this Article. The “directly or indirectly identifiable” variant will be established when a natural person can be identified, in particular, by reference to an identifier as follows:
- (a) A name, an identification number, location data, an online identifier; or
 - (b) One or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- (36) **“Location data or Location information”**: All data processed in an electronic communications network indicating the geographic position of the terminal equipment of an end-user of a publicly available electronic communications service. In the case of a public fixed network, the data are those relating to the physical address of the network termination point;
- (37) **“Traffic data”**: Any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof;
- (38) **“Exclusive rights”**: Rights granted by a Member State to a single undertaking, by means of a legislative, regulatory or administrative instrument, which reserves for that undertaking the right to provide an electronic communications service or to undertake an activity within a specific territory;
- (39) **“Special rights”**: Rights granted by a Member State by means of a legislative, regulatory or administrative instrument, which attribute to one or more undertakings an advantage or an entitlement to provide a service or to exercise an electronic communications activity on the basis of criteria that are not objective, proportional and non-discriminatory;
- (40) **“Access gaps” or “Access differential”**: Intangible boundaries between the following two areas:
- (a) On the one hand, areas where a given service is currently available or where market conditions should allow the provision of a service on a cost-effective and commercially sustainable basis, and

(b) On the other hand, areas where, without any form of subsidy or stimulus, access is unlikely to be fully provided by the market. The latter is generally subject to universal access and universal service funds.

The “access gap model” deals with the concepts of “market efficiency gaps” and “real gaps” in electronic communications markets.

- (41) "**Electronic data interchange (EDI)**": Any electronic transfer of information from one electronic system to another using an agreed standard to structure the information;
- (42) "**Digital economy**": The global network of all economic activities that take place in a virtual world (as opposed to the traditional physical world) that is made possible by complementary information technologies on computer networks such as the internet, mobile networks and sensors;
- (43) "**Minimum set of electronic communications services**": Includes the services referred to in Article 169 of this Regulation;
- (44) "**Undertaking having significant market power (Powerful undertaking)**": An undertaking which, either individually or jointly with others, enjoys a position equivalent to a dominant position (dominance), namely a position of economic strength affording it the power to behave to an appreciable extent independently of its competitors, customers and ultimately consumers;
- (45) "**Electronic communications equipment**": Equipment, including hardware and software, used to provide electronic communications services;
- (46) "**Terminal equipment**": The following two types of equipment:
- (a) Any equipment designed to be connected, directly or indirectly, to the interface of an electronic communications network, for the purpose of transmitting, processing or receiving information. Important:
- (i). The direct or indirect connection can be established by wire, optical fiber or electromagnetic channel, a connection being indirect when a device is placed between the terminal equipment and the public network interface;
- (ii). This does not cover equipment allowing access to radio or television services intended for the public, broadcast by microwave, cable or other means of communication, except in cases where they also allow access to electronic communications services.
- (b) Satellite earth station equipment, i.e. equipment that can be used for transmission (transmit-only), for transmission and reception (transmit/receive) or only for reception (receive-only) of radio communication signals by means of satellites or other space-based systems;

- (47) "**Member State or Member States**": A State party to the WAEMU Treaty as defined in Article 1 thereof¹⁵; A Member State or Member States of the Community as defined in Paragraph 2 of Article 2 of the ECOWAS Treaty¹⁶;
- (48) "**Essential requirements**": The requirements necessary to ensure, in the general interest, the following:
- (a) The safety of users and staff operating electronic communications networks;
 - (b) The protection of networks and in particular of the exchange of control and management information pertaining to networks;
 - (c) The interoperability of services and networks and that of terminal equipment as well as data protection;
 - (d) Environmental protection and issues relating to town planning and regional development;
 - (e) Where appropriate, the proper and efficient utilization of the radio spectrum;
- (49) "**Universal service fund**": Resources intended to finance the universal service, as stipulated in the present Regulation;
- (50) "**Service provider**": Any natural or legal person providing or authorized to provide an electronic communications service to the public;
- (51) "**Provider of Community roaming services**": An undertaking that provides retail roaming services to a Community roaming customer;
- (52) "**Provision of an electronic communications network**": Establishment, operation, control or making available of such a network;
- (53) "**Low frequencies**": Frequencies strictly less than 1 Gigahertz (GHz);
- (54) "**High frequencies**": Frequencies between 1 Gigahertz (GHz) inclusive and 6 Gigahertz (GHz) inclusive;
- (55) "**Very high frequencies**" or "**millimeter frequencies**": Frequencies strictly greater than 6 Gigahertz (GHz);
- (56) "**Radio frequencies or radio frequency spectrum**": Frequencies or spectrum of electromagnetic waves propagated naturally in the band range of 3 kilohertz to 300 Gigahertz, which are used for the transmission and reception of electronic communications signals;
- (57) "**Frequency spectrum management**": All administrative and technical actions aimed at ensuring rational use of the radio frequency spectrum by users;

¹⁵ ToDo: Delete in ECOWAS' version of the present Regulation;

¹⁶ ToDo: Delete in WAEMU's version of the present Regulation;

- (58) **“Information”**: Signs, signals, writings, images, sounds or any other form of message of any kind, which constitute the content transmitted by communications processes including electronic communications;
- (59) **“Installation”**: Any equipment, apparatus, cable, radio or optical system, any item of infrastructure, or technical device that can be used for electronic communications or any other operation directly related thereto;
- (60) **“Interconnection”**: Physical and logical linking of public electronic communications networks used by the same undertaking or a different undertaking, in order to allow users of one undertaking to communicate with users of the same or another undertaking, or to access services provided by another undertaking. Services may be provided by the parties involved or by other parties who have access to the network. Interconnection constitutes a specific type of access implemented between public network operators;
- (61) **“Interoperability of networks and terminal equipment”**: Ability of the equipment to operate, on the one hand, with the network, and, on the other hand, with other terminal equipment that can be used to access the same service;
- (62) **“National roaming”**: A form of active infrastructure sharing, allowing subscribers of a mobile infrastructure provider (unlike an MVNO) to have access to the network (indirect access) and to services offered by a mobile provider offering said roaming in an area not covered by the nominal network of said subscribers;
- (63) **“Community roaming”**: Use of mobile communications services by a roaming customer within the **WAEMU/ECOWAS** area, when he is in a Member State other than that in which his home network is located, due to agreements between the operator of the home network and the operator of the visited network;
- (64) **“Individual license”**: Type of authorization granted by a national regulatory authority and which grants specific rights on an undertaking or which subjects its activities to specific obligations and which obligates the undertaking concerned to obtain an explicit decision from the national regulatory authority before carrying out the planned activity and to communicate to the national regulatory authority the necessary information on the network or service offered to ensure compliance with the conditions attached to said authorization;
- (65) **“Message”**: Any communication in the form of speech, sound, data, text, visual image, signal or code, or any other form or combination of forms;
- (66) **“Electronic message”**: Any information generated, sent, received or stored by electronic, optical means or similar means, including, but not limited to, electronic data interchange (EDI) and electronic mailing;
- (67) **“Minister or Ministry”**: Minister or Ministry in charge of the electronic communications sector within the Government of the **WAEMU/ECOWAS** Member State;
- (68) **“Number”**: Serie of digits that uniquely indicate the public network termination point. This number contains the information necessary to route interpersonal communication to this termination point. This number may be in a national or an international format. The international format is known as the international public telecommunication number, consisting of the country code and subsequent digits;

- (69) "**Geographic number**": A Number in a national numbering plan in which part of the digital structure has a geographic significance used to route calls to the physical location of the network termination point (NTP);
- (70) "**Non-geographic number**": A Number in a national numbering plan, which is not a geographic number. These are primarily mobile numbers, free phone numbers and premium rate numbers;
- (71) "**Operator**": Any undertaking that provides or is authorized to provide a public electronic communications network or an associated facility;
- (72) "**Cable landing station operator (CLS operator)**": Operator providing a submarine cable landing station;
- (73) "**Incumbent operator**": State-owned undertaking which, long established in the field of traditional telecommunications, had the exclusivity and responsibility of offering telecommunications services in the country, prior to the opening of the traditional telecommunications market to competition from alternative undertakings. Following sector liberalization and the deregulation process initiated by States, this undertaking now had to face competition from these alternative undertakings that could offer the same services;
- (74) "**Data subject**": Any natural person who is the subject of personal data processing as described in the present Regulation;
- (75) "**Legal person**": A group of persons having legal personality and endowed with the capacity for collective expression;
- (76) "**National numbering plan**": Resource consisting of all the numbers that can be used in particular to identify the fixed or mobile termination points of telephone networks and services, to route calls and to access internal resources from the networks. This plan corresponds to a segment of the international numbering plan (E164). It establishes procedures and conditions for reserving and allocating numbering resources;
- (77) "**Community access centre**": A place where a minimum set of electronic communications services is made available to the public in a public place or open to the public, in particular a telephone station for voice, a device for transmitting and receiving a fax, a short message service (SMS), a multimedia messaging service (MMS) and/or a computer or device connected to the internet or to a broadband data network ;
- (78) "**Network termination point (NTP)**": Physical point at which an end-user accesses a public electronic communications network. In the case of networks using switching and routing, the NTP is identified by a specific network address, which can be linked to the number or name of the end-user;
- (79) "**Interconnection point**": Place where a public network operator establishes the interface equipment allowing interconnection to its network. Points of interconnection with operators of other networks and with service providers may be separate;
- (80) "**Number portability**": Possibility for a user to use the same subscription number, independently of the provider with which he is subscriber, and even in the case of provider switching;

- (81) "**Dominant position or Dominance**": Situation of a network operator or service provider who has the capacity on the relevant market to escape effective competition, to free himself from market constraints, by playing a leading role. For the application of this Regulation, the dominant position is assessed by the national regulatory authorities in accordance with the provisions of the **WAEMU/ECOWAS** Treaty relating to competition and the implementing texts;
- (82) "**Telephone station**": Device or terminal that allows remote voice transmission through a wired or mobile network;
- (83) "**Public payphone**": Telephone station made available to the public for use against payment in the form of coins and/or credit or debit cards and/or prepayment cards, including cards for use with numbering codes;
- (84) "**Provision of interconnection**": Facility provided by a public electronic communications network operator to another public electronic communications network operator, which permits all users to communicate freely with each other regardless of the networks to which they are attached or the services they use.
- (85) "**One-stop shop procedure**": Procedure referred to in Article 65 of this Regulation;
- (86) "**Regulatory procedures**": Regulatory instruments dealing with regulatory procedures intended to ensure the transparency of regulatory interventions, the settlement of disputes or the involvement of stakeholders and the public in the regulatory process;
- (87) "**Direct prospecting**": Any message sent, on whatever medium and of whatever nature, in particular a commercial, political or charitable message, aimed at promoting, directly or indirectly, goods, services or the image of a person selling goods or providing services;
- (88) "**Radiocommunication**": Any emission, transmission or reception of radio waves for specific purposes of electronic communications;
- (89) "**Radio broadcasting**": Any radiocommunication, the broadcasts of which are intended for reception by the public;
- (90) "**Economic regulation**": Regulatory instruments dealing with economic aspects of electronic communications, among other things, market entry, competition promotion and correction of market failures, economic aspects of access and interconnection, or rules for access to networks and services;
- (91) "**Social regulation**": Regulatory instruments dealing with social aspects of the electronic communications sector, in particular the definition of political objectives desired by the State and which are not satisfied by the essentially economic approach of private actors. These include issues such as universal service and access, consumer protection, data protection, or even security;
- (92) "**Technical regulation**": Regulatory instruments dealing with technical aspects of electronic communications, among other things, the allocation of scarce resources, the technical aspects of access and interconnection, type approval, as well that of guaranteeing interoperability and compatibility in the sector;
- (93) "**Home network**": Public terrestrial mobile electronic communications network located in a **WAEMU/ECOWAS** Member State and to which a Community roaming customer is a subscriber;

- (94) **“Independent network”**: Electronic communications network reserved for private or shared non-profit use. In principle, it cannot be connected to a network that is open to the public.
- (a) It is for private use when it is reserved for the internal use of the natural or legal person that establishes it;
 - (b) It is for shared use when it is reserved for the use of several natural or legal persons organized into one or more closed user groups, with a view to exchanging internal communications within the same group;
- (95) **“Internal network”**: Independent network entirely established on a single property, without making use neither the public domain, including spectrum resources, nor a third-party property;
- (96) **“Electronic communications network”**: Transmission systems, which permit the conveyance of signals or other information by wire, radio, optical or other electromagnetic means, between the network termination points. These systems may be based or not on a permanent infrastructure or centralized administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active. In this sense, the following types of networks can be distinguished:
- (c) Fixed (circuit- and packet-switched, including internet) networks;
 - (d) Mobile networks;
 - (e) Satellite networks;
 - (f) Electricity cable systems, to the extent that they are used for the purpose of transmitting signals;
 - (g) Networks used for radio and television broadcasting; and
 - (h) Cable television networks, irrespective of the type of information conveyed;
- (97) **“Public electronic communications network”**: Electronic communications network used wholly or mainly for the provision of publicly available electronic communications services;
- (98) **“Transnational networks”**: Electronic communications networks covering the **Union/Community** or a substantial part thereof located in more than one Member State;
- (99) **“Visited network”**: Public terrestrial mobile electronic communications network located in a **WAEMU/ECOWAS** Member State other than that of the roaming customer's home network and on which the latter is hosted for Community roaming;
- (100) **“Reservation (of a numbering resource)”**: Decision taken by the national regulatory authority, following examination of the corresponding application, to grant an electronic communications provider, for a specified period, an option with respect to a numbering resource;
- (101) **“Controller (of personal data)”**: Natural or legal person, public or private, any other body or association which, alone or jointly with others, takes the decision to process personal data and determines the purposes and means of the processing;
- (102) **“Associated facilities”**: Associated services, physical infrastructures and other facilities or elements associated with an electronic communications network or an electronic communications service, which enable or support the provision of services via that network or

service, or have the potential to do so, and include buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets;

- (103) **“Resale”**: The act of reselling public electronic communications services or traffic, in particular the resale to the end-user of minutes purchased by a provider at wholesale rates from another service provider;
- (104) **“Carrier Selection”**: Mechanism that allows a user to choose between a set of authorized public electronic communications network operators or authorized electronic communications service providers to route some or all of their calls;
- (105) **“Broadband services”**: Refers to broadband services as defined by the International Telecommunication Union (ITU);
- (106) **“Associated service”**: Service associated with an electronic communications network or an electronic communications service which enables or supports the provision, self-provision or automated-provision of services via that network or service, or has the potential to do so, and includes number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides (EPGs), as well as other services such as identity, location and presence service;
- (107) **“Value-added services”**: Any electronic communications service which, not being a broadcasting service, uses supporting services or final electronic communications services, and adds other services to support services or responds to new specific electronic communications needs;
- (108) **“Internet access service”**: A type of publicly available electronic communications service that provides access to the internet, and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used;
- (109) **“Electronic communications service”**: A service normally provided for remuneration via electronic communications networks, which encompasses the following types of services:
- (a) Internet access services;
 - (b) Interpersonal communications services; and
 - (c) Services consisting wholly or mainly in the conveyance of signals such as transmission services used for the provision of machine-to-machine services and for broadcasting;
- Excluded from this term are services consisting in provision of content transmitted using electronic communications networks and services or in exercising editorial responsibility for such content;
- (110) **“Public electronic communications service”**: Electronic communications service accessible to the public, that is to say, made available to the public. It may also include access to one or more of the following services, where applicable:
- (a) Operator assistance;
 - (b) Directory inquiry services;
 - (c) Public phones or internet access point;

- (d) Access to services with special conditions, such as special services for people with disabilities or people with specific social needs and non-geographic services.

These services can also be provided through public access centers such as post offices and community access centres;

- (111) **“Interpersonal communications service”**: Type of Electronic communications service that enables direct interpersonal and interactive exchange of information via electronic communications networks between a finite number of persons, whereby the persons initiating or participating in the communication determine its recipient(s). There are two categories:
- (a) **“Number-based”** service: Category of interpersonal communications service, which connects with publicly assigned numbering resources, namely, a number or numbers in national or international numbering plans, or which enables communication with a number or numbers in national or international numbering plans;
 - (b) **“Number-independent”** service: Category of interpersonal communications service, which does not connect with publicly assigned numbering resources, namely, a number or numbers in national or international numbering plans, or which does not enable communication with a number or numbers in national or international numbering plans;
 - (c) Excluded are services, which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.
- (112) **“Voice communications service”**: Type of publicly available electronic communications service for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international numbering plan;
- (113) **“Community data roaming service”**: A roaming service allowing a roaming customer to use data, transmit and receive MMS when that customer is connected to a visited network;
- (114) **“Information Society service”** or **“Digital service”**: Any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services. This definition encompasses a wide range of economic activities that take place online. Some of these activities are completely unrelated to communications, for example, the sale of goods online, collaborative platforms, or hosting platforms, and are therefore not covered by this Regulation. Others, on the other hand, consist in transmitting signals or information by means of a communication network (e.g. video-on-demand services, the provision of commercial communications by electronic mail) or even in providing access to a communication network (e.g. internet access service);
- (115) **“Emergency service”**: Service, recognized as such by the Member State, that provides immediate and rapid assistance in situations where there is, in particular, a direct risk to life or limb, to individual or public health or safety, to private or public property, or to the environment, in accordance with national law;
- (116) **“Supporting service”**: A simple information transport service, the object of which is either to transmit or to transmit and route signals between the termination points of an electronic communications network, without subjecting these signals processing other than those necessary for their transmission, their routing and the control of these functions;

- (117) **"Universal service"**: Private or domestic access to a minimum set of good quality service services, as defined in this Regulation, on the territory of the Member States, available and accessible to the entire population, regardless of gender, ethnicity, disability status, socioeconomic level or geographic location, and at affordable prices;
- (118) **"Community SMS roaming"**: SMS sent by a roaming customer from a visited network and ending in a public electronic communications network within the **WAEMU/ECOWAS** area, including the country visited, or received by a roaming customer coming from a public electronic communications network in the **WAEMU/ECOWAS** area, including the country visited, and ending up on the visited network of this customer;
- (119) **"Processor (of personal data)"**: Any natural or legal person, public or private, public authority, agency, any other body or association, which processes data on behalf of the data controller;
- (120) **"Submarine cable landing station or Cable landing station (CLS)"**: All technical installations for receiving and operating the submarine cable with a view to providing electronic communications or electric power transmission services;
- (121) **"Durable medium"**: Any instrument, which enables the consumer or the trader to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- (122) **"Community roaming tariff"**: Tariff not exceeding the maximum Community tariff, that a roaming service provider can charge to a customer roaming within the **WAEMU/ECOWAS** space for the provision of mobile communications services in Community roaming;
- (123) **"Information and communications technologies" or "ICT"**: Technologies used to collect, store, use and send information and including those which involve the use of computers or any communications system including electronic communications;
- (124) **"Third party (of personal data)"**: Any natural or legal person, public or private, public authority, agency, any other body or association other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorized to process personal data;
- (125) **« Treaty »**: **The WAEMU Treaty dated 10th January 1994¹⁷; The ECOWAS Treaty, as revised on 24th July 1993 and in June 2006¹⁸;**
- (126) **"Processing (of personal data)"**: Any operation or set of operations, which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. For the purpose of this

¹⁷ **ToDo: Delete in ECOWAS' version of the present Regulation**

¹⁸ **ToDo: Delete in WAEMU's version of the present Regulation**

Regulation, the operations referred to above are only considered when they are carried out in the electronic communications sector;

- (127) **“Triple play”**: Type of services offered by a provider and including three services: High-speed internet, voice and television;
- (128) **“WAEMU or Union”**: West African Economic and Monetary Union¹⁹; **“ECOWAS or Community”**: Economic Community of West African States²⁰;
- (129) **« ITU »**: International Telecommunications Union;
- (130) **“Reasonable use of roaming services”**: Use of roaming services by a Community roaming customer from a network visited within the **WAEMU/ECOWAS** area, over a determined period of stay such as specified in the present Regulation;
- (131) **“User”**: Any natural or legal person using or requesting a publicly available electronic communications service, for private or business purposes, without necessarily having subscribed to this service;
- (132) **“End-user”**: Any user not providing public electronic communications networks or publicly available electronic communications services;
- (133) **“Shared use (of radio spectrum)”**: Access by two or more users to use the same radio spectrum bands under a defined sharing arrangement, authorised on the basis of a general authorisation, individual rights of use for radio spectrum or a combination thereof, including regulatory approaches such as licensed shared access aiming to facilitate the shared use of a radio spectrum band, subject to a binding agreement of all parties involved, in accordance with sharing rules as included in their rights of use for radio spectrum in order to guarantee to all users predictable and reliable sharing arrangements, and without prejudice to the application of competition law.

1.1.2 Article 2: Objectives

1. The main objectives of this Regulation are as follows:
 - a. Create a harmonized framework for the policy and regulation of electronic communications networks and services with a view to promoting the blossoming of the digital economy in the **Union/Community**;
 - b. Work towards the creation of an internal market in electronic communications networks and services in the **Union/Community** that promotes the deployment and take-up of very high capacity networks, sustainable competition, interoperability of electronic communications services, accessibility, security of networks and services and end-user benefits;

¹⁹ **ToDo: Delete in ECOWAS' version of the present Regulation**

²⁰ **ToDo: Delete in WAEMU's version of the present Regulation**

- c. Establish responsibilities of Member States and their respective national regulatory authorities by setting out the guiding principles of the electronic communications sector policy and the guidelines for the regulation of this sector;
- d. Establish a series of procedures aimed at ensuring the harmonized application of the regulatory framework in all Member States;
- e. Harmonize the legal regimes that apply to the activity of electronic communications network operators and services providers and specify, where appropriate, the procedures for granting licenses and authorizations and declarations as well as the conditions applicable to these different regimes;
- f. Establish an accessible, transparent, fair and common regulatory environment for Member States with regard to access and interconnection of networks and services in the field of electronic communications, establish sustainable competition guaranteeing the interoperability of networks and services, define the objectives assigned to the national regulatory authorities in this area, and set the rights and obligations for operators and undertakings wishing to get interconnection and/or access to their networks;
- g. Constitute a common framework for Member States for determining the pricing principles for services relating to publicly available electronic communications networks and services and for the exercise of related control by the national regulatory authorities;
- h. Harmonize the procedures applicable to the management of numbering plans in the **WAEMU/ECOWAS** zone;
- i. Harmonize the rules applicable to universal access/service, in particular the conditions enabling all citizens to connect to electronic communications networks, including broadband services, accessible to everyone at affordable prices. This involves addressing, among others, the following aspects:
 - (i). The minimum services which fall within the scope of the universal service;
 - (ii). The conditions for implementing these services;
 - (iii). The methods of financing these services;
 - (iv). The terms of supply of these services as well as the quality conditions to be respected.
 - (v). The handling of cases where consumers' needs are not adequately met by the market, in particular with regard to the needs of people with disabilities, so that they can access the services on an equal basis with other consumers;
- j. Harmonize the procedures applicable to the management of the radio frequency spectrum by Member States;
- k. Establish a harmonized legal framework for the processing of personal data specific to the electronic communications sector;
- l. Define a harmonized legal and tariff framework for roaming on publicly available mobile communications networks within Member States;

- m. Work for an increase in the capacity of the international bandwidth available to each country, ensure a significant reduction in the cost of international communications for each Member State, and create conditions of equitable access to international bandwidth, so as to allow the development of a competitive single market;
 - n. Set the conditions for access to national and international bandwidth on terrestrial networks with a view to facilitating connectivity to submarine cable landing stations within the **WAEMU/ECOWAS** zone, in particular, so as to:
 - (i). allow the equitable development of a competitive and harmonized electronic communications market in the **WAEMU/ECOWAS** zone;
 - (ii). promote the increase in the national and international bandwidth capacity available to each Member State of the **WAEMU/ECOWAS** zone;
 - (iii). facilitate access by landlocked countries to submarine cables;
 - (iv). promote a significant reduction in the cost of national and international communications in each Member State;
 - o. Promote establishment of common rules to safeguard equal and non-discriminatory treatment of traffic in the provision of internet access services and related consumers' rights in Member State of the **WAEMU/ECOWAS** zone;
 - p. Lay down the necessary consumer rights;
 - q. Promote the establishment of effective, fair, transparent, non-discriminatory and sustainable competition for the benefit of users, extended to the entire electronic communications sector;
 - r. Promote development of technical, economic and legal expertise to best respond to market developments in the sector;
 - s. Promote the development of innovation, competitiveness and employment, taking particular account of regional planning;
 - t. Promote the provision of electronic communications services throughout the territory of Member States and to all segments of the population;
 - u. Promote private investment in the sector
 - v. Adapt the regulatory framework to technological advancements and enable the electronic communications sector to better respond to the major challenges of the digital economy.
2. It is supplemented by specific additional legal acts adopted as necessary by the **organs of the Union/ institutions of the Community** and relating to specific aspects of the electronic communications sector.

1.1.3 Article 3: Scope

1. This Regulation is to be seen in the light of the implementation and harmonization of the regulations applicable to the electronic communications sector in order to promote the digital economy in the **Union/Community**. It constitutes a minimum common reference base, which can

be supplemented by national regulatory provisions and by decisions of national regulatory authorities, insofar as they are in conformity with this Regulation.

2. It establishes a harmonized framework for the regulation of electronic communications networks and services, associated facilities and associated services, and certain aspects of terminal equipment.
3. It specifies the institutional regulatory framework, setting the missions of the national regulatory authorities and, where applicable, of other competent authorities, as well as regulatory collaboration with national authorities that are in charge of other topics relevant to the digital economy.
4. It defines the framework for regulatory action at **Union/Community** level and establishes a set of procedures aimed at ensuring the harmonized application of the regulatory framework throughout the **Union/Community**.
5. The provisions of this Regulation shall apply to the provision of electronic communications networks and services meeting the criteria expressly defined by national laws and regulations, in accordance with this Regulation.
6. Annexes 1 to 8 are an integral part of this Regulation.

1.1.4 Article 4: Out of scope

1. This Regulation does not cover regulation concerning the content of services delivered over electronic communications networks using electronic communications services, such as broadcasting content, financial services and those information society services that are not related to communications.
2. Le present Regulation shall not affect:
 - a. National regulatory provisions and measures of the national regulatory authorities in accordance with **Union/Community** law, including this Regulation;
 - b. Measures relating to the services referred to in paragraph 1 above which are taken at **Union/Community** or national level, in accordance with **Union/Community** law, in order to promote cultural and linguistic diversity and to guarantee the defense of media pluralism;
 - c. Measures taken at **Union/Community** or national level, in accordance with **Union/Community** law, to pursue general interest objectives, in particular relating to content regulation and audiovisual policy;
 - d. Specific regulations adopted by the Member States, in particular on the basis of compliance with essential requirements and other imperatives of public order, public security purposes and defense.

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

1.2.1 Article 5: Development and objectives of the sector policy

1. The formulation and definition of national electronic communications policy shall take into account all social, economic, legal and political aspects in order to set up an appropriate policy and realistic goals.
2. The national electronic communications policy shall pursue the following objectives:
 - e. Creation of an environment conducive to the sustainable dissemination and development of ICTs;
 - f. Establishment of a strong, stable and competitive electronic communications sector at national and regional levels respectively;
 - g. Increase in existing services and the offer of new services and installations;
 - h. Provision of affordable, broadly available and top-quality services;
 - i. Provision of access to electronic communications by applying the principle of technological neutrality throughout the territory of the Member States and to all their citizens;
 - j. Development and institution of appropriate universal access policies and programs, with, for example, some of the key actions that can help the development of national information infrastructures (NII) and the achievement of the objectives of universal access; these are in particular:
 - i. Provision of broadband capacity;
 - ii. Availability of services at affordable costs;
 - iii. Establishing international standards to address reliability and redundancy issues;
 - iv. Ensuring adequate capacity to provide service on demand;
 - v. Accessibility of services by the large majority of consumers;
 - vi. Facilitating the delivery of a wide range of value-added services;
 - vii. Facilitating the possibilities to access information;
 - k. Attracting investment in the sector;
 - l. Ensuring optimal use of the country's limited resources, such as radio spectrum and numbering;
 - m. Promoting information sharing, transparency and accountability, as well as reducing bureaucracy within and between organizations and towards the public at large;
 - n. Attaining a specified minimum level of information and communication technology (ICT) resources for educational institutions and government agencies;
 - o. Development of national and regional expertise in developing, establishing and managing electronic communications;

- p. Promotion and increase of the use of electronic communications by providing individuals and organizations with a minimum level of knowledge in the matter as well as high-quality training in this field;
- q. Assistance in understanding information technology, its development and its cross-disciplinary impact;
- r. Promotion of development of local content.

1.2.2 Article 6: Need for a clear policy

Member States shall ensure that a clear electronic communications policy is put in place, by identifying the objectives, which will be translated into policies to facilitate the emergence and strengthening of a genuine digital economy, then into rules of legislative or regulatory nature, to be applied by the national regulatory authority.

1.2.3 Article 7: Guiding principles of regulation

1. Regulations of the electronic communications sector shall establish the manner in which the national electronic communications policy is to be applied, in particular:
 - a. By defining the basic regulatory principles, like the right to access, and processes, like licensing;
 - b. By providing a statutory foundation and mandate for institutions involved in the management of the sector, such as consultative and regulatory bodies;
 - c. By specifying the regimes under which the national regulatory authority operates and which make it possible, on the one hand, to define its functions and degree of independence and, on the other hand, to detail the legal principles governing the implementation of the policy and its objectives such as tariff structures and universal access programs.
2. National regulatory authorities shall exercise their powers in an independent, proportionate, impartial and transparent manner.
3. Regulatory functions in the sector are exercised by national regulatory authorities with a view to achieving the following objectives:
 - a. Adoption of the principle of technological neutrality of regulation, which means a prohibition against granting unjustified advantage to a particular type of technology.
 - b. Gradual achievement of an open and competitive market for electronic communications networks and services:
 - i. by respecting the interests of users in terms of choice, price, quality and profitability;
 - ii. by ensuring that competition is neither distorted nor hampered in the electronic communications sector, with due allowance for ongoing transitional regimes;
 - iii. by encouraging rational investments in the infrastructure;
 - iv. by ensuring the efficient allocation and assignment of scarce resources.
 - c. Development of the internal market:

- i. by watching over the transition of Member States towards the elimination of barriers;
 - ii. by facilitating the establishment and development of transnational networks and the interoperability of services within the **Union/Community**;
 - iii. by ensuring that, in similar circumstances, there is no discrimination in the treatment of electronic communications network operators and services providers, subject to ongoing transitional regimes;
 - iv. by ensuring the development of the information society within the **Union/Community**, supporting the development of electronic communications infrastructures by supporting content services, including audiovisual content.
- d. Guaranteeing the interests of the population and struggling against poverty within the **Union/Community**:
- i. by supporting the implementation of universal access to electronic communications services in accordance with the relevant provisions of this Regulation relating to universal access/service;
 - ii. ensuring a high level of protection of personal data and privacy;
 - iii. by requiring transparency in the tariffs and conditions for using electronic communications services;
 - iv. responding to the needs of particular social groups, such as those with lower incomes, people living in isolated rural areas and people with disabilities.

1.2.4 Article 8: Governance principles for the electronic communications sector

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

1. Promotion of stakeholders' awareness, by:
 - a. increasing the participation and involvement of stakeholders in the development of electronic communications strategies;
 - b. introducing electronic communications, and in particular the internet, at the earliest possible stage in school programs.
2. Ensuring broad-based stakeholder participation, by:
 - a. promoting electronic communications in working groups, seminars, media events and pilot projects, to demonstrate the practical benefits of electronic communications;
 - b. cultivating electronic communications champions.
3. Political buy-in/championing at local and national level, by:
 - a. ensuring communication between interested parties such as the national regulatory authority, ministries, operators and/or providers, private sector, NGOs, beneficiaries;
 - b. ensuring the participation and buy-in of local politicians;

- c. ensuring that the electronic communications policy is tailored to market realities, in particular through analysis of the situation in advance and involving local players in the process.
4. Coordination with other policies/priorities by focusing on the policy objectives without neglecting synergy between sectors.
5. Relevance and usefulness of policies and projects, by:
 - a. aiming for innovation;
 - b. defining targets, such as internet to municipalities, "broadband" to rural areas, etc.
6. Transparent decision-making procedures, by:
 - a. adopting transparent decision-making and rule-making procedures relating to electronic communications policy and regulation;
 - b. consulting the public to ensure a transparent decision-making and rule-making process.
7. Sustainability of projects, by:
 - a. ensuring sufficient training;
 - b. taking account of the realities in the technologies introduced through electronic communications initiatives;
 - c. having an appropriate timing.
8. The regional and international framework, thanks to the policy of coordination with regional and global initiatives.

1.3 Chapter III: Promotion of competition

1.3.1 Article 9: Opening up to competition

1. Member States are required to promote, in all the countries of the **Union/Community**, free competition, thereby opening the electronic communications market to new entrants, at the latest by **31st December 2006**.
2. In order to allow all countries to follow regional trends, the transition periods foreseen for certain Member States are limited to **31st December 2007**.

1.3.2 Article 10: Competition framework

1. Member States shall ensure the promotion of two-pronged competition as follows:
 - a. Competition in the provision of electronic communications networks and associated resources, including effective infrastructure-based competition, and
 - b. Competition in the provision of electronic communications and related services (service-based competition).
2. At the initial stages of market opening, Member States shall ensure that service-based competition does dissuade new entrants from deploying their own infrastructure.

1.4 Chapter IV: Technology and service neutrality

1.4.1 Article 11: Principle of technology and service neutrality

1. Member States shall promote the neutrality of technologies and services in order to be able to adapt to convergence and new technologies, given that the convergence between the various electronic communications networks and services and the technologies used requires an effective regulatory mechanism implemented that covers all comparable services regardless of the technology used.
2. Member States shall refrain from imposing limitations on the service offered over a given network except in cases of safeguarding public order and moral standards.
3. In order to take account of possible technological developments, the authorization regime (individual license and general authorization) shall include provisions aimed at facilitating the review of the conditions of authorizations when technological advance has impact on ongoing operations.

1.4.2 Article 12: Technological neutrality in spectrum management

More particularly, in the context of the allocation of spectrum to mobile electronic communications network operators and services providers, Member States shall ensure that spectrum licenses are granted on a technology neutral basis, not only to provide these operators and providers with the operational flexibility necessary for the compilation of their technological portfolio, but also to allow consumers and undertakings to benefit from the best possible experience in terms of mobile broadband.

1.5 Chapter V: Entry into the electronic communications market

1.5.1 Article 13: General principles governing market entry

1. Member States shall guarantee the freedom to provide electronic communications networks and services, subject to the conditions laid down in this Regulation. To this end, they shall not prevent an undertaking from providing electronic communications networks or services, except in the cases set out in this Regulation. Any such restriction on the freedom to provide electronic communications networks and services shall be duly substantiated and notified to the Commission.
2. Without prejudice to the requirements set out in paragraph 1 above, Member States, with a view to releasing all the dynamics necessary for the promotion of technology, innovation and investment, endeavor to promote as much as possible the general authorization regime, while limiting the need for an individual license to cases of access to scarce resources.
3. When a Member State subjects the establishment and/or operation of an electronic communications network and/or the provision of an electronic communications service to an authorization or declaration procedure, the granting of the authorization or the modalities for implementing the declaration must comply with the principles set out below.

4. The conditions imposed on network operators and service providers subject to authorization and/or declaration regimes are exclusively based on the principles set out in Annex 1 of this Regulation.
5. Member States shall ensure that the conditions applicable to the authorization and declaration regime are appropriately published so that this information is easily accessible to interested parties. The official journals of the Member States and the **Official Bulletin of the Union/Official Journal of the Community** refer to the publication of this information.
6. Member States should define and apply mechanisms for the granting of individual licenses, general authorization and declaration which facilitate entry into the market and which gradually remove obstacles to competition and the emergence of new services.
7. Member States shall ensure that electronic communications services and/or networks can be provided either without authorization or on the basis of a general authorization supplemented, as appropriate, by rights and obligations requiring individual assessment of candidacies and involving one or more individual licenses.
8. Any condition imposed on the operation of networks or the provision of electronic communications services must be non-discriminatory, proportionate, transparent and justified in relation to the network or service concerned.
9. In formulating and implementing their authorization and declaration regimes, Member States shall promote the establishment of networks and the provision of electronic communications services among Member States.
10. In addition, Member States shall pay particular attention to the application of the provisions of this Regulation relating to the harmonization of control and regulatory policies in the electronic communications sector, particularly those concerning the role of national regulatory authorities with regard to market entry.

1.5.2 Article 14: Market entry conditions

1. The legal framework in Member States shall provide for four levels of regulatory regimes to govern entry into the electronic communications market, as follows:
 - a. The general authorization regime;
 - b. The individual license regime;
 - c. The declaration regime; and
 - d. The open entry regime.
2. The relevant provisions for each of these regimes are specified in Title 3 of this Regulation.

1.5.3 Article 15: Sector development and provisional conditions

1. In order to promote the development of the electronic communications sector in the region and to offer more choice to consumers, Member States may decide that certain activities, services or networks will be exempt from the individual licensing requirement and be subject to general authorization, declaration or even free entry regime. Such a provision gives flexibility to Member

States in order to promote the establishment of networks and the provision of services in the region.

2. Without prejudice to paragraph 1 above, when the provision of an electronic communications service is not yet covered by an individual license or general authorization and, when this service and/or network cannot be provided without license or authorization, Member States shall, **no later than six (06) weeks** after receiving a request, either adopt provisional conditions allowing the undertaking to start providing the service, or shall reject the request, providing the undertaking concerned with the reasons for their decision. Member States shall then adopt, as soon as possible, definite conditions governing the granting of an individual license for the service or network, or agree that the service or network concerned be provided either under the general authorization regime or without authorization, or provide the reasons they have for refusing to do so.
3. Member States shall establish an appropriate procedure for the submission, to a body independent of the national regulatory authority, of appeals against the refusal to adopt provisional or definite conditions, or the rejection of requests or the refusal to allow that the service be provided. without authorization.

1.5.4 Article 16: Limitation of barriers to market entry

1. Member States shall ensure that they impose no barriers that do not comply with the regulations concerning the number of network operators or service providers in the electronic communications market.
2. Member States shall refrain from any provision granting exclusive rights or special rights for the provision of electronic communications service, including the establishment and operation of electronic communications networks necessary for the provision of such services, except if justified by country's legislation or policy, lack of resources or other relevant reasons.
3. Without prejudice to the requirements of paragraph 2 above, Member States shall ensure that, in inevitable cases of exclusive rights or special rights, these are limited to cases where reality shows the capacity of the holder of said rights to meet market demand at affordable prices and in accordance with applicable quality standards. National regulatory authorities should, in the event of failure by the holder of such rights, have the possibility of allowing the provision of electronic communications networks and services by alternative providers in the areas covered by the exclusive rights or special rights concerned.
4. All undertakings shall be subject to the same conditions for the provision of electronic communications services or the establishment and operation of electronic communications networks.

1.5.5 Article 17: Public availability of market entry criteria

1. Where an individual license or general authorization is required, relevant information shall be published in such a way that makes it easily accessible to interested parties. The official journals of the Member States and the **Official Bulletin of the Union/Official Journal of the Community**, as the case may be, shall refer to the publication of such information.

2. The following information shall be published and made available to the public:

- a. All criteria for the issue of individual licenses, general authorization and all declaration requirements;
- b. The period of time normally required to reach a decision concerning an application for an individual license or a general authorization;
- c. The terms and conditions governing activities subject to individual license, general authorization, declaration or open entry.

1.5.6 Article 18: Public consultation

In order to ensure fairness and transparency in the process of individual licensing or general authorization, consultations shall be carried out with industry players, the public and other stakeholders.

1.5.7 Article 19: Reason for denial

Adequate procedures must allow any candidate to be able, upon request, to know all the reasons for the denial of any individual license or general authorization.

1.6 Chapter VI: Other guiding principles

1.6.1 Article 20: Handling of internet content

1. Notwithstanding the separation between the regulation of electronic communications and the regulation of the content of services provided over electronic communications networks using electronic communications services, Member States shall take into account the links existing between them.
2. As such, the competent authorities, within the limits of their competence, contribute to the implementation of policies aimed at promoting media pluralism, cultural diversity and consumer protection.

1.6.2 Article 21: Guarantee of access to an open internet ("net neutrality")

1. Member States shall ensure the promotion of access to an open internet for consumers, in accordance with the relevant Community provisions in the matter, including those foreseen in the present Regulation.
2. As such, they strive to ensure compliance with internet neutrality as a general principle guaranteeing equal treatment of all data traffic on the internet in the **WAEMU/ECOWAS** zone. In particular, they prohibit any form of discrimination with regard to the source, destination or content of data traffic.

1.6.3 Article 22: Promotion of issues relating to the liability of actors

1. Regulatory measures in the electronic communications sector shall facilitate the establishment and implementation, by the competent authorities, of liability arrangements, with a view to making the different actors involved in the digital space accountable.
2. The national regulatory authorities help to facilitate the differentiation of the responsibility of each of the categories of players in the electronic communications sector according to the function they assume in the supply chain.
3. Subject to relevant provisions of the relevant legal and regulatory framework, as adopted in this area by **Union bodies/Community institutions**, which must be compatible with Community law.

1.6.4 Article 23: Questions relating to intellectual property protection

1. Member States shall ensure that regulatory measures in the electronic communications sector facilitate the establishment and implementation, by the competent authorities, of systems for securing intellectual property rights, with a view to offer sufficient guarantees to suppliers of digital products, and thus contribute to reducing, as much as possible, barriers to the development of the digital economy in the sub-region.
2. Subject to relevant provisions of the relevant legal and regulatory framework, which must be compatible with Community law.

1.6.5 Article 24: Protection of personal data

1. Member States shall ensure compliance with the legal framework for the protection of private and professional life resulting from processing of personal data in the electronic communications sector, in accordance with the relevant provisions of this Regulation.
2. Where the protection referred to in paragraph 1 above is wholly or partially incumbent on authorities other than the national regulatory authority, the latter shall provide these authorities with assistance on all relevant aspects to facilitate their tasks in the electronic communications sector.

1.6.6 Article 25: Matters relating to electronic transaction

1. Member States shall work towards facilitating the development of a harmonized framework for the regulation of electronic transactions in the electronic communications sector in the **WAEMU/ECOWAS** zone.
2. As such, they endeavor to promote any transaction, whatever their nature, taking electronic form, in the context of activities in the electronic communications sector, in compliance with the Community provisions in force relating to electronic transactions in the **WAEMU/ECOWAS** zone.

1.6.7 Article 26: Access to national and international bandwidth

1. Member States undertake to:
 - a. work for an increase in the capacity of international bandwidth available to each country, ensure a significant reduction in the cost of international communications for each Member

State, and create conditions of equitable access to international bandwidth, so as to allow the development of a competitive sub-regional market;

- b. create the conditions for equitable access to national and international bandwidth on land networks in order to facilitate connectivity to submarine cable landing stations within the **WAEMU/ECOWAS** zone.

2. In pursuit of the objective referred to in paragraph 1 above, Member States shall ensure that any action contributes in particular to:

- a. allow the equitable development of a competitive and harmonized electronic communications market in the **WAEMU/ECOWAS** zone;
- b. promote the increase in the national and international bandwidth capacity available to each Member State;
- c. facilitate access by landlocked countries to submarine cables;
- d. promote a significant reduction in the cost of national and international communications in each Member State.

1.6.8 Article 27: Other enabling issues for a digital economy

1. Regulatory measures relating to electronic communications networks and services must contribute to the proper functioning of the digital internal market and ensure a safe, predictable and reliable online environment in which the fundamental rights enshrined in the African Charter on Human and People's Rights are effectively protected.
2. National regulatory authorities in particular, within their remit, shall contribute to facilitating promotion and adoption of digital services as well as activities, practices and technologies that condition the development of a true digital economy within the **Union / Community**.
3. Subject to relevant provisions of the legal and regulatory framework adopted in this area by **organs of the Union / Community institutions** which must be compatible with Community law.

2 Title 2 - Institutional setup and governance of the sector

2.1 Chapter I: Governance of the electronic communications sector

2.1.1 Article 28: Institutional governance framework

1. In Member States, each of the tasks provided for in this Regulation shall be performed by a competent authority.
2. Member States shall ensure that cooperation between the different structures, which have responsibilities and mandates on various relevant aspects provided for in this Regulation for the sector, is put in place so as to facilitate efficient management of regulatory activities in this sector.

2.1.2 Article 29: Distribution of tasks

1. Member States shall ensure that the responsibilities and mandate of each of the actors in the institutional framework are clearly defined so as to avoid any uncertainty regarding the distribution of tasks.
2. To this end, the allocation of tasks must be reflected in all national regulations applying to the electronic communications sector, so as to allow a clear determination of the relations between the different entities and the credibility of each actor in the performance of its mission.

2.1.3 Article 30: Information

1. Member States shall publish the tasks to be performed by the competent national authorities in an easily accessible form, in particular when these tasks are assigned to several bodies.
2. They shall inform the Commission of the existence of any competent national authority charged with the application of this Regulation, the implementing measures relating thereto, as well as their respective responsibilities, taking care, where appropriate, to avoid overlapping tasks.

2.2 Chapter II: Ministry in charge of the electronic communications sector

2.2.1 Article 31: Electronic communications policy function

The national electronic communications policy shall perform the following functions, which fall under the remit of the responsible Ministry:

1. Develop and review electronic communications policies and regulations consistent with the objectives of this Regulation.
2. Assume responsibility for international electronic communications matters affecting the country.
3. Propose a policy related to the provision of universal service and submit it to the government for approval.
4. Monitor the implementation of the policy referred to in paragraph 3 above for the purpose of expanding the scope of coverage of electronic communications services, both horizontally and

vertically, in such a way as to meet the requirements of economic and social development in the country.

5. Draw up plans that encourage investment, on a competitive basis, in the electronic communications sectors.

2.3 Chapter III: National regulatory authorities

2.3.1 Article 32: Status, independence and transparency

1. National regulatory authorities shall exercise their powers in an impartial and transparent manner.
2. Member States shall guarantee the independence of the national regulatory authorities with respect to the political authorities and all organizations ensuring the provision of electronic communications networks, equipment or services and any otherwise involved in the sector, by ensuring that the former are legally distinct from and functionally independent of the latter.
3. Member States that retain ownership or control of undertakings that provide electronic communications networks and/or services in the sector shall ensure complete and effective separation of the regulatory function, on the one hand, and activities associated with the ownership or management of these undertakings, on the other hand.
4. Member States shall take the necessary steps to guarantee the following:
 - a. A clear and precise mandate of the national regulatory authorities as well as their decision-making bodies;
 - b. Clear and transparent internal procedures for the national regulatory authorities, including:
 - i. Decision-making procedures for the decision-making bodies of the national regulatory authorities;
 - ii. Collegiality of the decisions of their deliberative bodies;
 - iii. Incompatibility of the functions of members of their decision-making bodies with any other activity in the sector and any government office;
 - iv. Prohibition on staff taking on any other remunerated function and holding any direct or indirect interest in any undertaking in the sector;
 - v. Recruiting of members of decision-making bodies through a transparent procedure by which candidates are invited to apply on the strength of relevant experience in the ICT domain and on the basis of demonstrated professional skills and qualifications;
 - vi. Establishment of a fixed remuneration scheme for members of decision-making bodies;
 - vii. Non-renewable or once-only renewable nature of the members' mandate;
 - viii. Protection of members of decision-making bodies against dismissal except in case of demonstrated grave misconduct;

- c. The creation of transparency mechanisms and the distribution of consultation procedures with the sector players, giving interested parties the opportunity to bring forward their observations on proposed measures within a reasonable timeframe, as well as the creation of a central information desk to allow access to all ongoing consultations and publish the results of public consultations, except in specifically described cases where confidentiality is an issue;
- d. Creation of provisions to ensure that these tasks are only performed by duly sworn persons;
- e. Publication of an annual activity report;
- f. Publication of all decisions of the regulatory bodies in the Official Journal of the Member State concerned, or in an official publication of the national regulatory authority, or any other relevant means.

2.3.2 Article 33: Resources of national regulatory authorities

1. National regulatory authorities must have the financial and human resources they need to perform their tasks in an impartial, autonomous and transparent manner.
2. Member States undertake to give preference to the self-financing schemes for national regulatory authorities, and to provide for the allocation of all or part of taxes, fees and other financial compensation paid by operators and/or providers for the exercise of their activities in the sector.
3. In any event, the funding system for the national regulatory authorities should not have the effect of reintroducing the influences and interests of organizations that the separation of regulatory and operational functions intended to exclude.

2.3.3 Article 34: Areas of activities of national regulatory authorities

1. The main tasks of economic, technical and social regulation of the electronic communications sector, as well as those relating to regulatory procedures, shall be within the scope of activities of national regulatory authorities of each Member State. These shall include at least the following regulatory tasks:
 - a. The development, at the request of the competent government authority or at the initiative of the national regulatory authority, of proposals to:
 - i. adapt the legal, economic and security framework in which electronic communications activities take place, such as draft laws, decrees and ministerial orders relating to the regime of the activities of the different operators and/or providers active in the electronic communications sector ; and
 - ii. ensure effective competition, taking the greatest account of technology-neutrality regulation;
 - b. The processing of license applications, preparation and implementation of licensing procedures by competitive bidding, as well as preparing and updating, in conjunction with the other ministerial bodies involved, the texts for the licensing terms of reference that lay down the rights and obligations of operators of public electronic communications networks and/or providers of publicly available electronic communications services;

- c. Receipt of preliminary files for electronic communications activities under the general authorization regime. The national regulatory authorities issue the authorizations and prepare the associated documents, including the definition of the terms and conditions for authorizations;
- d. The issuance of certificates of registration and verification, for all those activities of network operators and service providers that are subject to the declaration regime;
- e. The issuance of mandatory specifications and approvals for terminal equipment and verifying conformity;
- f. Monitoring compliance by all electronic communications network operators and services providers with their obligations according to the regulations in force and the terms of existing licenses, authorizations and declarations in the electronic communications sector. To this end, the national regulatory authorities will receive and analyze all information and documentation required from electronic communications network operators and services providers in accordance with the regulations in force and their terms of reference, and request all additional details and information that may be needed;
- g. Monitoring the electronic communications market under economic and technical aspects, in accordance with normal practices and internationally recognized protocols, taking into account the convergence of technologies in the field of electronic communications;
- h. Fostering and protecting effective competition as well as a fair and efficient market between entities engaged in the electronic communications market in their respective Member States, taking due account of the public interest and preventing distortion and restriction of competition in the sector. As such, the national regulatory authorities implement market regulation, in particular the imposition of obligations on powerful undertakings in accordance with the relevant provisions of this Regulation;
- i. Assessing and monitoring closely market-shaping and competition issues regarding open internet access;
- j. Establishing performance standards for providers in relation to the provision of electronic communications services and monitoring compliance with those standards;
- k. Monitoring and communication to the Minister on relevant information on the sector, such as the performance of public electronic communications network operators and providers of publicly available electronic communications services, the quality of services to consumers and satisfaction of the latter, measured according to existing international codes of practice;
- l. Promotion of the protection of consumer rights in the electronic communications sector, in coordination, where relevant, with other competent authorities. As such, the national regulatory authorities deal with all matters relating to the protection of the rights of consumers, including setting up of a suitable system for receiving their complaints, and the related investigations concerning electronic communications services and, where necessary, submission of such complaints to the appropriate agency;

- m. Monitoring the fulfilment, by public electronic communications network operators and providers of publicly available electronic communications services, of their obligations as promulgated, so as to ensure the delivery of adequate high quality and cost-effective services that meet the various needs of consumers;
- n. Elaborating and, if necessary, revising the accounting requirements and tariff principles to be used by network operators and service providers;
- o. Contribution to the protection and security of personal data in the electronic communications sector;
- p. The quality of every electronic communications service and, to that end, the determination of technical standards for that services and the connection of the subscriber's equipment to electronic communications networks;
- q. Management of the radio frequency spectrum, monitoring of the conditions of their use and decision-making in this area. In cases where these tasks are assigned wholly or partially to other competent authorities, the national regulatory authorities provide advice regarding the market-shaping and competition elements of national processes related to the rights of use for radio spectrum for electronic communications networks and services;
- r. Allocation of numbering resources and management of the numbering plan, while ensuring effective number portability from one electronic communications network operator and/or service provider to another;
- s. Examination and control of the implementation of the conditions relating to interconnection and access to networks, in accordance with the provisions of this Regulation relating to access and interconnection of electronic communications networks and services. As such, the national regulatory authorities implement appropriate regulation, in particular the imposition of obligations on powerful undertakings in accordance with the relevant provisions of this Regulation in terms of access and interconnection;
- t. Implementing the policy relating to universal access/universal service and network performance obligations in accordance with the provisions of this Regulation, in particular concerning the charges in the provision of universal service and the related net cost;
- u. The implementation of the tariff policy applicable to electronic communications services;
- v. The authorization or regulation of the registration, administration and management of domain names for their respective countries, and the provision of a structured mechanism for their management;
- w. Resolution of disputes between undertakings;
- x. Monitoring of the development of new technologies and the prescription of measures to stimulate and facilitate investment in the electronic communications sector, in particular private investment;
- y. Encouraging regional connectivity of electronic communications and trade in services;

- z. Ensuring the implementation, by operators of public electronic communications networks and providers of publicly available electronic communications services, of adequate and proportionate technical and organizational measures to manage network and service security risks.
2. The national regulatory authorities shall also perform any other task reserved to the national regulatory authorities in this Regulation or that Member States or other provisions of **Union/Community** law may assign to them.
3. In cases where the granting of licenses or authorizations is entrusted to a body separate from national regulatory authorities, Member States shall make the necessary legal and regulatory provisions to charge national regulatory authorities with processing of applications and providing reasoned opinions prior to the granting of such licenses or authorizations.

2.3.4 Article 35: Provision of information

1. Undertakings that provide electronic communications networks, equipment or services provide all necessary information, including financial information, to national regulatory authorities, in order for the latter to ensure compliance with the provisions of this Regulation and of specific Community acts or with the provisions of Community acts adopted in accordance with said Community acts.
2. These undertakings provide this information promptly on request, respecting the deadlines and the providing the level of detail required by the national regulatory authorities.
3. The information requested by the national regulatory authorities shall be proportionate to their needs for the accomplishment of that task, and those national regulatory authorities shall give the reasons justifying the requests for information.
4. The principle of business secrecy is not applicable to national regulatory authorities; nevertheless, the latter must respect the confidentiality of the information received.

2.3.5 Article 36: Monitoring and sanctioning power

1. National regulatory authorities shall be invested with the necessary powers to apply sanctions and monitor the activities of actors in the sector and in particular:
 - a. Monitoring of approvals and mandatory specifications, as well as of the conditions for equipment usage;
 - b. Monitoring the terms and conditions for use of scarce resources;
 - c. Monitoring compliance with the obligations incumbent on electronic communications network operators and services providers according to the applicable regime, in particular those of network operators and services providers in a dominant position or designated as powerful undertakings.
2. Member States shall take the legal and regulatory measures necessary to endow the national regulatory authorities with the power to impose sanctions. The power shall include, in particular:

- a. The ability of requiring the modification of unfair provisions in contracts concluded with users or agreements governing interconnection or access to the operators' network;
 - b. The ability of fining network operators and services providers who infringe against legislation in the electronic communications sector and compelling them to meet their obligations;
 - c. The right to impose penalties against network operators and services providers that fail to comply with the obligations incumbent on them in the exercise of their activity;
 - d. The right to revoke and/or suspend the authorization in the event of infringement by the electronic communications network operator or service provider and failure to remedy the situation within a reasonable period of time after being duly notified by the national regulatory authority.
3. National regulatory authorities shall exercise the power of sanction with which they have been endowed in a proportionate manner, respecting the principle of adversarial process and in accordance with transparent, objective and non-discriminatory procedures.

2.3.6 Article 37: Settlement of disputes

At national level

1. Without prejudice to any action that the **WAEMU bodies/ECOWAS institutions** or any Member State may bring in application of the Treaty, any electronic communications network operator or service provider is entitled to have recourse to the national regulatory authority in the event of any dispute relating to the following matters:
 - a. Violation by an electronic communications network operator or services provider of any legal or regulatory provisions relating to electronic communications or of any contractual term;
 - b. Denial of interconnection or capacity rental or infrastructure leasing that is not in accordance with the conditions stipulated in the applicable texts, and any disagreement relating to the application or interpretation of interconnection agreements and reference offers;
 - c. Conditions under which a provider is granted or denied rights of occupancy within the domain of public persons, or rights of way over private properties, for the purposes of setting up and operating an electronic communications network;
 - d. The exercise of special or exclusive rights by a sector player.
2. Every user is entitled to have recourse to the national regulatory authority in the event of any dispute relating to the following issues:
 - a. Violation, by an electronic communications network operator or services provider of its terms of reference or other such document containing the conditions attached to its license, authorization or declaration;
 - b. Legal basis of any provision in a standard subscription contract concluded with the users.
3. National regulatory authorities shall put in place transparent and non-discriminatory procedures for disputes settlement, in accordance with the recommendations of the Commission and of any

sub-regional regulatory coordination body of national regulatory authorities as referred to in Article 40 of this Regulation. In particular, national regulatory authorities:

- a. make rulings within a reasonable period of time;
 - b. respect the principle of adversarial process and the rights of defense, by giving the parties the opportunity to present their observations;
 - c. duly substantiate their decisions;
 - d. make their decisions public in accordance with the conditions and within the limitations foreseen under national law.
4. In the event of an imminent serious breach of any regulation governing the electronic communications sector, national regulatory authorities can impose, after having heard the parties concerned, conservatory measure, particularly with a view to ensuring the continuity of the functioning of networks and services.

At the cross-border level

5. The following procedure shall be applicable in the event of a dispute between parties based in two Member States:
- a. Any party may refer the matter under dispute to one of the national regulatory authorities concerned, and the procedure described above for the national level applies;
 - b. The national regulatory authorities are required to coordinate their efforts so as to resolve the dispute in a manner consistent with the guiding principles of regulation presented in Article 7 above;
 - c. In the absence of a reaction from the authority in question, or of coordination between the authorities and, and in order to reach a solution, each party may refer the matter to the Commission, and address a copy of this referral to each of the parties and to the national regulatory authorities concerned. The Commission shall take all necessary steps to achieve settlement of the dispute in question by the responsible national authorities within a reasonable time frame.

2.3.7 Article 38: Right of appeal

1. Member States shall ensure the existence of mechanisms at national level, which allow any person concerned to appeal against any decision of the national regulatory authority before a judicial body that is independent of the parties involved, the government and the national regulatory authority in question.
2. The appeal body must be able to examine not only the procedure which led to the decision of the national regulatory authority being taken, but also the facts of the case. Pending the results of the appeal, the decision of the national regulatory authority can be enforced, unless a stay of execution is obtained.
3. Where the appeal body is not a judicial body, then its decisions must be justified in writing, and examined in last instance by the national judiciary.

2.4 Chapter IV: Institutional cooperation and interaction

2.4.1 Article 39: Cooperation between relevant national authorities

1. In each Member State, all national authorities charged with matters affecting the development of the electronic communications sector shall coordinate their activities and exchange relevant information to facilitate the consistent application of this Regulation. In particular, this refers to the following national authorities:
 - a. National regulatory authorities;
 - b. Other responsible authorities according to this Regulation;
 - c. The authorities responsible for the application of competition law; and
 - d. Authorities responsible for the application of consumer law protection legislation.
2. Member States shall promulgate procedures for cooperation and consultation between the responsible national authorities referred to in paragraph 1 above on matters of common interest.
3. They shall ensure that the missions of these authorities do not overlap and undertake to promote interactions and the exchange of information between said authorities, while guaranteeing the confidentiality of such correspondence.

2.4.2 Article 40: Sub-regional regulatory coordination imperative and objectives

1. National regulatory authorities of the Member States undertake to take all measures to cooperate and coordinate at the sub-regional level their regulatory activities in the electronic communications sector. When they deem it appropriate, they shall set up appropriate bodies as exchange platforms to facilitate this sub-regional regulatory interaction.
2. The sub-regional regulatory cooperation and coordination referred to in this Article are intended to ensure the progressive convergence of national regulatory standards and practices on all relevant aspects dealt with in this Regulation in order to promote regional integration, the development of electronic communications networks and services as well as intra-Community trade.
3. In the event of the existence of sub-regional coordination bodies as referred to in paragraph 1 above, these bodies shall keep the Commission informed of their work under the conditions provided for by the provisions of this Regulation.
4. As part of their sub-regional interactions, national regulatory authorities shall endeavor to involve as much as possible the Commission, the electronic communications market players as well as the various national, regional and international authorities, institutions and organizations involved in the sector.
5. When adopting decisions concerning their national markets, national regulatory authorities shall take utmost account of any guidelines, opinions, recommendations, common positions, best practices and methods adopted in the context of their sub-regional regulatory coordination activities.

6. Member States shall ensure that their respective national regulatory authorities are involved in and actively support sub-regional coordination activities.

3 Title 3 - Regime applicable to network operators and services providers

3.1 Chapter I: General authorization regime

3.1.1 Article 41: Activities subject to general authorization

1. In order to release all the dynamics necessary for the promotion of technology, innovation and investment in the electronic communications sector, any undertaking that fulfills the conditions referred to in this Chapter shall be allowed to provide electronic communications networks or services.
2. As such, the following activities are subject to the general authorization regime:
 - a. The operation or provision of independent networks;
 - b. Any other activity for which an individual license is not justified pursuant to Chapter II below and which does not consist in the provision of number-independent interpersonal communications services.

3.1.2 Article 42: Procedures applicable to the general authorization regime

1. Without prejudice to the provisions of Chapter II of this Title, Member States shall not prevent an undertaking that provides the necessary information and gives the required proof that it fulfills the conditions imposed, satisfying the conditions attached to a general authorization in accordance with the provisions of Part B of Annex 1, from providing the intended electronic communications service and/or networks.
2. Operators and/or providers applying for authorization are required to inform the national regulatory authority. The information consists of a notification made by the candidate to the national regulatory authority of his intention to start providing electronic communications networks or services, as well as the minimum information required by necessity to comply with all the conditions of operation.
3. Applicants whose authorization or license has been suspended or revoked, even outside the country concerned, shall not be qualified to carry out any activity under a general authorization.
4. The information referred to in paragraph 2 above for the general authorization regime shall include the following:
 - a. **Legal and financial information**, including a description of the candidate, the legal form of the undertaking, proof of registration of the undertaking by the competent commercial jurisdiction (for example, the commercial registry, articles of incorporation and by-laws), a model service contract/declaration of conformity with the model service contract drafted and published by the national regulatory authority, as well as management reports and a description of financial backing. Individuals shall be required to prove that they are registered

as corporate entities. However, in the case of commercial partnerships, they may be required to demonstrate, by submitting a declaration accompanied by a certificate issued by the competent body, that they are legally established and that their partnership contract includes the business of providing electronic communications services.

b. **Technical information:** Entities shall be required to inform the competent authorities of the Member States of the services they intend to introduce and to provide any information proving their ability to fulfill the terms and conditions applicable to the activity for which the authorization is granted, namely:

- i. A detailed description of the service offered;
- ii. The technical project stating the equipment to be used, including proof of type approval of own equipment to be used;
- iii. An indication of the entity and a description of the facilities proposed on the infrastructure of other network operators for the service offered.

5. National regulatory authorities reserve the right to request additional information and may, if necessary, ask applicants to wait for a reasonable and determined period of time before starting to provide the activities covered by the authorization.

3.1.3 Article 43: Financial contributions applicable to general authorizations

1. Without prejudice to financial contributions, including those relating to the provision of universal service in accordance with the relevant provisions of this Regulation and Part B of Annex 1, charges imposed on undertakings as part of authorization procedures shall be for the sole purpose of covering the administrative costs incurred in issuance, management, control and implementation under the general authorization regime.
2. These charges must be sufficiently detailed and published in an appropriate manner so that they are easily available.

3.2 Chapter II: Individual licensing regime

3.2.1 Article 44: Activities that may be subject to individual licensing

1. Only the following cases may be subject to the issuance of an individual license:
 - a. Establishment and operation of public electronic communications networks;
 - b. Provision of publicly available electronic communications services other than internet access services and number-independent interpersonal communications services ;
 - c. Provision of leased line services;
 - d. Use of scarce resources (radio frequencies and numbers);
 - e. If a Member State, for reasons of public policy, determines that an electronic communications service must be provided under special conditions, in particular relating to public order, public security and public health.

2. Subject to the relevant provisions governing entry into the electronic communications market in accordance with Chapter V of Title 1 of this Regulation.

3.2.2 Article 45: Procedures for granting individual licenses

1. When a Member State intends to grant individual licenses:
 - a. It shall do so according to open, objective, non-discriminatory and transparent procedures. To this end, all candidates shall be subject to the same procedures, unless there is an objective reason for subjecting them to different treatment;
 - b. It shall set reasonable timeframes for processing requests. In particular, it shall inform the applicant of its decision as soon as possible, but at the latest **six (06) weeks** following receipt of the request. However, in the provisions they adopt to clarify the individual licensing procedures, Member States may extend this period **up to four (04) months** in cases objectively justified and expressly defined in the aforementioned provisions. In the particular case of call for tender procedures, Member States may extend this period by a maximum of **four (04) additional months**. These periods must be set without prejudice to any applicable international agreement in the area of international coordination of frequency and satellite management.
2. The information that may be required to prove that an individual license application fulfills the conditions imposed in accordance with the relevant provisions of this Regulation are as follows:
 - a. **Legal information**, including a description of the candidate, the legal form of the undertaking, proof of registration of the undertaking by the competent commercial jurisdiction (for example, commercial registry, articles of incorporation and bylaws), a list and a description of existing licenses in which the applicant has at least 10% participation, as well as legal confirmation of compliance of licenses of existing operators and/or providers. Individuals shall be required to prove that they are registered as corporate entities. However, in the case of commercial partnerships, they may be required to demonstrate, by submitting a declaration accompanied by a certificate issued by the competent body, that they are legally established and that their partnership contract includes the establishment of networks or the provision of electronic communications services;
 - b. **Financial information**, including audited financial statements, management reports, a detailed description of financial backing;
 - c. **Economic information**, including a model service contract/declaration of compliance with the model service contract drafted and published by the national regulatory authority, as well as management reports and a description of financial backing. Applicants should also present proof of their expertise in electronic communications operations and management. They shall be required to provide detailed information, in particular on market forecasting, evidence of their experience, their technical and management ability to realize the proposed project, and appropriate documentation. Applicants shall also be required to demonstrate that the key staff proposed for the project is appropriate and has the experience and know-how required to implement it; applicants must submit adequate documentation in this regard;

- d. **Technical information**, including coverage plans and indicators, system planning and development, including connection, addressing and numbering issues and the quality of service offered.
3. Without prejudice to Article 46 of this Regulation, any undertaking providing the information that may be required from it to prove that it fulfills the conditions established and published by the Member States in accordance with the relevant provisions of this Regulation shall qualify to obtain an individual license. However, if an undertaking applying for an individual license fails to provide such information, the national regulatory authority may refuse to grant the individual license.
 4. Applicants whose authorization or license has been suspended or revoked, even outside the country concerned, shall not be authorized to request a license.
 5. Member States that refuse to grant an individual license or that withdraw, modify or suspend one, shall communicate to the undertaking concerned and to the Commission the reasons for their decision. Member States shall establish an appropriate procedure allowing appeals against such refusal, withdrawal, modification or suspension of the license, to be brought before an institution that is independent from the national regulatory authority.
 6. Licenses shall be issued to the applicant personally. They can only be transferred to third parties, if applicable, with the prior consent of the national regulatory authority. However, a license obtained through competition or tender procedures shall not be transferable, unless the applicant has declared in advance his intention to set up a company entirely owned by him to realize the licensed activities.

3.2.3 Article 46: Limitation of number of individual licenses

1. Member States shall be able to limit the number of individual licenses for any category of electronic communications services, and for the establishment and/or operation of electronic communications infrastructures, only to the extent required to ensure efficient use of scarce resources, such as radio frequencies and numbering resources, or to accommodate market economic conditions.
2. Where a Member State intends to limit the number of individual licenses granted in accordance with paragraph 1:
 - a. It shall give due consideration of the necessity to maximize the benefits for users and to facilitate and/or strengthen the development of competition;
 - b. It shall give interested parties the opportunity to express their opinion on any planned limitation;
 - c. It shall publish its decision to limit the number of individual licenses and as well as the justification for such decision;
 - d. It shall review, at reasonable and regular intervals, the limitation imposed, either at its own initiative, or at the request of the undertakings concerned;
 - e. It shall launch a public tender for the issuance of licenses.

3. In any selection, Member States shall take due account of the need to facilitate the development of competition, to facilitate investment in new technologies and to maximize the advantages for users.
4. The information concerning the aforementioned criteria shall be published in advance in such a way that it is easily available. The Official Journal of the Member State concerned shall refer to the publication of such information.
5. When a Member State determines, at its own initiative or following a request made by an undertaking, upon entry into force of this Regulation or subsequently, that the number of individual licenses can be increased, it shall take the necessary actions and launch a call for tender for additional licenses.

3.2.4 Article 47: Call for tender for individual licensing

1. For each call for tender proposing the establishment and/or operation of a determined electronic communications network or service under the individual license regime, the administration shall fix the following aspects in terms of reference:
 - a. The conditions for the establishment of the network;
 - b. The conditions for the provision of the service;
 - c. The coverage area of said service and the implementation schedule;
 - d. The radio frequencies and the blocks of numbers allocated as well as the conditions of access to elevated points belonging to the public domain;
 - e. The minimum professional and technical qualifications as well as the financial guarantees required of applicants;
 - f. The operating conditions of the service, in particular the conditions for the provision of universal service and the principle of equality of treatment of users;
 - g. The arrangements for payment of the fee referred to in Article 48 below;
 - h. The arrangements for payment of the financial contribution referred to in Article 49;
 - i. The duration of validity of the license and conditions for its renewal.
2. The call for tenders shall determine the conditions for access and interconnection to public electronic communications networks and, possibly, the conditions for leasing components of these networks as required for the establishment of the new network or for the provision of the service covered by the call for tender. In this case, the license carries with it the right to access to interconnection or the leasing required.
3. The call for tender is organized on the basis of objective, transparent, non-discriminatory and proportionate and detailed selection criteria.
4. The successful tenderer shall be the candidate whose offer is deemed to be the best vis-à-vis all stipulations in the terms of reference.
5. Award shall be published in a public report.

3.2.5 Article 48: Charges and fees applicable to individual licenses

1. Charges and fees imposed on network operators and service providers under the licensing procedures shall be for the sole purpose of covering the following costs:
 - a. The administrative costs relating to the individual licensing, management, control and implementation of scarce resources; and
 - b. Costs of regulating the electronic communications sector.
2. The charge applicable to an individual license shall be in proportion to the volume of work required and shall be published in an appropriate and sufficiently detailed form so that the information is easily available.
3. Notwithstanding paragraphs 1 and 2 above, in the case of scarce resources, national regulatory authorities may charge fees in order to cater for the need to ensure optimum utilization of such resources. Such fees shall be non-discriminatory and shall take into account in particular the need to promote the development of innovative services and competition.
4. Without prejudice to the license cost and financial contributions, including those relating to the provision of universal service in accordance with the relevant provisions of this Regulation and Part A of Annex 1.

3.2.6 Article 49: Financial compensations applicable to individual licenses

1. When, in the cases referred to in Article 46 above, Member States decide to require license holders to provide financial compensation (cost of licenses), the amounts required shall take the greatest possible account of possible counterproductive effects that overpayments could have on the development of the sector in the long run.
2. In particular, the financial compensation required shall keep reasonable, shall be sustainable for licensees so as not to undermine the prospects for their investment in the sector.

3.3 Chapter III: Conditions applicable to licenses and general authorizations**3.3.1 Article 50: Principles**

1. Any condition applicable to an individual license or general authorization must comply with the principle of proportionality and the competition rules of the Treaty.
2. The conditions applicable to individual licenses or general authorizations issued to electronic communications network operators and services providers are set forth in Annex 1 to this Regulation.
3. Member States should ensure that the requirements set out in conditions applicable to licenses and general authorizations, including universal service objectives, do not discourage competition and investment in new technologies.
4. All holders of an individual license or general authorization for electronic communications enjoy a set of basic rights that shall be applicable to all providers holding a license or authorization,

regardless of whether they are service-based or infrastructure-based. However, the ability of the holder of a license or authorization to make use of these rights may depend on his ability to meet certain physical or technical requirements.

3.3.2 Article 51: Types of conditions applicable to licenses and general authorizations

1. Where the operator or provider wishes to have access to scarce resources such as frequency spectrum, numbering, addresses, domain names or land, the national regulatory authority shall retain the right to put in place additional conditions, including, but not limited to, the requirement to participate in specific application or competitive selection procedures. In addition, the conditions relating to limited resources should be activated where a provider gains access to such resources. The national regulatory authority shall, where appropriate, conduct a separate consultation regarding the allocation of scarce resources.
2. Certain operators and/or providers holding licenses or authorizations shall only be subject to conditions relating to quality of service and customer relations. Nevertheless, certain conditions relating to universal service, in particular with regard to emergency calls, directory services and public payphones, may be applicable. National regulatory authorities retain the ability to designate one or more operators and/or providers, other than the incumbent operator, as having the universal service obligation in the future.
3. Any license or authorization holder shall make appropriate provisions to take into consideration the needs of persons with disabilities.

3.3.3 Article 52: Publication of conditions

The conditions applicable to licenses and general authorizations shall be published annually, so as to make sure that this information is easily available to interested parties.

3.3.4 Article 53: Modification of conditions

1. The conditions relating to an individual license or a general authorization shall be considered fixed at the time the license or authorization is officially delivered.
2. Member States shall be able to modify the conditions attached to an individual license or general authorization in objectively justified cases and in a proportionate manner. If it becomes necessary to modify the conditions attached to an individual license or general authorization, the Member State shall notify the holder of the license or authorization, within a reasonable period of time in advance, of any modifications, before they are implemented.
3. In this regard, Member States shall notify their intention to the Commission and to national regulatory authorities for the purposes of sub-regional regulatory coordination as referred to Article 40 of this Regulation.

3.3.5 Article 54: Reviewing, terminating and revoking licenses or general authorizations

1. When the holder of a license or an authorization fails to comply with a condition attached to the license or authorization, the national regulatory authority may, in accordance with termination clauses, withdraw, amend or suspend the license or authorization, or impose specific measures aimed at ensuring compliance.

2. The national regulatory authority shall, at the same time, give the holder a reasonable opportunity to state his point of view on the application of the aforementioned measures and, except in the case of repeated breaches by the holder, the latter shall have the possibility, within a defined period of time, to remedy the breach. If the breach is remedied, the national regulatory authority shall, within a defined period of time, annul or modify its decision and state the reasons therefore. If the breach is not remedied, the national regulatory authority shall, within a defined period of time after its initial intervention, confirm its decision and state the reasons therefore. The decision shall be communicated to the entity **within one (01) week**.

3.3.6 Article 55: Enforcement

1. The conditions of licenses and authorizations must be enforceable and clear with regard to the rights and obligations of the holder.
2. The national regulatory authority shall undertake, when deemed necessary, reasonable and appropriate methods to enforce the terms and conditions relating to the holder's activities.
3. Each license and authorization shall include provisions to facilitate enforcement processes and access, if necessary, to the documents of the license or authorization holder, provided that privacy and confidentiality are respected.
4. A license or authorization shall require the national regulatory authority to give the holder notice of any alleged or suspected breached that come to the attention authority and allow a reasonable time for the holder to investigate and take corrective action, if appropriate.
5. The license or authorization holder shall be provided with the opportunity to present his views before changes to the terms of the license agreement take effect.

3.3.7 Article 56: Sanctions

1. Where conditions attached to licenses and general authorizations are not respected, the following sanctions may be imposed:
 - a. Fines;
 - b. Restriction on the scope and/or duration of the license or authorization;
 - c. Suspension;
 - d. Withdrawal.
2. When one of the sanctions listed above is imposed, it must be widely disseminated within Member States.

3.3.8 Article 57: Dispute settlement

1. All disputes should be handled in accordance with national legislation.
2. However, the parties may submit their case to the judicial entity of **WAEMU/ECOWAS** or to any other competent judicial authority.

3.4 Chapter IV: Declaration regime

3.4.1 Article 58: Activities subject to declarations

The following activities shall be subject to declaration:

1. Resale of electronic communications services;
2. Commercial operation of value-added services, including voice mail service; and
3. The provision of internet access services.

3.4.2 Article 59: Procedures applicable to declarations

1. Any natural or legal person wishing to exercise one of the activities subject to the declaration regime is required to submit with the relevant national regulatory authority a declaration of the offer of such service, in accordance with the requirements of Article 60 below.
2. The national regulatory authority acknowledges receipt of the declaration in the interest of ensuring that the declared service complies with the existing regulatory framework. The interested person can thus freely exercise the notified activities.
3. However, the interested person shall also be entitled to freely exercise the notified activity if the national regulatory authority remains silent for a period of more than **four (04) weeks** after due notification.
4. Any declaration entails the application of the declaration regime in accordance with essential requirements and other requirements of public interest. Thus, without prejudice to the right to impose penal sanctions, if the provision of the service subject to a declaration proves to undermine public order or security or is contrary to moral standards and decency, the competent authorities may prohibit the provision of such services.
5. The conditions to which any undertaking that has made a declaration to the national regulatory authority is committed shall be defined in a clear and transparent manner.
6. The declaration regime shall be formulated and implemented in such a way as to facilitate the provision of electronic communications services between Member States.
7. The conditions that may be imposed in the case of a declaration are provided for in Annex 2 of this Regulation.

3.4.3 Article 60: Information required for declarations

1. Each declaration of intention to open a service shall contain the following information:
 - a. The arrangements for opening the service;
 - b. Geographical coverage;
 - c. Conditions of access;
 - d. The kind of services offered;
 - e. The rates to be charged to users.

2. For non-facility-based resellers, Member States may also require a description of the services (minutes), as well as a description of the ways in which resale will be affected (distribution channels) and the geographical area where the services will be resold in order to ensure consumer protection.
3. In the case of pre-paid calling card resellers, Member States may require the deposit a certain sum as guarantee in order to minimize fraud in the provision of the pre-paid card service.
4. Any change made to the initial conditions of the declaration, with the exception of changes to the rate charged, shall be brought to the attention of the national regulatory authority concerned **one (01) month prior to the intended date** of implementation.
5. In the case of a transfer, the reseller or provider of the value-added service is required to inform the relevant national regulatory authority of this change **no later than thirty (30) days** following the date of transfer, and to deposit with the national regulatory authority a declaration of intention to open a service as referred to in paragraph 1 above.
6. Additional conditions, which may be attached to declarations are provided for in Annex 2 of this Regulation.
7. Any condition attached to a declaration must comply with the principle of proportionality and be in accordance with the competition rules of the Treaty.
8. These conditions are published annually so that relevant information is easily available to interested parties. They can be modified in objectively justified cases and in a proportionate manner. In doing so, Member States shall inform the Commission of their decision, as well as any sub-regional regulatory coordination body of national regulatory authorities as referred to in Article 40 of this Regulation.

3.4.4 Article 61: Charges, fees and other financial compensation applicable to declarations

1. Without prejudice to financial contributions, in particular those relating to the provision of universal service in accordance with the relevant provisions of this Regulation and Annex 2, the financial contributions imposed on undertakings under the declaration procedures shall be for the sole purpose of covering the administrative costs relating to the declaration process, and management and control of the implementation of the applicable declaration regime.
2. The financial contributions referred to in paragraph 1 above shall be published each year by the national regulatory authorities in each country in an appropriate and sufficiently detailed manner, so as to make sure that this information is easily available to interested parties.

3.5 Chapter V: Open entry regime

3.5.1 Article 62: Activities subject to open entry regime

1. Entry is open for any activity of establishing and/or operating networks and providing electronic communications services, which is not expressly subject to the individual license, general authorization or declaration under this Regulation.

2. The open entry regime applies in particular in the following cases:
 - a. Internal networks;
 - b. Radio installations exclusively composed of low-power, low-range equipment categorized as decided by the national regulatory authorities;
 - c. Any other activity meeting the requirements of paragraph 1 above.
3. Subject to compliance with applicable legislative and regulatory provisions.

3.6 Chapter VI: Deployment of networks and provision of services throughout WAEMU/ECOWAS

3.6.1 Article 63: Harmonization des procedures

1. Member States shall strive to develop and adopt common classifications of electronic communications networks and services, as well as common licensing procedures.
2. The regime applicable to electronic communications network operators and services providers in each Member State shall be in accordance with the principles of this Regulation, without prejudice to cases favorable provisions provided for by the State for a given activity.
3. The Commission entrusts national regulatory authorities for the purposes of sub-regional regulatory coordination as referred to Article 40 of this Regulation with mandates that define the tasks to be performed to facilitate interaction and exchange of experience between the national regulatory authorities. These mandates and tasks foresee a timetable to support the harmonized implementation of the requirements of this Regulation.

3.6.2 Article 64: Provision of services between Member States

1. In the formulation and application of their market entry regimes, Member States shall facilitate the provision of electronic communications services between Member States or in different Member States of the Region.
2. Accordingly and, in order to facilitate the establishment of regional networks or networks between several countries of the region, national regulatory authorities shall coordinate, to the extent possible, their procedures so that an undertaking wishing to provide an electronic communications service or to establish and/or operate an electronic communications network needs only to complete one request for the provision of a service, which he can subsequently submit in various Member State.
3. The procedure of Article 65 below shall apply.

3.6.3 Article 65: One-stop shop procedure

1. A one-stop-shop procedure is open to all network operators and service providers wishing to establish networks or provide electronic communications services in several Member States.
2. Requests shall be submitted to the sub-regional regulatory coordination body established by national regulatory authorities pursuant to Article 40 of this Regulation. This body shall forward

such requests to national regulatory authorities of each of the countries concerned within **seven (07) working days** of their official receipt.

3. From this period, in the case of licenses and authorizations, the authorities in charge of granting the authorization have a period of **four (04) weeks at most** after receipt of all the information necessary to provide a response to operators and/or providers.
4. Each Member State shall ensure the publication of all the conditions necessary for individual licenses, authorizations or declarations, in accordance with the principles set out in Annexes 1 and 2 to this Regulation.

4 Title 4 - Electronic communications networks

4.1 Chapter I: Access and interconnection of networks and services

4.1.1 Section 1: Objectives of this Chapter and sub-regional coordination

4.1.2 Article 66: Objectives

1. The purpose of this Chapter is as follows:
 - a. Establishment of an accessible, transparent and equitable regulatory environment, common to Member States, with regard to access and interconnection of networks and services in the electronic communications sector;
 - b. Establishment of sustainable competition ensuring the interoperability of electronic communications networks and services;
 - c. Laying out the definition of the objectives assigned to the national regulatory authorities; and
 - d. Specifying rights and obligations for operators and for undertakings wishing to obtain interconnection and / or access to their networks.
2. It constitutes a minimum common reference base, which may be supplemented by national regulatory provisions, and by the prescriptions of the national regulatory authorities.

4.1.3 Article 67: Coordination

National regulatory authorities are responsible for coordinating implementation of this Chapter within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation. In particular:

1. Organizing work with a view to defining a common method for evaluating the cost of interconnection.
2. Establishing and submitting to the Commission a comparison of the main technical and tariff interconnection offers in force in the Member States.
3. Coordinating the development towards increased convergence between the regulatory provisions applicable in the Member States.
4. Submitting to the Commission the draft amendments to the present Chapter with a view to adapting to technical, legal and economic developments in the electronic communications sector.

4.1.4 Article 68: **WAEMU/ECOWAS** Technical committee on interconnection and access

1. A technical committee on interconnection and access (TCIA) is hereby established within the Commission, in which the regulatory authorities of the Member States and a representative of the operators and/or providers of each Member State are represented.

2. Representatives of national regulatory authorities and operators and/or providers are appointed by each of the entities they represent.
3. Each national regulatory authority and operators and/or providers of each Member State thus appoint a representative and his deputy. The appointed persons lose their status as member or deputy member when they leave the national regulatory authorities or operators and/or providers concerned, by decision of the entity represented. These entities then replace them as quickly as possible.
4. The national regulatory authority of the Member State that effectively holds the Presidency of the Commission chairs the TCIA.
5. The TCIA has an advisory role. Its role is to assist and make recommendations to national regulatory authorities on any subject relating to interconnection and/or access in the **WAEMU/ECOWAS** zone and in particular concerning matters relating to interconnection and cross-border access.
6. It may also assist the **WAEMU/ECOWAS** in the following tasks, the list below not being exhaustive:
 - a. Implementation of a harmonized cost model for access to submarine or terrestrial bandwidth;
 - b. Implementation of the tariff observatory for interconnection and access to national and international capacities, which may be published by **WAEMU/ECOWAS**;
 - c. Establishing a list of relevant electronic communications markets susceptible to ex ante regulation within the **WAEMU/ECOWAS** zone;
 - d. Development of guidelines on market analysis and assessment of market dominance;
 - e. Development of any standard or recommendation in terms of access and interconnection.
7. The chairman of the TCIA summons the members of the TCIA to meetings and sets the agenda for these meetings.
8. The convocation, together with the agenda, and, where applicable, useful documents relating to it, are sent **at least fifteen (15) days** before the date of the meeting, by post, electronic mail or any other medium as specified in TCIA's internal rules of procedure. In cases of emergency, there is no time limit.
9. Depending on the topics on the agenda, the Chairman of the TCIA may invite any qualified person to participate in meetings;
10. The TCIA meets **at least once (01) a year** and as many times as necessary, on a motivated convocation by its chairman;
11. It adopts its rules of procedure at its first meeting;
12. The members of the TCIA shall ensure the confidentiality of facts, information or documents that come to their knowledge in the performance of their duties and for which it has been specified that they are of a confidential nature;
13. The secretariat of the TCIA is provided by the services of the Commission;

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

4.1.5 Section 2: General framework for regulation of access and interconnection

4.1.5.1 Article 69: Non-discrimination principle

1. The general regulatory framework for access and interconnection in Member States shall incorporate the general principles of Community regulations foreseen for the establishment of the West African common market, including non-discrimination between undertakings established in different States.
2. According to the obligations of non-discrimination, operators shall, inter alia, apply equivalent conditions in equivalent areas, and shall provide services and information to other parties under the same conditions and with the same quality as for their own services, or those of their subsidiaries or partners.

4.1.5.2 Article 70: Interconnection and competitive electronic communications market

1. The national regulations on interconnection and access shall respect the principles of free and fair competition. Accordingly, the regulations shall be conducive to elimination of obstacles to new operators and/or providers entering the market.
2. This regulation must rather be such as to increase the choice and quality of services available to consumers while allowing the regulator to ensure that the legal and contractual rules applicable to access and interconnection are applied effectively.

4.1.5.3 Article 71: Content of national regulations

The national regulations shall offer solutions to the difficulties encountered in implementing interconnection, in particular the following challenges and problems:

1. Compatibility of services and networks, including interoperability between interpersonal communications services for the sake of end-to-end connectivity between end-users;
2. Publication of reference interconnection offer (RIO);
3. Existence of guidelines for the negotiation of interconnection contracts;
4. Transparency of contracts;
5. Absence of discrimination between operators in granting access to interconnection services;
6. Level, structure and basis for calculating interconnection charges;
7. Interconnection quality;
8. Unbundling of network elements;
9. Availability of rapid and independent procedures for resolving disputes, and the means for enforcing the rules;

10. Possibility of consulting market players in order to reach a decision on a given regulatory or supervisory problem;
11. In justified cases, where end-to-end connectivity between end-users is endangered due to a lack of interoperability between interpersonal communications services, and to the extent necessary to ensure end-to-end connectivity between end-users, obligations on relevant providers of number-independent interpersonal communications services which reach a significant level of coverage and user uptake, to make their services interoperable.

4.1.5.4 Article 72: Harmonization of cost calculation methods

1. National regulatory authorities shall cooperate and coordinate their activities for the purpose of establishing and regularly updating a complete and harmonized methodology for calculating interconnection costs.
2. The aforementioned methodology shall establish in detail:
 - a. Relevant costs to be taken into account;
 - b. Structure of the cost calculation model;
 - c. Basic data to be incorporated into the model;
 - d. Cost of capital return assessment method;
 - e. Interpretation of model results

4.1.6 Section 3: Network interconnection and infrastructure access

4.1.6.1 Article 73: Network interconnection

1. Providers of public electronic communications networks are required to interconnect their networks with technically compatible public networks. To this end, any provider duly authorized to establish a public electronic communications network shall establish an interconnection between its network and at least one other public electronic communications network, in order to obtain directly or indirectly access to all of the other technically compatible public electronic communications networks.
2. The providers of public electronic communications networks shall accede, under objective, transparent and non-discriminatory conditions, to the requests for interconnection from other duly authorized public electronic communications network operators.
3. The interconnection request shall not be refused if it is reasonable in terms of the requesting party's requirement on the one hand, and the provider's capacities to meet it on the other hand. Any refusal to interconnect shall be substantiated and notified to the requesting party and to the national regulatory authority.
4. Undertakings obtaining information from other undertakings prior to, during or following the process of access or interconnection agreement negotiation shall use such information solely for the purposes foreseen when it was communicated and shall always respect the confidentiality of

information transmitted or retained. Any information received shall not be communicated to other parties, in particular other services, subsidiaries or partners for which they could constitute a competitive advantage.

4.1.6.2 Article 74: Access to points of interconnexion

1. Any reference interconnection offer by operators shall include a list of subscriber-serving exchanges that are not available to interconnection for valid technical or security reasons, along with the provisional timing according to which such subscriber exchanges will be open to interconnection.
2. However, when the forwarding of expected operators' traffic to or from subscribers connected to exchanges on the list mentioned in paragraph 1 above is justified, the operator shall be required, at the request of the national regulatory authority, to establish a transitional offer for that exchange.
3. Such a transitional offer shall allow the requesting provider to define a fee schedule that reflects the costs which, in the absence of technical access restrictions, would have been incurred for switching communications to or from, first, the subscribers connected to that exchange, and second, the subscribers who would have been accessible without the need for routing through a higher-echelon exchange.

4.1.6.3 Article 75: Access to infrastructure

1. Duly authorized electronic communications network operators and service providers in the same Member State or indifferent Member States shall be able to freely negotiate the technical and commercial arrangements for access to infrastructure, on fair and reasonable terms.
2. However, a network operator or service provider may request access or interconnection in a Member State only if it operates a network or provides electronic communications services in that Member State.
3. National regulatory authorities shall ensure the provision of adequate access services between the parties involved so as to promote efficiency and foster sustainable competition for the benefit of end-users.
4. National regulatory authorities shall adopt and make publicly available the applicable procedures for obtaining access to infrastructure, with a view to promoting maximum transparency in the sector.
5. Without prejudice to the measures that the national regulatory authority may take with regard to undertakings designated as having significant market power in accordance with the provisions of this Regulation.

4.1.7 Section 4: Competition

4.1.7.1 Article 76: Carrier selection

1. Carrier selection shall be introduced within Member States as a minimum in the call-by-call form, in order to facilitate effective competition and allow consumers to choose their local loop provider freely and have access to the services of an alternative provider. This selection possibility must be offered by all powerful undertakings. The powerful undertaking must be invited to make technical changes that are necessary to adapt its automatic exchanges so as to be able to offer call-by-call selection at the initial stage; this service must be included in the reference interconnection offer.
2. The national regulatory authority is empowered to assign prefixes to operators who fall within the category of carriers and make decisions on:
 - a. Type of carrier selection;
 - b. Operators eligible to act as carrier;
 - c. Operators subject to the obligation to offer carrier selection;
 - d. Types of calls carried;
 - e. Problems involved in carrier selection, such as invoicing and call line identification;
 - f. Unfair competition issues such as "Slamming".

4.1.7.2 Article 77: Infrastructure sharing

1. National regulatory authorities shall encourage the sharing of passive and active infrastructure and may, in the absence of viable and similar alternatives to access end-users, impose on operators of public electronic communications networks obligations relating thereto to meet reasonable demands. However, such sharing obligations should apply to active infrastructures only in cases where access to passive infrastructures and their sharing alone are not sufficient to allow fair access, particularly to end-users.
2. They shall encourage operators to provide access to civil engineering including, but not limited to, buildings or entries to buildings, building cables, including wiring, antennae, towers and other supporting constructions, poles, masts, ducts, conduits, inspection chambers, manholes and cabinets, given the high cost of their duplication. Without prejudice to remedies that they may impose on powerful undertakings in accordance with the provisions of Article 97 paragraph 2 of this Regulation.
3. The provisions of paragraph 1 above are without prejudice to the freedom for national regulatory authorities to choose the most appropriate sharing or access obligation while respecting the principle of proportionality, according to the nature of the problem to be addressed.
4. National regulatory authorities shall lay particular emphasis on the sharing of infrastructure between the incumbent operator and competing operators, on a commercial basis and under fair and reasonable conditions, particularly in places where access to such capacities is limited due to natural or structural obstacles.

5. With regard to infrastructures other than those intended for the provision of publicly available electronic communications services (alternative infrastructure), the other competent authorities shall have the powers referred to in this Article with regard to undertakings that deploy or operate such infrastructure. In this sense, these authorities shall take the necessary steps to adjust the status of any undertaking that provide access to alternative infrastructure, so as to include this service in their terms of reference.
6. National regulatory authorities and other competent authorities shall promote access to infrastructure as referred to in this Article on the basis of commercial negotiations and under fair and reasonable conditions, in order to promote the rapid development of a sustainable competitive market.
7. In consultation with the stakeholders, national regulatory and the other competent authorities shall develop procedures dealing with the relations between public electronic communications network operators and undertakings providing the infrastructure referred to in this Article, as regards the infrastructure sharing conditions, in particular those relating to leadtimes and access to the information needed to put it into place.
8. The sharing referred to in this Article also concerns aspects of coordination of civil engineering works during infrastructure deployment both in the electronic communications sector (intra-sectoral coordination) and beyond the latter to get other sectors involve (intersectoral coordination). National regulatory and other competent authorities may impose obligations also in this regard to meet reasonable requests for access to and use of civil engineering.

4.1.7.3 Article 78: Number portability

1. Number portability shall be guaranteed within Member States. To this end, national regulations must allow consumers to keep their phone numbers when they switch service providers.
2. Without prejudice to the provisions of this Regulation concerning the protection of the rights of consumers in relation to number portability.

4.1.7.4 Article 79: National roaming

1. The national regulatory authority shall ensure that existing operators offer national roaming service to operators who request it, at affordable prices, wherever it is technically possible to do so. However, national roaming must in no event replace the coverage obligations undertaken by new entrants as part of their market entry in accordance with the applicable regime.
2. The national roaming contract shall be freely negotiated between operators on the bilateral basis and operators shall provide consumers with relevant information about national roaming tariffs.
3. The national regulatory authority shall ensure that national roaming offers are fair and non-discriminatory.
4. The national regulatory authority shall publish specific national roaming guidelines to help establish tariff and technical conditions as well as information on national roaming contracts, in consultation with market players.

4.1.7.5 Article 80: International roaming

1. National regulatory authorities shall be in position to:
 - a. ensure the widest possible compatibility between mobile systems in terms of roaming, and take it into consideration when allowing entry in the mobile market in the region;
 - b. study roaming prices charged in the region;
 - c. consult with the players concerned with a view to arriving at reasonable tariffs allowing the greatest possible number of roaming users in the region to utilize the networks under the best price and quality conditions;
 - d. identify operators engaged in applying prohibitive tariffs;
 - e. consult with the national competition authorities in each Member State, where one exists;
 - f. allow prepaid subscribers to use roaming at reasonable tariffs;
 - g. inform customers about roaming charges in a clear, transparent and detailed manner;
 - h. draw the necessary lessons from international practice.
2. Particular emphasis shall be laid on Community roaming. To this end, operators of mobile electronic communications networks established in one of the Member States should not be paying excessive prices, in comparison with competitive national prices, when using wholesale roaming services in the **Union / Community**. This requirement also applies to all wholesale mobile electronic communications services originating and terminating in a Member State, whatever their nature.
3. National regulatory authorities shall observe the following requirements:
 - a. They shall facilitate development of a harmonized legal and pricing mechanism for wholesale services relating to Community roaming;
 - b. Such mechanism also includes the setting of wholesale prices for regulated Community roaming services across the **Union / Community**, with a view to abolishing wholesale roaming surcharges without distorting the domestic or visited markets;
4. Without prejudice to relevant provisions of the relevant legal and regulatory framework which must be compatible with Community law.

4.1.7.6 Article 81: Handling the specific issue of fixed-to-mobile call termination

National regulatory authorities shall examine:

1. interconnection and call termination charges on mobile and fixed networks;
2. charges and tariff structures, retail and interconnection prices and the sharing of revenues between originating and terminating operators for fixed-to-mobile call;
3. possible adjustments to the tariff structures of retail and interconnection prices.
4. the relevance of the interconnection market;
5. the relevance of the mobile termination market

6. the identification of powerful undertakings in these markets and implementation of the necessary measures to promote smooth development of the electronic communications market and the process of liberalization of fixed network in particular.

4.1.7.7 Article 82: Evolution of the regulatory framework to promote the development of the internet

Member States must ensure that:

1. alternative operators and/or providers, through unbundling, are able to offer “triple play” type services (broadband internet, voice and television);
2. all the equipment of alternative operators and/or providers necessary for the implementation of the local loop access can be co-located;
3. national regulatory authorities encourage activities that will promote the development of the wholesale market and hence rapid expansion of the internet in Member States;
4. prior to liberalization of fixed services, the national regulatory authorities negotiate with the incumbent operators on the inclusion of standard offers, namely:
 - a. flat-rate access offers;
 - b. access offers via non-geographical free phone numbers; and
 - c. access offers via non-geographical paying numbers.

4.1.8 Section 5: Interconnection agreements

4.1.8.1 Article 83: Legal regime of interconnection agreements

1. Interconnection is the subject of a private law agreement, commonly known as the interconnection contract, between the two parties concerned. This agreement shall specify, subject to the applicable legislation and regulations, the technical and financial conditions pertaining to the interconnection. Upon signature, it shall be communicated to the national regulatory authority.
2. When indispensable in order to guarantee fair competition, non-discrimination between operators and/or providers or the interoperability of services and networks, the national regulatory authority may request the parties to modify the interconnection agreement. In such case, it shall send the parties concerned a duly substantiated request. The parties concerned shall have a period of **one (01) month**, as from the date of request for modification, to amend the interconnection agreement.
3. The national regulatory authority may, either on its own initiative or at the request of one of the parties, set a deadline for signature of the agreement. After this deadline, it must intervene to bring the negotiations to a conclusion so that negotiations do not become a barrier to the entry of new operators and/or providers.
4. Operators and/or providers which so request must be allowed to consult, in the offices of the national regulatory authorities, in the manner that the latter shall decide and respecting normal business confidentiality, the interconnection contracts concluded by operators.

5. Where the national regulatory authority considers it is urgent to take action in order to safeguard competition and protect the interests of users, it may request that interconnection between the two networks be provided immediately, pending conclusion of the agreement.

4.1.8.2 Article 84: Content of interconnection agreements

The interconnection agreements shall specify, inter alia:

1. the date of entry into force, duration and arrangements for the modification, termination and renewal of the agreement;
2. arrangements for the establishment of the interconnection and the planning of subsequent developments, level of quality of service guaranteed by each network, coordination measures for monitoring quality of service, and fault identification and clearance;
3. a description of the services provided by each of the parties;
4. arrangements for measuring traffic and setting fees for services, billing and settlement procedures. In the absence of a reference interconnection offer or for services not appearing in the reference interconnection offer, the applicable tariffs shall appear in the annex to the agreement;
5. notification procedures and the contact details of the authorized representatives of each of the parties for each field of competence;
6. rules for compensation in the case of failure by one of the parties;
7. dispute settlement procedures with mention, in the case of failure of negotiations between the parties, of mandatory recourse to the national regulatory authority.

4.1.8.3 Article 85: Verification by the national regulatory authority

1. The national regulatory authority shall ensure that:
 - a. the agreement complies with the applicable legal and regulatory texts, in particular those provisions relating to interconnection and terms of reference of operators;
 - b. the provisions of the agreement contain no discriminatory measures liable to advantage or disadvantage one of the parties vis-à-vis other network operators or service providers. For this purpose, the agreement shall be compared with other agreements involving at least one of the parties;
2. Where the national regulatory authority has not formulated a request for modification **within six (06) months** as from receipt of the interconnection agreement, requests for modification shall cover only those amendments aimed at guaranteeing that each party receives no worse treatment in terms of non-discrimination as compared to those offered in more recent agreements by the other party.

4.1.8.4 Article 86: Infrastructure access agreement

The provisions of this section shall apply mutatis mutandis to agreements on access to the infrastructure of a public electronic communications network operator by other duly authorized electronic communications network operators and services providers.

4.1.9 Section 6: Specific obligations of powerful undertakings in a relevant market

4.1.9.1 Article 87: Powerful undertaking on a relevant market

1. An undertaking shall be deemed to be dominant within the meaning of this Regulation on the market for a service or group of electronic communications services if it holds at least 25% of market share. The following elements may also be considered:
 - a. The provider's ability to influence market conditions;
 - b. Its turnover in relation to the size of the market;
 - c. The control it exercises over the means of access to the end-user;
 - d. Its experience in providing service to the market.
2. When assessing whether two or more undertakings are in a joint dominant position in a market, national regulatory authorities shall act in accordance with existing relevant **Union/Community** law and take into the utmost account the guidelines on market analysis and the assessment of significant market power published by the Commission under paragraph 2 of Article 88 below.
3. An undertaking with significant market power on a specific market may also be designated as having significant market power on a market closely related to that specific market where the links between the two markets allow the undertaking concerned to leverage into the closely related market the power held in the specific market, thereby strengthening its market power.
4. Each national regulatory authority draws up an annual list of powerful undertakings in the interconnection market.

4.1.9.2 Article 88: Identification of relevant markets and of significant market power on a relevant market

1. National regulatory authorities shall determine the relevant markets. To this end, they:
 - a. collect information about each identified market so as to measure the extent of dominance;
 - b. consult the concerned the electronic communications market players regarding market relevance for the purpose of analyzing those markets;
 - c. seek the advice of the competition authority, where one exists;
 - d. define the criteria for measuring dominance;
 - e. consult with the players in the electronic communications market about obligations to be imposed on powerful undertakings for each relevant market.
2. The Commission shall publish the following:

- a. decisions of the individual Member States in question;
 - b. guidelines for market analysis and assessment of market power;
 - c. a recommendation on relevant markets for products and services in the electronic communications sector, the characteristics of which may justify the imposition of regulatory obligations dealt with in this Regulation, in particular the application of ex ante regulation. The markets are defined in accordance with the principles of **Union/ECOWAS** competition law.
3. The Commission shall take the measures referred to in paragraph 2 above after public consultation including with national regulatory authorities and taking the utmost account of the opinion of any sub-regional regulatory coordination body of national regulatory authorities as referred to in Article 40 of this Regulation.
4. Each national regulatory authority shall analyze the markets in order to determine whether or not they are effectively competitive, to determine the individual or collective power of operators and/or providers and to draw the necessary conclusions in terms of regulatory obligations to be imposed.
5. Following these analyzes, the national regulatory authority proceeds as follows:
- a. If the analysis shows that the market is competitive, it shall abolish any existing obligations;
 - b. Otherwise, the Authority shall identify the powerful undertaking or powerful undertakings as specified in Article 88 above, within the meaning of competition law, and imposes appropriate specific regulatory obligations as provided for in this Regulation;
 - c. While determining the regulatory measures to be imposed, the national regulatory authority shall choose the least intrusive way to remedy the problems identified in the market analysis, in strict compliance with the principle of proportionality.
6. National regulatory authorities shall regularly review existing market analyzes and the resulting regulatory obligations to take into account developments in the electronic communications market at national and sub-regional level. However, the reviews referred to in this paragraph must be carried out **no later than within four (04) years** from the previous decision.

4.1.9.3 Article 89: Cost accounting obligation

1. National regulatory authorities may require powerful undertakings to set up cost accounting for the purpose of regulation. Cost accounting must show separate accounts, in accordance with international best practice. It is further recommended that the costs relating to regulated and non-regulated activities be kept separated.
2. Accounting must be by activity (“activity-based costing” – ABC).
3. The cost accounting system must be audited annually by an independent body appointed by the national regulatory authority, the costs of the audit to be borne by the powerful undertaking. It must allow the national regulatory authority to publish a cost nomenclature prior to submission of the reference interconnection offer for approval.
4. Pending the implementation of cost accounting, interconnection rates must be calculated on the basis of the following recommendations:

- a. Use of a regional benchmark;
- b. Use of an existing cost calculation tool;
- c. For Member States that have audited cost accounting, a top-down model based on forward-looking historical costs may be used initially (e.g. for three years) before moving to a model based on long-run incremental costs (LRIC), thereby giving the powerful undertaking an incentive for greater efficiency.
- d. For setting the appropriate rate of return based on the cost of capital, it is recommended to use market data.
- e. For calculating the cost of equity, it is recommended to use the hybrid CAPM (Financial Asset Pricing Model) method, incorporating the country risk and corrective coefficient **R**.

4.1.9.4 Article 90: Reference interconnection offer

1. The powerful undertaking may be required to publish and update annually a reference interconnection offer, reflecting its price list and the technical services offered.
2. The offer must contain at least the following services:
 - a. services for the routing of switched traffic for destinations served by the network (call termination and origination);
 - b. Rental of transmission capacities on urban, interurban and international links of the network (leased lines)
 - c. Interconnection links;
 - d. Supplementary services and arrangements for providing these services, in particular the provision of premises, underground conduits, antenna supports and energy sources;
 - e. Description of all the interconnection points and the conditions of access thereto, for the purpose of physical co-location;
 - f. Comprehensive description of proposed interconnection interfaces, including the signaling protocol and possibly the encryption methods used for the interfaces;
 - g. Technical and tariff conditions for the selection of the carrier and portability;
 - h. Presentation of the methods of implementing the interconnection, in particular with regard to the procedure for submitting requests, the establishment leadtime, supervision of the interconnection, measurement of traffic, etc.
3. Offers must be as detailed as possible in order to facilitate and smooth interconnection contract negotiations. In particular, they shall be sufficiently unbundled so as to enable undertakings to pay only for facilities that are necessary for the service requested.
4. A provider may not refuse to accede to an interconnection request based on its reference interconnection offer (RIO) if this request is reasonable with regard to the needs of the requester.
5. The minimum offer may be supplemented by offers for additional services.

4.1.9.5 Article 91: Approval of the national regulatory authority

1. The reference interconnection offers (RIO) of powerful undertakings shall be subject to the prior approval of the national regulatory authority. The latter shall ensure compliance with applicable legal and regulatory obligations, amongst others:
 - a. It shall ensure that the RIO complies with the provisions relating to interconnection and terms of reference of operators and service providers, in particular with regard to content of the RIO and cost-orientation of tariffs;
 - b. It shall ensure that the provisions of the RIO do not contain any discriminatory measures likely to favor or disadvantage one of the parties over other operators or service providers. To this end, a comparison is made between the RIO and other RIOs involving at least one of the parties.
2. National regulatory authorities shall publish a clear and transparent procedure governing approval of the RIO of powerful undertakings.
3. National regulatory authorities may request the powerful undertaking to add or modify the services set out in its offers, when such additions or modifications are justified for compliance with the principles of non-discrimination and cost orientation of interconnection tariffs.
4. If the national regulatory authority has not formulated any modification request **within six (06) months** of receipt of the interconnection agreement, the modification requests referred to in paragraph 3 above can only relate to adaptations aimed at guaranteeing one of the parties a non-discriminatory treatment with regard to more recent agreements involving the other party.
5. National regulatory authorities may impose transparency obligations in line with international best practices.
6. As soon as the fixed network services have been opened up to competition, the RIO of powerful undertakings must also contain the following services:
 - c. Third-party billing services;
 - d. At the request of the national regulatory authority, an alternative co-location offer if physical co-location is proven to be technically unfeasible;
 - e. As needed, the technical and financial conditions governing access to the resources of the powerful undertaking, in particular those relating to the unbundling of the local loop, with a view to offering electronic communications services.

4.1.9.6 Article 92: Publication of a reference interconnection offer

1. Powerful undertakings are required to communicate their reference interconnection offer to any operator that so requests. This communication can be made electronically.
2. The reference interconnection offers approved by the national regulatory authority shall be made available on the websites of powerful undertakings and shall be accessible by a web link available on the website of the national regulatory authority.

4.1.9.7 Article 93: Relevant cost orientation

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

4.1.9.8 Article 94: Harmonization of cost calculation methods

As part of the sub-regional regulatory coordination as referred to in Article 40 of this Regulation, national regulatory authorities shall organize and coordinate their work with a view to defining and periodically updating a complete and harmonized methodology for calculating interconnection costs. This methodology shall define in detail:

1. Relevant costs to be taken into account;
2. Structure of the costing model;
3. Basic data to be incorporated into the model;
4. Method of evaluating the cost of capital;
5. Interpretation of the model results.

4.1.9.9 Article 95: Monitoring of interconnection tariffs

1. Powerful undertakings shall attach to the draft reference interconnection offer submitted to the national regulatory authority a detailed presentation justifying the main tariffs proposed. Once the harmonized method for calculating interconnection costs has been adopted by national regulatory authorities as part of the sub-regional regulatory coordination as referred to in Article 40 of this Regulation, powerful undertakings shall use it in order to provide the requested justification.
2. The national regulatory authority shall ensure that the methods and data used are valid. As required, it shall request the powerful undertaking to adjust its calculations to rectify errors identified.
3. Should a powerful undertaking fail to provide the justification required, the national regulatory authority may in the undertaking's instead evaluate the costs based on the information available to it.

4. National regulatory authorities shall ensure that tariff setting for access and interconnection insofar as powerful undertakings are concerned is cost-oriented and, as appropriate, that the fees payable by the consumer are not dissuasive.

4.1.9.10 Article 96: Communication of information to the national regulatory authority

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

4.1.9.11 Article 97: Access to infrastructure of powerful undertakings

1. Where there are reasonable demands in the market, national regulatory authorities, with a view to facilitating the development or strengthening of a sustainable competitive market that benefits the end-user, may impose on powerful undertakings obligations relating to access to infrastructure that are not easily replicable and whose reuse can generate significant savings.
2. While exercising their powers pursuant to paragraph 1 above, national regulatory authorities shall give pride of place to access to civil engineering including, but not limited to, buildings or entries to buildings, building cables, including wiring, antennae, towers and other supporting constructions, poles, masts, ducts, conduits, inspection chambers, manholes and cabinets, given the high cost of their duplication.
3. Operators with an internet network access node shall include in their reference access offer an offer to service providers for connecting to this node. The tariff depends on the subscribed transmission rate.
4. The provisions of Articles 90 to 96 above shall apply mutatis mutandis to reference access offers in respect of infrastructures of powerful undertakings to duly authorized electronic communications service providers. These offers shall include, at a minimum:
 - a. A technical offer for routing traffic between the service provider and its customers. This offer shall specify in particular the interconnection points accessible to service providers;
 - b. A tariff offer for the routing of switched traffic. This offer shall provide for cases of collection of the services provider's remuneration by the network operator and total or partial payment by the service provider for communications. It may include decreasing prices depending on the volume of traffic;

- c. A technical and tariff offer for the rental of transmission capacity on the urban, interurban and international links of the network, with a view to creating interconnection links between the provider's site and the nearest interconnection point.

4.1.9.12 Article 98: Local loop unbundling

1. In order to promote sustainable competition in the provision of quality services to subscribers, the national regulatory authority may impose obligations on powerful undertakings relating to the unbundling of the local loop. New entrants are entitled to access the local loop of powerful undertakings on the basis of a pre-established schedule.
2. The new entrant commits, in their respective proposals, to install some minimum infrastructure capacity, whereas powerful undertakings commit to provide the new entrant with access to the copper pairs as well as the possibility of co-location in its premises in order to facilitate unbundling.
3. The unbundling offer including the list of services offered at the request of the national regulatory authority shall be approved by the latter.
4. The national regulatory authority shall be obliged to ensure, on the one hand, that the new entrant has access to relevant information related to unbundling for unbundling purpose and, on the other hand, such information is exchanged between powerful undertakings and competitors. A schedule for unbundling shall be established with a view to liberalization of fixed communications, privileging unbundling with shared line access initially.
5. The national regulatory authority shall provide recommendations on the use of the "price squeeze" test to compare retail prices and unbundling prices to eliminate anti-competitive practices by powerful undertakings.

4.1.9.13 Article 99: Co-location

1. Powerful undertakings may be required to provide the co-location. To this end, they shall ensure that a co-location offer that presents no barrier to entry of competitors is included in the reference interconnection offer and in the unbundling offer.
2. Where physical co-location is impossible for some valid reason, such as lack of space, the powerful undertakings shall make an alternative co-location offer;
3. The national regulatory authority shall have a "map" of self-contained routing switches that are open to interconnection and are available for competitors' co-location. To this end, a working group composed of the national regulatory authority, the incumbent operator and alternative operators, shall, in a fully transparent way, examine the problems of co-location and propose different solutions in order to solve problems that may arise. The industry could be involved in this group so as to bring its technical expertise to bear;
4. The national regulatory authority shall work in advance on problems relating to access to premises, uninterrupted power, cooling and patch cable.
5. The national regulatory authority shall prevent the creation of any entry barriers inherent to co-location and provide solutions to conflicts relating to it as rapidly as possible.

6. The national regulatory authority shall establish a decision on the minimal set of conditions that must be fulfilled in any co-location offer, following consultation with operators of public electronic communications networks. These conditions may lead to the specification, in any co-location offer, of the following aspects:
- a. Information on co-location sites;
 - b. Precise locations of the provider's sites suitable for co-location;
 - c. Publication or notification of an updated list of sites;
 - d. Indications as to the availability of alternative solutions in the event that physical space for co-location is not available;
 - e. Information on what types of co-location are available, and on the availability of electric systems and cooling equipment on the sites, as well as the rules governing sublease of the co-location premises;
 - f. Indications on the time required to conduct feasibility studies for any co-location request;
 - g. Information on equipment characteristics and any restrictions on equipment that can be accepted for co-location;
 - h. Measures to be taken by operators offering co-location to ensure the security of their premises and to identify and resolve problems;
 - i. Conditions under which the personnel of competing operators may enter the premises;
 - j. Conditions under which competing operators and the regulator may inspect a site where physical co-location is impossible, or a site where co-location has been refused on the grounds of lack of capacity.

4.1.10 Section 7: Settlement of dispute

4.1.10.1 Article 100: Obligations of national regulatory authorities

National regulatory authorities shall:

1. publish a referral procedure complying with that described in Article 101 below, enabling market players to bring disputes before the national regulatory authority in accordance with a clear and transparent procedure;
2. ensure that the committee responsible for taking decisions is impartial, and comprises persons recognized for their competence and appointed *intuitu personae*;
3. set a maximum timeframe for the settlement of disputes;
4. provide for the possibility for the authority initiating a referral action itself, and the possibility of injunction against an operator or a provider in the event of serious problems requiring urgent solution;

5. cooperate as widely as possible and establish a group for exchanging experience via the internet and a database of past disputes and their solutions.

4.1.10.2 Article 101: Dispute resolution procedure

1. Disputes relating to the refusal to interconnect, interconnection agreements and conditions of access are brought before the national regulatory authority.
2. The national regulatory authority shall render a decision within a period of **three (03) months**, after having invited the parties to present their remarks. This period may nevertheless be extended to **six (06) months** when additional investigations and expert opinions are required. The decision shall be substantiated, and shall specify the equitable conditions, both technical and financial, under which the interconnection is to be effected. Matters remaining in dispute shall be brought before the competent jurisdiction.
3. In the case of serious and blatant breach of the rules governing the electronic communications sector, the national regulatory authority may, after inviting the parties to submit their remarks, order appropriate provisional measures to be taken to ensure the continued functioning of networks and services.

4.2 Chapter II: Access to public and private land

4.2.1 Article 102: Rights of way

1. This Article applies to rights relating to the following aspects:
 - a. Installation of facilities on, over or under public or private property by an undertaking authorized to provide public electronic communications networks;
 - b. Installation of facilities on, over or under public property to an undertaking authorized to provide electronic communications networks other than to the public.
2. When a competent authority considers an application for the granting of rights referred to in paragraph 1 above, that competent authority shall comply with the following requirements:
 - a. That authority shall act on the basis of simple, efficient, transparent and publicly available procedures, applied without discrimination and without delay, and in any event makes its decision **within six (06) months** of the application, except in the case of expropriation; and
 - b. When it attaches conditions to any such rights, the authority shall follow the principles of transparency and non-discrimination.
 - c. The authority shall implement streamlined and flexible procedures to facilitate rapid deployment of networks and services so as to promoting innovation and economic growth.
3. The procedures referred to in paragraph 2 above may differ depending on whether the applicant is providing public electronic communications networks or not
4. Where public or local authorities retain ownership or control of undertakings providing public electronic communications networks or publicly available electronic communications services,

there shall be an effective structural separation of the function responsible for granting the rights referred to in paragraph 1 from the activities associated with ownership or control.

4.2.2 Article 103: Fees for rights of way

1. In order to ensure the optimal use of available resources, Member States may allow the competent authority to impose fees for the rights referred to in Article 102 above.
2. However, such fees shall be objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and shall take into account the general objectives of this Regulation.

4.2.3 Article 104: Sharing of network elements and co-location

1. This Article applies to co-location and sharing of network elements and associated facilities set up by an operator on the basis of the right exercised under national law to install facilities on, over or under public or private property or as a result of a procedure for the expropriation or use of property.
2. In order to protect the environment, public health, public security or to meet town- and country-planning objectives, competent authorities may impose co-location and sharing of the network elements and associated facilities that were installed on the following basis:
 - a. The operator concerned has exercised the right under national law to install facilities on, over or under public or private property; or
 - b. The operator concerned has taken advantage of a procedure for the expropriation or use of property.
3. Co-location or sharing of network elements and facilities installed and sharing of property are subject to the following requirements:
 - a. They may be imposed only after an appropriate period of public consultation, during which all interested parties shall be given an opportunity to express their views, and
 - b. They may be imposed only in the specific areas where such sharing is considered to be necessary with a view to pursuing the objectives provided in the paragraph 1 of the present Article.
4. Competent authorities may impose following measures:
 - a. The sharing of such facilities or property, including land, buildings, entries to buildings, building wiring, masts, antennae, towers and other supporting constructions, ducts, conduits, manholes, cabinets, or
 - b. Measures facilitating the coordination of public works.
5. Where necessary, a Member State may designate a national regulatory or other competent authority for one or more of the following tasks:
 - a. coordinating the process provided for in this Article;
 - b. Acting as a single information point;

- c. Setting down rules for apportioning the costs of facility or property sharing and of civil works coordination.
6. Measures taken by a competent authority in accordance with this Article shall be objective, transparent, non-discriminatory, and proportionate. Where relevant, these measures shall be carried out in coordination with the national regulatory authorities.

4.3 Chapter III: Access to radio frequency spectrum

4.3.1 Section 1: Purpose of this Chapter

4.3.1.1 Article 105: Purpose

1. The objective of this Chapter is to establish a framework of guidelines and legal provisions within **WAEMU/ECOWAS** in order to ensure policy coordination and, where appropriate, the harmonization of conditions with respect to the availability and efficient use of the radio frequency spectrum necessary for the establishment and functioning of the internal market in the field of electronic communications in the **WAEMU/ECOWAS** zone.
2. To that end, this Chapter establishes procedures with a view to the following:
 - a. Facilitate the defining of policies in terms of strategic planning and harmonization of the use of the radio spectrum in the **WAEMU/ECOWAS** zone, taking into account in particular the economic, security, health, public interest and freedom of expression, cultural, scientific, social and technical aspects of Community policy, as well as the different interests of communities of radio spectrum users, with a view to optimizing the use of radio spectrum and eliminating harmful interference;
 - b. Ensure the effective implementation of the radio spectrum policy within **WAEMU/ECOWAS** and, in particular, establish a general methodology for ensuring the harmonization of conditions relating to the availability and efficient utilization of the radio spectrum;
 - c. Assure the coordinated and timely dissemination of information on the allocation, availability and utilization of radio spectrum within **WAEMU/ECOWAS**.

4.3.1.2 Article 106: Radio frequency spectrum management

Member States shall ensure coordinated management of the radio frequency spectrum within the **WAEMU/ECOWAS** zone, on the basis of the following objectives:

1. Economic efficiency:
 - a. Ensuring that the allocation of frequencies to users, having regard to the uses, results in the market in higher value being derived from the resource;
 - b. Ensuring that there is a swift and flexible response to changing markets and technologies, with new services being accommodated as they become technically and commercially viable; and,
 - c. Minimizing transaction costs, barriers to entry and any other constraints on efficient economic activity.

2. Technical efficiency:
 - a. Assuring intensive use of limited spectrum, and adherence to technical limitations based on interference considerations; and
 - b. Promoting the development and introduction of new spectrum-saving technologies where the cost of such technologies is justified by the value of the spectrum saved.
3. General policy:
 - a. Ensuring that management is consistent with overall government policy;
 - b. Safeguarding certain areas of spectrum use for the efficient functioning of national defense, emergency services and other public services, and
 - c. Ensuring that any change in spectrum use in **a WAEMU/an ECOWAS** Member State always remains consistent with international and regional obligations of Member States.

4.3.2 Section 2: General principles

4.3.2.1 Article 107: Definition of a common framework for spectrum management in the **WAEMU/ECOWAS** zone

1. Member States shall define a common framework for economically efficient spectrum management with a view to meeting the objective of liberalizing the electronic communications market within **WAEMU/ECOWAS**.
2. They shall ensure that national regulatory authorities implement harmonized spectrum allocations in accordance with the ITU Radiocommunication Conference process and promote innovative uses of spectrum to support the national interest of each country.

4.3.2.2 Article 108: Principles of efficient spectrum management

Member States shall ensure that all classes of users are encouraged to make optimum use of the spectrum they occupy.

4.3.2.3 Article 109: Spectrum pricing

1. In order to ensure the optimal use of available resources, Member States may allow the competent authority to impose fees for the rights of use of radio spectrum.
2. However, such fees shall be objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and shall take utmost account of the general objectives of this Regulation. Member States shall ensure that applicable fees are set at a level that ensures efficient assignment and use of radio spectrum.
3. Member States shall adopt frequency pricing system in cases where demand is greater than supply and neither frequency auctioning nor frequency trading is used. Determination of the price calculation method, which is generally based on spectrum opportunity costs, may also take account of any objectives defined by the State.

4. Member States shall ensure that in the majority of frequency bands where demand is greater than supply, they follow the principle of a positive price for spectrum access where there are other potential uses for a given block of spectrum, i.e. where the opportunity cost is greater than zero. Where demand does not exceed supply, the price may be equal to the administrative costs or to a value consistent with government policy.

4.3.2.4 Article 110: Auctions

Where demand is greater than supply, Member States shall make preferential use of auctions as a means for assigning major rights of spectrum utilization to competing applicants, in the interest of ensuring transparency, objectivity and impartiality in the transfer (or assignment) process.

4.3.2.5 Article 111: Service restrictions

Member States shall ensure that spectrum management bodies in the **WAEMU/ECOWAS** countries make every effort to keep license conditions to the minimum necessary to ensure efficient spectrum use. To this end, existing licenses should be amended to remove restrictions not needed for reasons of international coordination or interference management, and the new licenses must be issued with as few restrictions as possible.

4.3.2.6 Article 112: Spectrum use authorization

1. In the interest of greater flexibility and as an aid to economic development, Member States shall meet the requirements of this Article to facilitate the use of the radio frequency spectrum.
2. Member States shall facilitate the use of radio spectrum, including shared use, is subject to individual licensing only in cases where this is necessary to maximize spectrum efficiency and/or demand is greater than supply.
3. In all other cases, they may adopt a system of generic licenses for frequency usage within certain frequency ranges or establish the conditions for the use of the radio spectrum in a general authorization.

4.3.2.7 Article 113: Conformity with the global and regional regulatory framework

Member States shall manage spectrum in ways that promote flexibility while remaining consistent with ITU international allocations.

4.3.3 Section 3: Principles of radio spectrum management

4.3.3.1 Article 114: Coordination of spectrum management across civil and government uses

1. Member States shall establish a framework, which permits the efficient coordination of all spectrum use, at the national, regional and international levels.
2. Member States shall promote the merging of separate regulatory bodies dealing with spectrum use in the broadcasting and electronic communications spheres.

3. Where government's requirements for a particular frequency band are zero or negligible, such spectrum may be permanently allocated to civil uses, following a final renunciation by the government.

4.3.3.2 Article 115: Role of national regulatory authorities

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

4.3.3.3 Article 116: Radio Frequency Spectrum Coordination Committee

1. Those Member States that manage the radio frequency spectrum according to the *multijurisdictional model* shall establish an inter-departmental committee to facilitate efficient spectrum coordination. Such committee shall have the following rules of operation:
 - a. The committee shall, in the first instance, establish a policy agenda and guidelines for regulation;
 - b. The committee shall comprise members of key government agencies involved in spectrum management, as well as key non-governmental stakeholders;
 - c. Official records shall be kept of the meetings of the committee and be made public, except where this may compromise national security interests;
 - d. Government representatives on the committee shall be appointed by a high-level member of government for a **period not exceeding five (05) years, renewable only once (01)**;
 - e. The members of the committee shall elect a Chairman amongst themselves, who shall remain in that function for a period not exceeding **two (02) years**;
2. Member States that establish such a Committee shall ensure that it also includes members from the private sector and civil society, chosen from a list of applicants drawn up pursuant to an open public selection process. Their committee memberships shall not exceed **three (03) years**.
3. The committee shall not exceed **twelve (12)** members, including the Chairman.
4. Member States shall ensure that the committee is obliged to publish an annual report, to be communicated to the government and published on the committee's website. The committee shall also publish all its work and all other relevant material, subject to a confidentiality clause, on a dedicated website. The website of each participating governmental committee member's department should contain a link to the committee's website.
5. Two members of each national committee shall be nominated to sit on a regional committee comprising members from all Member States. The regional committee shall meet **once (01) a**

year, in one of the countries of the region, to discuss matters of international relevance in the context of spectrum management and matters of mutual interest.

4.3.3.4 Article 117: Regional Spectrum Management Coordinating Committee

1. A special **WAEMU/ECOWAS** committee comprising the spectrum management bodies of each Member State shall be established, with the task of defining a common approach for spectrum management.
2. The committee shall examine the spectrum assignments and allocations of Member States and recommend a harmonized policy for promoting the provision of broadband wireless access services across the region. The committee shall report its findings by the **end of June 2007**.

4.3.4 Section 4: Harmonization of documentation and monitoring use at regional level

4.3.4.1 Article 118: Common framework for documenting and monitoring spectrum use

1. Member States establish, possibly under the auspices of **WAEMU/ECOWAS**, a common methodology for documenting and monitoring spectrum, sharing as necessary the costs of developing a software tool for that purpose.
2. Member States shall likewise promote the establishment, under the auspices of **WAEMU/ECOWAS**, of a forum bringing together those responsible for spectrum management for the following purposes:
 - a. Exchanging information and experiences to foster the harmonization of spectrum management rules;
 - b. Preparing common positions to be presented to regional, then global bodies;
 - c. Pooling existing expertise.

4.3.4.2 Article 119: Common framework for a public database and establishment of a national allocation table for interference management

Member States shall:

1. establish a common framework for developing a public database of technical and locational information about radiocommunication systems;
2. provide, in the near future, the data necessary to define a common template for the establishment of a national frequency allocation table in each country.

4.3.4.3 Article 120: Promotion of deployment in specific 5G bands

1. In order to facilitate the deployment of electronic communications networks and services in specific 5G bands, Member States must reach agreement **by 31 December 2022** on harmonized spectrum bands for 5G. To this end, they plan to use the globally harmonized spectrum to maximize the efficient use of the available spectrum, taking utmost account of the relevant

decisions of the 2019 World Radiocommunication Conferences (WRC-19) for the upper bands, as well as those of WRC-07 and WRC-15 for the lower bands.

2. In order to be able to meet the fairly diversified requirements of the different usage scenarios envisaged for 5G, Member States shall ensure that terrestrial systems capable of providing wireless broadband services are authorized to use both low, high and very high frequencies, subject to compliance with the regulations in force governing spectrum use.
3. Member States shall also ensure that their decisions support the momentum of convergence between television broadcasting networks and 5G systems.
4. Member States may, however, extend the deadline laid down in paragraph 1 of this Article, where justified, inter alia, under the following circumstances:
 - a. Lack of market demand for the use of identified frequency bands as established by the finding of a public consultation;
 - b. Unresolved cross-border coordination issues resulting in harmful interference between Member States;
 - c. Restriction to the use of identified frequency bands based on the general interest objective;
 - d. Unresolved cross-border coordination issues resulting in harmful interference with third countries;
 - e. Imperatives of safeguarding national security and defense;
 - f. Force majeure.
5. In order to facilitate the agreement provided for in paragraph 1 of this Article, Member States shall ensure the technical migration of existing users of the frequency bands identified **by 31 June 2022**.

4.4 Chapter IV: Access to submarine cable landing stations

4.4.1 Article 121: Scope

1. This Chapter applies to the following aspects:
 - a. To operators of submarine cable landing stations in a Member State. To this end, any undertaking that operates a submarine cable landing station (CLS operator) is considered to be an operator;
 - b. Access to the broadband capacities available on the submarine cable(s) landing at the submarine cable stations operated by undertakings considered to have significant market power (powerful CLS operator) according to Article 87 of this Regulation. The entity controlling at least one cable landing station in a Member State or the entity as defined in the aforementioned Article 87, shall be deemed to have a significant market power on the market.
2. The provisions of this Chapter shall apply without prejudice to the right of Member States to maintain or introduce, in compliance with **WAEMU/ECOWAS** rules, measures that contain more

detailed provisions than those appearing in this Chapter, and/or that do not fall within the scope of this Chapter, in particular as regards other types of access to local infrastructures.

3. The relevant provisions of this Regulation relating to market entry shall apply to access to submarine cable landing stations, subject to the specific provisions of this Chapter.
4. For the purposes of this Chapter, the following terms and expressions shall have the meaning indicated as follows:
 - a. **CLS-RIO**: Reference interconnection offer for submarine cable landing stations;
 - b. **Co-location**: Facilities and resources (including construction space, energy, environmental, security and maintenance services) provided by the CLS operator to an eligible operator;
 - c. **Virtual co-location**: Any arrangement meeting the criteria as listed below:
 - i. A connection to the cable landing station by a link between the remote or virtual co-location point and the cable landing station;
 - ii. This co-location point is located outside the landing station and may be adjacent to the station or located at some distance from it, depending on the possibilities;
 - iii. The eligible operator is authorized to install its equipment at this point in order to access the capacities of the submarine cables that lead to the landing station.
 - d. **Eligible operator**: Electronic communications operator and/or provider that can request access to international capacities and co-location on the site of a cable landing station. In this sense, such provider shall meet eligibility conditions as follows:
 - i. Regularly established in the country concerned or any other Member State;
 - ii. Operate a network and/or provide electronic communications services; and
 - iii. Holding certain rights to the international capacity available at the cable landing station, whether as capacity owner (member of the consortium), as holder of indefeasible rights of use (IRU) or as holder of private international leased circuits.

Providers of internet services and internet exchange points are also eligible to request access according to the legal regime applicable in their national jurisdictions;

- e. **Access and connection services provided by operators of submarine cable landing stations to eligible operators**: Services allowing the implementation, establishment and maintenance of the connection between the co-location equipment of the eligible operator located on the site of the landing station, or any other location referred to in the reference interconnection offer concerning the landing station, and the submarine cable system with the aim of enabling the eligible operator to:
 - i. access the capacities that belong to it or to any of the cables connected to the landing station in question;
 - ii. access cable capacity owned by third parties on any of the cables connected to the landing station.

- f. **Backhauling services:** Rental of links (terrestrial component) between the landing station and the facilities of the eligible operator (backhaul).

4.4.2 Article 122: Licensing of landing stations

1. Member States shall encourage the licensing of new cable landing stations with appropriate provisions in the licenses granted.
2. These licenses and the associated terms of reference shall include at least the following elements:
 - a. Conditions aimed at preventing anti-competitive behavior in the electronic communications market, and in particular measures aimed at ensuring that tariffs are not discriminatory and do not distort competition, in accordance with the requirements of Part A of Annex 1 of this Regulation. To this end, provisions on open access to cable landing stations and on the provision of international capacity on a non-discriminatory basis must be included in the licenses and/or in the associated terms of reference.
 - b. Obligation to cooperate with other cable landing stations (established in the territory of Member States) in order to provide mutual assistance between submarine cable systems in the event of failure.

4.4.3 Article 123: Modification of existing licenses

Member States shall amend existing licenses and corresponding specifications of CLS operators in order to:

1. Comply with the principles set out in this Chapter, and
2. Introduce the obligation of non-discrimination and the prohibition of anti-competitive practices in the market for access to international capacities.

4.4.4 Article 124: Abolition of restrictions on access to international capabilities

Member States shall take care to remove or not include restrictions on access to international capacities, regardless of the technology used (terrestrial or submarine fibers, satellites, radio links, etc.) for any license or authorization (including in the associated terms of reference) issued to any provider in the territory of the Member State.

4.4.5 Article 125: Guarantee of fair and effective access

1. National regulatory authorities must ensure fair and effective access to the available capacities of all cable systems landing at the landing station (s) operated by a powerful CLS operator.
2. Thus, the CLS operator is bound by the following obligations:
 - a. Provide eligible operators with access to the station and to the capacities of the associated international submarine cables, and allow interconnection to the capacities of any submarine cable terminating at the station in question under fair and non-discriminatory conditions;
 - b. Allow all capacity providers holding rights to capacities available on the submarine cables landing at this station to sell their capacity in the countries where the cable lands (in the form of indefeasible rights of use (IRU) or international private leased circuits), or allow that any

entity purchasing capacity can acquire it from these providers subject to compliance with national regulations.

3. Exclusive rights to capacity sales for national members of the consortium are prohibited. To this end, the national regulatory authority is informed of the conditions of the consortium memorandum of understanding and/or the construction and maintenance agreement (C & MA) signed by its members, in order to verify that it does not contain any exclusive right of the CLS operator to sale of international capacities on national territory.
4. The powerful CLS operator shall provide eligible operators with co-location and backhauling services as defined in Articles 126, 127 and 128 below.

4.4.6 Article 126: Co-location services

1. The powerful CLS operator shall provide eligible operators with co-location and backhauling services as defined in paragraph 4 of Article 121 of this Chapter.
2. In cases where the powerful CLS operator cannot offer physical co-location for lack of space or for any other legitimate reason, it shall take reasonable steps to offer an alternative solution. These alternative solutions may include options such as virtual co-location, providing additional space for equipment, optimizing the use of existing space or offering an adjacent space.
3. The eligible operator shall bear the reasonable and relevant costs incurred by the powerful CLS operator in providing virtual or remote co-location, and associated services.
4. The tariff for virtual co-location includes the expenses related to the work carried out by the powerful CLS operator to provide the new space and additional equipment, to optimize the use of existing premises or to find adjacent premises and, in the latter case, to provide a link between the virtual co-location and the cable landing station.
5. If the work referred to in paragraph 4 above is carried out for the exclusive needs of a single eligible operator, this operator shall pay the total amount of the work. If they are made for several eligible operators, each eligible operator using the co-location service shall pay in proportion to the total amount above calculated on a transparent and non-discriminatory basis.
6. Where a new eligible operator arrives in a co-location space that has been financed by eligible operators already installed in this space, the new eligible operator undertakes to pay the existing eligible operators a share of the expenses they have incurred for the access to the co-location space.

4.4.7 Article 127: Minimum engagement period for the colocation service

1. The powerful CLS operator shall ensure for the co-location a minimum commitment period that strikes a reasonable balance between the need to encourage competition and the need to ensure a reasonable return on the investments made for the co-location.
2. National regulatory authorities shall ensure that the above minimum commitment period is **at least equal to three (03) years** and that the provision of co-location can be extended beyond the initial period.

4.4.8 Article 128: Backhauling services

The national regulatory authority shall ensure that the powerful CLS operator rents backhaul facilities at cost-oriented prices, in order to ensure that eligible operators are not charged excessive tariffs for this service.

4.4.9 Article 129: Transparency obligations

1. The powerful CLS operator is required to observe the following transparency requirements:
 - a. Publish, in a reference offer (CLS-RIO), the technical and pricing conditions for access and connection services, co-location - including the installations necessary to allow third-party submarine cable systems to land at the landing station - as well as Backhaul services;
 - b. Submit the reference offer to the national regulatory authority for prior approval. The National Authority is authorized to modify this offer in accordance with national regulations. If it wishes to make any change to its CLS-RIO, the powerful CLS operator must first submit this change to the National Authority for approval.
2. The CLS-RIO shall cover the following points:
 - a. The detailed clauses and conditions relating to access and connection services, co-location (including virtual), backhaul services and maintenance of co-location equipment and spaces;
 - b. The ordering and supply procedure;
 - c. Technical information related to the installation and infrastructure of the powerful CLS operator needed by the eligible operator to be able to request the aforementioned services;
 - d. Service level guarantees;
 - e. The tariffs for the aforementioned services;
 - f. Payment terms;
 - g. The execution times;
 - h. The minimum duration of the access and co-location period.
3. National regulatory authorities shall ensure compliance with licenses conditions and the provisions of the CLS-RIOs as well as other obligations arising from the **WAEMU/ECOWAS** regulatory framework.

4.4.10 Article 130: Tariff control

1. Prices for access and connection services, co-location, backhaul and operation and maintenance services must be in accordance with the principle of cost-orientation and based on the corresponding framework established by the national regulatory authority for the calculation of costs.
2. On the basis of the cost calculation method established by the national regulatory authority, the powerful CLS operator shall determine tariffs taking into account the costs related to access, operation, maintenance, the cancellation and the provision of co-location facilities, including co-location spaces and backhaul services, and submits these tariffs to the regulatory authority.

3. The powerful CLS operator shall submit the CLS-RIO to the national regulatory authority for approval, with details of the cost and network elements, the cost calculation method used, spreadsheets, or any other cost calculation element.
4. The national regulatory authority shall review these tariffs on the basis of its costing methods.
5. The prior approval of the national regulatory authority shall ensure that the prices charged are transparent, fair and reasonable and that the powerful CLS operator does not set its different prices arbitrarily.
6. In the event of failure to provide the requested information, the national regulatory authority may itself calculate the costs on the basis of the information available to it.
7. If a national regulatory authority does not have sufficient information or if it has not yet developed a method of calculating costs in accordance with the corresponding provisions of this Regulation relating to access and interconnection of networks and services, it may, on a transitional basis, check the tariffs proposed by the operator of the landing station on the basis of an international benchmark in order to ensure that the tariffs offered to the consumer do not discourage adoption of services.

4.4.11 Article 131: Quality of service guarantees

National regulatory authorities shall ensure that the CLS operator provides service level guarantees in accordance with international standards and equivalent to those it applies to its own services or to the services of its subsidiaries or partners.

4.4.12 Article 132: Dispute settlement

1. Where the powerful CLS operator and an eligible operator do not reach any agreement on access to the station and associated services, the national regulatory authority will be seized of the dispute by the most diligent party in accordance with the dispute settlement mechanisms provided for in national legislation on electronic communications, without prejudice to the possibility of the national regulatory authority to handle the matter on its own initiative.
2. In the event of a dispute between the CLS operator and the operator enjoying co-location, the former shall give the latter a reasonable period determined by the national regulatory authority to propose an alternative arrangement before any termination of co-location contract.

4.4.13 Article 133: Cooperation between national regulatory authorities

1. National regulatory authorities shall address the rules or regulations governing access to submarine cables in the sub-region within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation.
2. They shall inform the Commission of any initiative in this context.

4.5 Chapter V: Conditions of access to national and international bandwidth on terrestrial networks

4.5.1 Article 134: Scope of this Chapter

1. This Chapter applies to operators of terrestrial electronic communications networks providing capacity services in a Member State and to access to broadband capacity on the networks operated by these operators when the latter are considered to hold significant power on the market for capacity rental services (powerful undertakings), in accordance with the relevant provisions of this Regulation.
2. Access may consist of, and not limited to, the following capacity rental services:
 - a. Leased lines E1;
 - b. E1 multidrop leased lines;
 - c. Leased backbone links: STM1, STM 4, STM 16 and beyond.
 - d. Terrestrial components for access to the capacities of submarine cables (backhaul);
 - e. Rental of “dark” optical fiber.
3. Unless otherwise provided in this Chapter, the relevant provisions of this Regulation shall apply.
4. The provisions of this Chapter shall apply, without prejudice to the right of Member States to maintain or introduce, in compliance with **WAEMU/ECOWAS** rules, measures that contain more detailed provisions than those contained therein.

4.5.2 Article 135: Operators and providers eligible for bandwidth request

1. Any electronic communications operator or provider established in the **WAEMU/ECOWAS** zone (requesting undertaking) may request access to capacity rental services from a provider established in the **WAEMU/ECOWAS** area. However, to be eligible, the requesting undertaking shall meet the following criteria:
 - a. Being regularly established in the Member State in which it requests capacity services or in any other Member State;
 - b. Operating a network and/or provide electronic communications services;
2. Internet access services providers and operators of internet exchange points established in the **WAEMU/ECOWAS** zone may also request access to capacity rental services.

4.5.3 Article 136: Analysis of relevant national markets

1. National regulatory authorities shall carry out the relevant market analyzes, in particular the markets for the rental of national or international land capacity services intended for operators and providers established in Member States, with a view to determining whether or not they are effectively competitive, to determine the power of operators on this market segment and to draw the necessary conclusions in terms of regulatory obligations to be imposed.

2. National regulatory authorities regularly review these market analyzes and the resulting regulatory obligations to take into account developments in the electronic communications market at national and sub-regional level.
3. At the end of these analyzes, the national regulatory authorities impose on operators considered to be dominant, whether individually or collectively, on the markets for capacity rental services on terrestrial networks intended for operators and providers established in Member States, in particular the following obligations:
 - a. Provision of capacity rental services on their terrestrial networks to any requesting undertaking within a reasonable period of time, which may not exceed **three (03) months** from its request;
 - b. Publication of a reference offer including the technical and operational conditions of access to their capacity rental services on their terrestrial networks, to national and/or international operators and providers from Member States and their tariffs;
 - c. Cost orientation of tariffs for the capacity rental services offered;
 - d. Communication to the national regulatory authority of agreements relating to the rental of capacity on terrestrial networks concluded with an operator or a provider from the same Member State under the conditions and deadlines as provided for by national legislative and regulatory frameworks for the notification of national interconnection agreements.
 - e. Communication, on pain of sanctions, to the national regulatory authority upon request, of its offers as well as agreements relating to interconnection and/or rental of capacity on their terrestrial networks passed with an operator or a provider from another Member State. In this case, the operator required to communicate these documents provides them to the national regulatory authority within a maximum period of **eight (08) calendar days**.
 - f. Establishment of cost accounting for the needs of regulation.

4.5.4 Article 137: Transparency obligations

1. The powerful undertaking on the market (s) for capacity rental services on terrestrial networks is required to publish a reference offer for capacity rental services.
2. This offer must include at least the following elements:
 - a. All capacity offers on its terrestrial networks in the territory of the Member State where it is established;
 - b. All the capacity offers on its terrestrial networks to each of the bordering Member States and marketed to operators and providers of these Member States;
 - c. Speeds available on each of its offers;
 - d. Terrestrial backhaul services enabling access to the submarine cables connecting the Member State concerned;
 - e. Other associated interconnection services;
 - f. Detailed clauses and conditions concerning the capacity rental services on the terrestrial networks and, if necessary, the related services;

- g. The ordering and supply procedure;
- h. Technical information related to the installation and infrastructure of the powerful undertaking on the national market of the capacities necessary for the requesting undertaking to request the aforementioned services;
- i. Quality of service guarantees;
- j. Applicable tariffs which cover supply, installation and maintenance of the necessary equipment;
- k. Payment terms;
- l. Execution times.

4.5.5 Article 138: Prior approval of the national regulatory authority

1. The powerful undertaking shall submit its reference capacity rental offer on its terrestrial networks for national and/or international operators and providers from Member States to the national regulatory authority for prior approval, within the time limits provided for the notification of reference interconnection offers in national legislation and regulations, in accordance with the relevant provisions of this Regulation.
2. The national regulatory authority is authorized to modify this offer in accordance with the applicable regulations and in particular the relevant provisions of this Chapter.
3. Any operator wishing to make any modification to its reference offer shall first submit this modification to the national regulatory authority for approval.
4. National regulatory authorities ensure compliance with licenses conditions and the provisions of the reference offers concerning terrestrial capacity rental services as well as other obligations arising from the **WAEMU/ECOWAS** regulatory framework.

4.5.6 Article 139: Guarantee of fair and effective access

1. National regulatory authorities shall guarantee to all operators and providers established in Member States effective access to national and international capacities on all networks operated by their operators, on fair, non-discriminatory and transparent conditions;
2. Any exclusive rights of sale or rental of capacities are prohibited.

4.5.7 Article 140: Costing method

1. Capacity rental tariffs shall be cost-oriented. The cost calculation method shall take into account the relevant costs related to access, operation, maintenance and provision of facilities, co-location, including co-location spaces and, where applicable, backhaul services, on the basis of a predetermined cost accounting and allocation methodology.
2. The powerful undertaking in the capacity rental services market shall determine tariffs according to the cost calculation method established by the national regulatory authority and submits them to the authority.

3. In the event of failure of an operator to provide the national regulatory authority with the requested information, the authority may itself calculate the costs on the basis of the information available to it.
4. If a national regulatory authority does not have sufficient information or if it has not yet developed a method of calculating costs in accordance with the corresponding provisions of this Regulation relating to access and interconnection of networks and services, it may, on a transitional basis, review tariffs proposed with a calculation model used by another Member State.

4.5.8 Article 141: Terms of tariff control

1. In its reference offer submitted to the national regulatory authority for prior approval in accordance with the requirements of Article 138 above, the powerful undertaking in the capacity rental markets on its terrestrial networks shall include all of supporting documents taking into account, in particular, the cost and network elements, the cost calculation method used and the spreadsheets.
2. The national regulatory authority approves these tariffs on the basis of the cost calculation methods of the powerful undertaking.
3. The prior approval of the national regulatory authority shall ensure that the prices charged are transparent, fair and reasonable and that the powerful undertaking in the capacity rental services market does not set its different prices arbitrarily.
4. The national regulatory authority may also review the tariffs proposed by the operator providing the capacities on the basis of an international benchmark in order to ensure that the tariffs proposed to the requesting undertaking do not constitute an obstacle against access to international capacities, in particular for operators and providers from a landlocked Member State.

4.5.9 Article 142: Quality of service guarantees

The powerful undertaking in the market for capacity rental services on terrestrial networks shall guarantee, under the control of the competent regulatory authority, a level of service quality in accordance with international standards and equivalent to those it applies to its own services or the services of its subsidiaries or partners.

4.5.10 Article 143: Dispute settlement

1. In the event of a dispute relating to access to terrestrial capacity rental services between two operators and/or providers of the same Member State, the national regulatory authority will be referred to the dispute by one of the parties, in accordance with the dispute settlement mechanisms provided for in national legislation and regulations on electronic communications, without prejudice to the possibility of the national regulatory authority to handle the matter on its own initiative.
2. Where such a dispute arises relating between two operators and/or providers located in different Member States, the following mechanism shall apply:

- a. The operator or provider not reaching any access agreement shall refer the matter to the national regulatory authority of its Member State, in accordance with the provisions of Article 37 of this Regulation concerning the settlement of disputes;
- b. In this case, the national regulatory authority shall have a period of **one (01) month** to refer the matter to the national regulatory authority of the Member State of the provider of terrestrial capacity rental party to the dispute and forward to it all the information necessary to understand the dispute;
- c. As of its referral, the national regulatory authority of the Member State in which the terrestrial capacity rental services are to be provided shall, within the time limits provided for the procedure for settling disputes relating to access and interconnection of networks and services in the electronic communications sector in accordance with Article 101 of this Regulation, a substantiated decision setting out the technical, operational and pricing conditions under which the provider located in its territory and to which the request for capacity rental services has been made shall provide these services to the requesting undertaking from the other Member State;
- d. During this period of investigation of the dispute, the two national regulatory authorities shall cooperate as best they can to carry out expert opinions and provide each other with the information necessary for its resolution;
- e. In the event of failure of the two National Authorities to resolve the dispute, the more diligent party may resort to all appropriate remedies.

5 Title 5 - Electronic communications services

5.1 Chapter I: Pricing of electronic communications services

5.1.1 Article 144: Purpose

1. This Chapter establishes a common framework for Member States for determining the pricing principles for publicly available electronic communications services and for the exercise of control by the national regulatory authorities.
2. It constitutes a minimum common reference base, which may be supplemented by national regulatory provisions and by the prescriptions of national regulatory authorities.

5.1.2 Article 145: General pricing principles

1. Operators of public electronic communications networks and providers of publicly available electronic communications services shall establish their prices in compliance with the legislation and regulations of trade, in particular Community competition law.
2. Prices are set freely by network operators and service providers. However, the tariffs of a network operator or service provider having exclusivity or a dominant position in a given service or set of services may be subject to specific regulatory measures in accordance with the provisions of this Regulation.
3. Prices are established in accordance with the principles of transparency, objectivity and non-discrimination.
4. Unless exceptional cases motivated by the importance of the additional costs of implementing and/or operating certain services, tariffs are applicable without geographical discrimination across the national territory. The exceptions referred to above are subject to approval of the national regulatory authority.
5. Network operators and service providers shall keep their tariffs publicly available. Public network operators are also required to notify the national regulatory authority of their detailed tariffs at the start of each year, as well as subsequent changes thereof before they are implemented.
6. Network operators and service providers shall put in place measurement systems to ensure the effective application of published tariffs. The national regulatory authority shall periodically monitor the effective application of this principle and sanction any breaches noted.
7. Specific rules may be established by national regulations by decision of the national regulatory authority and/or by the terms of reference of network operators and service providers in order to specify the constitution and the conditions for establishment and modification of tariffs according to the nature of the services concerned. National regulatory authorities of Member States consult together within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation, with a view to ensuring the gradual convergence of national regulatory standards relating to the different categories of services.

5.1.3 Article 146: Tariff regulation

1. The national regulatory authority may decide to regulate tariffs of a network operator or service provider in order to compensate for the absence or insufficiency of competing offers with regard to one or more services, in particular, in the event that it does not appear possible to promote the development of competition by granting new authorizations.
2. The purpose of the tariff regulation is as follows:
 - a. Cost-orientation of based on efficient management.
 - b. Eliminating cross-subsidies between separate services.
3. The regulatory decision is taken by the national regulatory authority, which shall ensure beforehand:
 - a. The lack of sufficient competition in the service (s) concerned;
 - b. The existence of a significant difference between the price of the service (s) and their reference cost assessed in accordance with the provisions below.
4. The national regulatory authority may refrain from regulating a tariff when the market for the service concerned is not significant with regard to the needs of the public or when its development prospects are poorly identified, in particular during launch phases of a new service.
5. The price cap is achieved by setting ceiling or floor values for the weighted average price of the service (s) concerned. The price cap can relate to a basket of services reflecting the users' consumption profiles. The fixing of price floors shall be decided where there is a risk for the services concerned being sold at a loss.
6. The price cap can be imposed over a multi-year period with a gradual evolution of price ceilings or floors, in order to facilitate the adaptation of market players and/or to take into account an objective of gradual improvement in productivity factors. In this case, the national regulatory authority sets the formulas for setting the price floors or ceilings, taking into account, on the one hand, productivity objectives and, on the other hand, economic indicators reflecting variations in costs of factors.
7. The price cap may be decided upon when granting an authorization to a new public network operator. The terms and conditions then appear in the terms of reference of this operator.
8. In other cases, price regulation shall be based on a substantiated decision made by the national regulatory authority following an investigation into the competitive standing of the service (s) concerned and assessment of relevant costs. This decision is notified to the network operator or service provider concerned. It can be executed within a **maximum period of two (02) months** from its notification, notwithstanding the possible exercise of the rights of recourse of the network operator or service provider.
9. The national regulatory authority shall ensure compliance with regulatory decisions on a regular basis by calculating for the public the average price of the services and baskets of services concerned. In the event of non-compliance, it shall send a formal notice to the network operator or service provider concerned, supported by the result of its observations. In the event of non-

compliance with these requirements of the formal notice, it shall transmit its grievance to the bodies in charge of prevention of anti-competitive practices and/or abuse of a dominant position.

10. Network operators and service providers may submit a request to the national regulatory authority to revise the regulatory rules in the event of a significant change in the general economic environment, the level of competition or their cost structure. In this case, the national regulatory authority shall decide, after examining the situation, whether it is necessary to modify the framework rules and/or to abolish the framework.

5.1.4 Article 147: Identification of reference cost levels

1. The national regulatory authority shall assess the reference cost of services or groups of services that may be regulated on the basis of the following elements:
 - a. The information provided by network operators and services providers on the setup of service costs. To this end, it shall have access to the general, analytical and auxiliary accounts of operators and/or providers;
 - b. Comparisons with the prices charged in the same country or in comparable countries, particularly within the **WAEMU/ECOWAS**, by operators and/or providers deemed to be efficient. This comparison makes it possible to highlight, where applicable, the productivity gains required from national network operators and services providers.
2. The following aspects shall determine the cost calculation by the national regulatory authority:
 - a. Costs directly attributable to the services considered;
 - b. Common costs in proportion to their contribution to these services;
 - c. Costs specific to other services are not taken into account;
 - d. Costs shall take account of long-term economic efficiency, in particular the investments required for renewal and extension of the network with a view to sustained quality of service. These costs shall incorporate the cost of return on capital invested

5.1.5 Article 148: Harmonization of cost calculation methods

1. National regulatory authorities, within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation, shall define and periodically update a complete and harmonized methodology for calculating the reference costs of main services.
2. This methodology shall define following aspects in detail:
 - a. Relevant costs to be taken into account;
 - b. Structure of the costing model;
 - c. Basic data to be incorporated into the model;
 - d. Planning methods to take into account long-term developments in expenses and products;
 - e. Method of evaluating the cost of capital;
 - f. Interpretation of the model results.

5.1.6 Article 149: Observatory of regional tariffs

1. At the beginning of each year, national regulatory authorities shall communicate to sub-regional regulatory coordination bodies established by national regulatory authorities pursuant to Article 40 of this Regulation, the prices charged by their national operators and/or providers for a sample of services including in particular:
 - a. Connection and subscription to the fixed telephone service
 - b. Local, national and international fixed telephone traffic;
 - c. Access to mobile phone service (prepaid and postpaid offers);
 - d. National and international mobile telephone traffic;
 - e. Dial-up or permanent access to the internet;
 - f. Community roaming calls, texts and data
2. The sub-regional regulatory coordination bodies referred to in paragraph 1 above shall define the framework for data collection. They may decide to modify the list of aforementioned services in order to take into account the most significant services in the sector. They can also decide, after having initialized its database, to move towards a quarterly collection of all or part of the data.
3. These sub-regional regulatory coordination bodies shall establish a comparison of these tariffs, adding information available to it on the tariffs charged for the same services in neighboring countries and in Member States. This comparison is distributed to national regulatory authorities under the title “regional tariff observatory”.
4. National regulatory authorities shall take account of such data received from the tariff observatory in the assessment of reference costs in accordance with the provisions of paragraph 1 of Article 147 above.
5. Within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation, national regulatory authorities shall refer to the Commission any need to modify the provisions of this Chapter with a view to adapting to technical, legal and economic developments in the electronic communications sector.

5.2 Chapter II: Numbering resources

5.2.1 Article 150: Purpose

1. This Chapter lays down the rules of a harmonized approach by Member States for the use and allocation of numbering resources so as to guarantee free competition and open the market to new operators and/or providers;
2. Such rules concern in particular to the following aspects:
 - a. Establishment and management of a numbering plan;
 - b. Implementation of a procedure for requesting the allocation and reservation of numbers and for withdrawing them;

- c. Planning of direct allocation of numbers for end-users;
- d. Determination of charges for numbering, as well as roaming, portability, migration, rates, competition and harmonization.

5.2.2 Article 151: General principles of numbering

1. National regulatory authorities shall have control over the assignment of all national numbering resources and the management of national numbering plans.
2. National regulatory authorities may decide to delegate administrative responsibility for the numbering plan. In that case, it must ensure that the rules for the allocation, reservation and use of numbers are strictly adhered to. An annual audit of the body having administrative responsibility for the plan shall be conducted by the national regulatory authority.
3. Adequate numbers and numbering series shall be reserved in numbering plans for all publicly available electronic communications services.
4. The principal elements defined in the preceding paragraph must be public, available from the national regulatory authorities on request, and published in an official, transparent manner. In the interests of national security, the numbering capacity reserved for police and defense purposes needs not be made public.
5. The procedure for allocating numbering capacity shall be followed in a transparent, non-discriminatory manner, in accordance with objective criteria and following the principles, respectively, of reservation, allocation and possible withdrawal.
6. National regulatory authorities shall ensure the proper utilization of the prefixes, numbers, number blocks and codes that are allocated. These shall not be protected by industrial or intellectual property rights, nor shall they be transferred without the agreement of the national regulatory authority.
7. National regulatory authorities shall ensure that the administration of the numbering plan allows for the publication of directories and access to directory inquiry services.
8. National regulatory authorities shall ensure that numbering plans and the associated procedures are implemented in a way that protects equality of treatment to all providers of publicly available electronic communications services. In particular, they shall ensure that undertakings to which a range of numbers is allocated do not engage in any discrimination against other electronic communications service providers as regards the sequences of numbers used to provide access to their services.
9. Subject to the requirements listed below, national regulatory or other competent authorities may also grant rights of use for numbering resources from the national numbering plans to undertakings other than electronic communications network operators or service providers, for the provision of specific services:
 - a. Adequate numbering resources are made available to satisfy current and foreseeable future demand;

- b. Those undertakings shall demonstrate their ability to manage the numbering resources and to comply with any relevant requirements set out pursuant to Articles 155 and 156 below.
10. In the event of a demonstrated risk of exhaustion of these resources, national regulatory or other competent authorities may suspend the further granting of rights of use for numbering resources to those undertakings referred to in paragraph 9 above.
11. Without prejudice to Articles 208 to 215, national regulatory authorities shall promote over-the-air provisioning, where technically feasible, in order to facilitate switching of electronic communications networks operators or services providers by end-users, in particular providers and end-users of machine-to-machine services.

5.2.3 Article 152: Essential principles for managing the numbering plan

1. National regulatory authorities shall ensure that the management of their numbering plan respects the following essential points:
- a. The plan must be long-term and balanced;
 - b. The plan must take into account the needs for short numbers and reserved special numbers for emergency, directory, operator, and user assistance services, and ensure that prefixes and numbers or number blocks are allocated to providers of publicly available electronic communications, under objective, transparent and non-discriminatory conditions;
 - c. The plan must take into account the opinion of operators and/or providers, users and the national regulatory authority;
 - d. The plan must include a coherent, clear and published strategy;
 - e. The plan should take into account applicable international standards, particularly regarding access to international service, as well as the needs of neighbors, whether on the same continent or elsewhere the world;
 - f. They should not be anti-competitive for electronic communications operators and/or providers;
 - g. The plan should not be anti-competitive for users;
 - h. The plan must be compatible with sound appropriate management practice;
 - i. The plan must be open-ended and allow sufficient margins to meet any unexpected needs.
2. National regulatory authorities shall ensure compliance with the following requirements concerning numbers and number blocks:
- a. Numbers and blocks of numbers may not become the property of the applicants, or of end-users;
 - b. They may not be protected by means of industrial or intellectual property rights;
 - c. They are allocated following reservation by the national regulatory authority for a limited duration of time, corresponding to the operational lifetime of the service or application. When an applicant gives up operation of its electronic communications service, for which numbering capacity has been allocated, that capacity can be allocated to a new assignee on condition

that the latter is authorized to operate the service and that a declaration to this effect has previously been submitted to the national regulatory authority.

3. Information about the reservation, allocation and withdrawal of numbering capacity is public, and must be provided by the national regulatory authority on demand.

5.2.4 Article 153: General methods of managing the numbering plan

National regulatory authorities shall put in place the following methods to harmonize management of numbering plans at regional level:

1. Use of common databases for the assignment of numbers;
2. Adoption of a common emergency code for the region alongside the existing emergency codes;
3. Promotion of appropriate number portability;
4. Assigning lower initial digits to fixed lines, and reserving the higher ones to mobile;
5. Allocation of number blocks against a fee;
6. Planning for direct allocation to end-users;
7. Number assignment using geographical, network or service codes;
8. Allowing for migration to a closed plan.

5.2.5 Article 154: Cooperation and harmonization of numbering resources

1. Member States shall support the harmonization of numbering resources within **WAEMU/ECOWAS** wherever necessary to foster the development of services in the **WAEMU/ECOWAS** zone.
2. Member States shall ensure that their national numbering plans make it possible, subject to technical and economic feasibility, for users located in other Member States to have access to non-geographical numbers that are accessible throughout of their national territory.
3. Where appropriate, in order to ensure overall interoperability of services, the Member States shall coordinate their positions within the international organizations and bodies, in which decisions concerning issues related to numbering, naming and addressing of communications networks and services are taken.

5.2.6 Article 155: Reservation mechanisms

1. The national regulatory authority shall examine all applications to reserve numbering capacity that meet the following conditions:
 - a. The application must be addressed to the national regulatory authority by registered letter or by any other legally recognized means, and must be dated and signed by, or on behalf of, the applicant wishing to use the numbering capacity;
 - b. The applicant, who must be a natural or legal person, must provide details of position and credentials;

- c. The application must give the name and full address of the applicant, along with the business address in the Member State in question;
 - d. Processing fees to cover the costs of processing the application must be paid in advance;
 - e. The application must contain all the information specified in the following paragraph.
2. In order to allow the national regulatory authority to process the application in accordance with the criteria listed in paragraph 3 below, the applicant must provide, free of charge, the following information, which will be considered as confidential:
- a. A clear list of the type and amount of numbering capacity desired;
 - b. A detailed description of the following components:
 - i. The services and applications that use the numbering capability;
 - ii. Technical network elements and their interrelationship;
 - iii. Routing principles to be implemented;
 - iv. Future numbering capacity needs;
 - v. Charging principles, if the applicant considers it useful;
 - vi. Principles that the applicant intends to follow in allocating the routing capacity obtained for the end-users;
 - c. The applicant must demonstrate that it has no viable technical and/or commercial alternative to operating its services and applications with the requested numbering capacity;
 - d. Changes over time, for the information provided under this paragraph;
 - e. The applicant must demonstrate that it has complied with the provisions of this Chapter.
3. The application shall be evaluated by the national regulatory authority on the basis of the following criteria:
- a. Sound management of the numbering capacity that is considered as a limited resource;
 - b. The need for sufficient numbering capacity to meet future needs;
 - c. The work needed to achieve optimum compatibility between the numbering plans of different applicants;
 - d. Existing reservations;
 - e. Potential for satisfying developments in the **WAEMU/ECOWAS** zone and internationally;
 - f. Potential for satisfying the relevant international agreements, recommendations and standards;
 - g. Technical limitations and concrete implementation;
 - h. Impact on the numbering plans of other applicants;
 - i. Fees, if any;

- j. Routing issues;
 - k. Issues relating to tariffing principles;
 - l. Geographical issues;
 - m. Possible alternatives;
 - n. End-user interests, including ease of use;
 - o. Specific needs of emergency services;
 - p. Commercial impact.
4. Numbering capacity may not be reserved for applicants unless the provisions of this Chapter are not met.
 5. If the national regulatory authority approves a given application, then the numbering capacity is reserved. Therefore, numbering capacity may only be allocated to the initial applicant, and for the purposes specified in the application. The date on which the application becomes official is also considered as the date of reservation. A reservation may be cancelled by the applicant. A reservation shall automatically expire **one (01) year** after the date of reservation, if no effective allocation or extension has taken place in that time pursuant to paragraph 7 below.
 6. If two or more applicants reserve the same numbering capacity, the first to file a valid application will have priority. If more than one valid application is filed on a given day for the same numbering capacity, the national regulatory authority shall organize mediation to allocate primary rights, secondary rights, tertiary rights and so on.
 7. A reservation may be renewed each year by submitting a valid new application at the latest one month before it expires. If the extension is accepted, then the original reservation date is maintained as the official reservation date.
 8. The national regulatory authority must notify the applicant of its decision no **later than two (02) months** after receipt of the application.
 9. If the national regulatory authority considers that the application is incomplete, or if it wishes to have additional information or explanations, it must inform the applicant. The deadline for the national regulatory authority mentioned in the previous paragraph shall be extended by the length of time that the applicant needs to modify the application. Such an extension shall not exceed **one (01) month**. If, at the end of this time, the applicant has not modified the application, it shall be annulled.
 10. If the national regulatory authority refuses to grant a reservation, it must provide reasons. There is no entitlement to be reimbursed in the event of a refusal.
 11. Any changes to the information provided pursuant to the present Article shall be communicated to the national regulatory authority in good time.
 12. The present Article shall also apply where national regulatory or other competent authorities grant rights of use for numbering resources to undertakings other than electronic

communications network operators or service providers in accordance with paragraph 9 of Article 151 above.

5.2.7 Article 156: Allocation mechanisms

1. The national regulatory authority shall, under objective, transparent and non-discriminatory conditions, allocate prefixes and numbers or number blocks, to operators and/or providers who have made an application, against a fee stipulated in the regulations to cover the costs of managing the numbering plan and controlling its utilization.
2. The national regulatory authority may select the type of mechanism to be used to allocate numbers:
 - a. by block;
 - b. case by case; or
 - c. by auction.

It may set aside special numbers, or blocks or ranges or numbers, upon request of operators and/or providers, against annual fees to cover the costs of managing the numbering plan and controlling its utilization.

3. Certain categories of numbers may be subject to a special allocation procedure in order to ensure that operators and/or providers have access to numbering resources in a transparent, objective and non-discriminatory manner. The national regulatory authority may:
 - a. Make a resource allocation;
 - b. Make a temporary resource allocation;
 - c. Make an allocation covering only porting of the resource requested;
 - d. Refuse to make a resource allocation.
4. The national regulatory authority shall allocate to operators and/or providers, under the same conditions, the codes used routing communications.
5. The decision on allocation shall specify the applicable conditions. The decision binds the holder of the allocation to observe all of the conditions for utilization of the allocated resource.
6. In all cases, number allocations must be technology-neutral, non-discriminatory and compatible with number portability.
7. The present Article shall also apply where national regulatory or other competent authorities grant rights of use for numbering resources to undertakings other than electronic communications network operators or service providers in accordance with paragraph 9 of Article 151 above.

5.2.8 Article 157: Deadlines

1. Numbering capacity is only allocated if, during the reservation period, numbering capacity is in fact put into service for the declared purpose. The date on which it is put into service must be communicated to the national regulatory authority **at least thirty (30) days** in advance. The

allocation of numbering capacity remains valid only for as long as all of the following conditions are respected:

- a. The allocated numbering capacity is used exclusively for the purposes indicated in the initial application;
 - b. Sub-allocation to the end-user is controlled by the original applicant;
 - c. Annual fees are paid pursuant to the provisions of Article 158 below;
 - d. The applicant maintains statistics on the percentage of allocated capacity that is being used, and periodically provides them to the national regulatory authority in accordance with the rules established by the latter.
2. Any application for numbering capacity for **six (06) months or less** shall be treated as having lower priority and may not be extended. Therefore, the annual fee described in Article 158 below is to
 3. Numbers are in principle allocated on a long-term basis. However, they may be changed or withdrawn for operational reasons.

5.2.9 Article 158: Reservation fees and allocation fees

1. National regulatory authorities shall determine the size of processing fees to be charged for the reservation of numbering capacity pursuant to Article 155 of this Regulation, depending on the type of numbering requested, in a transparent and non-discriminatory manner, according to objective and published criteria.
2. They shall determine the size of processing fees for the allocation of numbering capacity pursuant to Article 156 of this Regulation, depending on the type of numbering requested, in a transparent and non-discriminatory manner, according to objective and published criteria. If the numbering capacity is allocated in portions, the annual fee shall be reduced proportionally.
3. They shall set the deadline for the payment of fees referred to in paragraph 2 above in the year for which they are due. For the year in which the numbering capacity is allocated, fees shall be reduced for the same proportion as the number of complete months that remain in the calendar year on the date the allocation is made, and shall be paid within **thirty (30) days** of that date.
4. They shall fix the penalty charged for overdue fees. The level of penalty is to be calculated on the basis of the number of days payment is overdue.
5. The size of the fees mentioned in the present Chapter shall be adjusted annually.
6. The withdrawal of numbering capacity that was previously reserved or allocated does not entail any entitlement to any indemnity or reimbursement of some or all of the fees mentioned in the present Chapter.

5.2.10 Article 159: Delegation to a third-party provider

1. In some cases, the holder of a numbering resource may entrust an outside provider with the distribution of this resource to the end customer(s). In such cases, a distinction is made between

the provider holding the allocation for the resource (Delegating provider), and the delegated outside provider who distributes the resource to the end customers (Delegated provider).

2. An outside provider may only be involved in this way if the following conditions are met:
 - a. The Delegated provider must have declared to the national regulatory authority the activity that is necessary for operation of the resource in question;
 - b. The Delegating provider must have notified the national regulatory authority by A/R registered mail, about the resource or resources to be put at the disposition of the Delegated provider, along with a description of the service that is to be provided via said resource or resources. Such notification must have been done before any legal provisions on delegation come into force between the provision between the Delegating provider and the Delegated provider.
3. In the case of resources allocated by block, delegation may involve the entire resource or an entire portion thereof.
4. The Delegating provider remains responsible for compliance with all obligations associated with the allocation of the resource.
5. In addition, operators and/or providers involved in the delegation must also guarantee portability for the end-users.

5.2.11 Article 160: Transfer

1. Transfer of an allocated resource is subject to the prior authorization of the national regulatory authority.
2. The request for authorization to transfer an allocated resource must be submitted to the national regulatory authority by the final beneficiary of allocation, observing the forms and conditions stipulated in Article 155, accompanied by the signed concurrence of the original provider holding the allocation.
3. The decision to allocate a resource to a new holder is studied and taken under the conditions stipulated in Article 156.

5.2.12 Article 161: Revocation and withdrawal of an allocation decision

1. An allocation decision may be revoked or withdrawn in the cases stipulated in paragraphs 2, 3 and 4 below.
2. In revocation takes place at the request of the holder, the latter must inform the national regulatory authority by A/R registered letter, accompanied by a copy of the request for cancellation of the resource in the networks of other operators, of the fact that the service will be discontinued and the holder wishes to free the corresponding numbering resource. The resource will stop being subject to fees as of the day this letter is received. At that time, the holder is to be notified of the revocation of the decision to allocate the resource in question.
3. If resources are not used in a matter that conforms to the conditions to their allocation and utilization, or if a significant part of the resource remains unused, the national regulatory authority may withdraw the numbers.

4. A resource for which revocation or withdrawal has been pronounced becomes free again, but it may not be reallocated **until at least six (06) months** have expired, except if it is requested by the former allocation holder. In the resource has been withdrawn for reason of unsatisfactory utilization, pursuant to paragraph 3 above, the resource may not be allocated again **until at least six (06) months** have expired, regardless of the applicant.

5.2.13 Article 162: Extraterritorial use of national numbers within **WAEMU/ECOWAS**

1. Member States shall ensure that national regulatory or other competent authorities make available a range of non-geographic numbers which may be used for the provision of electronic communications services other than interpersonal communications services, throughout the territory of the **Union/Community**.
2. National regulatory or other competent authorities shall ensure that the conditions listed in Article 155, on the basis of which the reservation of numbering resources used for the provision of services outside the Member State of the country code is assessed, and their enforcement, are as stringent as the conditions and enforcement applicable to services provided within the Member State of the country code, in accordance with the present Regulation.
3. National regulatory or other competent authorities shall also ensure in accordance with paragraphs 4, 5 and 6 of the present Article that operators and/or providers using numbering resources of their country code in other Member States comply with consumer protection and other national rules related to the use of numbering resources applicable in those Member States where the numbering resources are used. This obligation is without prejudice to the enforcement powers of the competent authorities of those Member States.
4. Where the rights of use for numbering resources include their extraterritorial use within **WAEMU/ECOWAS** in accordance with Articles 1 to 3 above, national regulatory or other competent authorities shall attach to those rights of use specific conditions in order to ensure compliance with all the relevant national consumer protection rules and national law related to the use of numbering resources applicable in the Member States where the numbering resources are used.
5. In the event of a breach by an undertaking of relevant consumer protection rules or national laws related to the use of numbering resources of that Member State, the following mechanism shall apply:
 - a. The national regulatory or other competent authority of a Member State where the numbering resources are used shall address a request for intervention to national regulatory or other competent authorities of the Member State where the rights of use for the numbering resources have been granted, demonstrating the breach;
 - b. In accordance with Chapter III of Title 3 of this Regulation, national regulatory or other competent authorities of the Member State where the rights of use for the numbering resources have been granted and to which the request has been sent shall enforce the conditions attached as referred to in paragraph 4 above. In serious cases, this intervention may result in withdrawal of rights of extraterritorial use for the numbering resources granted to the undertaking concerned.

6. National regulatory authorities shall facilitate and coordinate the exchange of information and work among them within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation.
7. Where national regulatory or other competent authorities grant rights of use for numbering resources to undertakings other than electronic communications network operators or service providers in accordance with paragraph 9 of Article 151 of the present Regulation:
 - a. This Article shall also apply;
 - b. The provisions of Articles 151 to 156 and the present Article shall apply to the specific services for the provision of which the rights of use have been granted.

5.3 Chapter III: Universal service regime

5.3.1 Section 1: Purpose of this Chapter

5.3.1.1 Article 163: Purpose

1. This Chapter lays down the rules applicable to universal access/service in the countries of the **WAEMU/ECOWAS** zone, and sets out in particular the role of Member States in establishing and implementing rules in the following areas:
 - a. Creating a regulatory and policy environment favorable to universal access/service;
 - b. Designing and identifying of regulatory reform measures;
 - c. Promoting innovative regulatory policies;
 - d. Assuring access to information and communication infrastructures;
 - e. Providing subsidies for financing and managing universal access/service policy;
 - f. Assuring cooperation in the provision of the service;
 - g. Assuring the oversight and review of policies;
 - h. Establishing an obligation to put emergency services in place.
2. It also defines the following aspects:
 - a. The minimum set of services, which fall within the scope of universal service;
 - b. The conditions for implementing these services;
 - c. The methods for financing these services;
 - d. The terms of supply of these services as well as the quality conditions to be met.
3. In general, Member States undertake to ensure the provision of the universal access/service provided for under the terms of this Regulation, while respecting the principles of equality, continuity, universality and adaptability.

5.3.1.2 Article 164: **WAEMU/ECOWAS** association for universal access/service

1. Member States shall communicate to the Commission, **no later than six (06) months** after the date of entry into force of this Regulation, their intention to support the creation of a "**WAEMU/ECOWAS** association for universal access/service", which shall provide a platform for knowledge sharing, regional harmonization, and a supporting organization for universal access/service agencies and initiatives in the region.
2. **WAEMU/ECOWAS** shall adopt a resolution **no later than three (03) months** after all Member States have communicated their intention.

5.3.2 Section 2: Role of public authorities

5.3.2.1 Article 165: Creation of a regulatory and policy environment favorable to universal access/service

Member States shall take all necessary measures in order to:

1. Identify, at the highest possible political level, electronic communications as a tool for socioeconomic development, designating to that end a national focal point such as a Ministry, a government department or well-known individual to champion the cause of electronic communications development;
2. Establish and strengthen national regulatory authorities and provide them with the means to play a key role in the implementation of universal access policies, first by working on and promoting policies aimed at reducing inequalities in order to address market efficiency gaps (letting the market deliver universal access/service), and then by tackling true access gaps;
3. Make national regulatory authorities responsible for the implementation of policies geared towards the provision of services that are of the highest possible quality, reliable and affordable, and which satisfy the needs of consumers - existing and future;
4. Develop their legal frameworks through reforms of the electronic communications sector, institutions and legislation, in line with international best practices, but with due regard for local requirements;
5. Include, in the definition of universal access/service policies, all citizens and elements of the population regardless of age, disability status, gender, ethnic origin, socioeconomic level or geographic location;
6. Make the underlying legislation sufficiently flexible, ensuring that new technologies and practices are easily incorporated, e.g. new electronic communications, multimedia and audio-visual services;
7. Include, in the definition of universal service, a range of services meeting the needs of the populations and in harmony with technological advances and sub-regional orientations in the promotion of a digital economy.

5.3.2.2 Article 166: Designing policies and determining regulatory reform measures

1. Member States shall take the necessary measures in order to:
 - a. Implement a national policy that identifies appropriate and realistic universal access/service objectives, which take into account the differences between the following two concepts:
 - i. Universal access, which refers to public access to electronic communications, and
 - ii. Universal service, which refers to access to electronic communications for private or household use;
 - b. Conduct, as frequently as possible (**at least every three (03) years**), public consultations with stakeholders to identify their needs and modify universal access/service policies, regulations and practices accordingly;
 - c. Design universal access/service policies, regulations and practices to create incentives for the private sector to extend universal access to electronic communications services;
 - d. Use a multi-pronged approach to addressing universal access/service challenges and opportunities, relying on complementary strategies to meet the targets that have been set both from the point of view of supply as demand, including for example:
 - i. Investment needs in infrastructure;
 - ii. Investment for the development of content, applications, value-added services and services of interest to domestic consumers;
 - iii. Investing in the local electronic communications market;
 - iv. Developing skills in digital professions by including marginalized populations;
 - v. Development of public access solutions including those using innovative services (example: Community networks and wifi);
 - e. Establish a fair and transparent electronic communications regulatory framework that promotes universal access to electronic communications services while allowing the market to address universal access/service to the greatest extent possible, intervening only where the market has failed or seems likely to do so. This entails:
 - i. Promoting technologically neutral licensing practices enabling service providers to use the most cost-effective technology to provide services for consumers;
 - ii. Adopting a transparent and non-discriminatory interconnection framework in which interconnection rates are linked to costs;
 - iii. Reducing regulatory burdens to lower the costs of providing services to consumers;
 - iv. Promoting competition in the provision of a full range of electronic communications services to increase access, affordability, availability and use of said services.
2. Where it is necessary for regulators and decision-makers to intervene to facilitate the delivery of universal access/service:

- a. Public access strategies should be explored in addition to private universal service strategies (for domestic purposes);
- b. Both “pay and play strategies” should be considered, including both prescriptions and incentive measures, but where possible, operators and/or providers should be encouraged to invest in rural, remote and low-income populations and areas;
- c. The national regulatory authority shall determine each year the areas eligible for universal service and call for tenders for coverage of these areas. Networks operators and service providers in each country can respond to this call for tenders using the " pay and play" principle.
- d. Member States can use regulatory reforms as the first step in achieving universal access, recognizing that further steps may be necessary to achieve ubiquitous access to electronic communications services, e.g. in rural areas or for users with specific needs;
- e. Appropriate licensing and authorization schemes for rural service providers could be set up to meet the needs of unserved and/or underserved areas.

5.3.2.3 Article 167: Promoting innovative regulatory policies

Member States shall:

1. promote access to low-cost broadband interconnectivity, from the local level to the international level, involving government authorities, undertakings and non-governmental organizations;
2. adopt regulatory frameworks that support new applications such as e-education and e-government;
3. adopt policies aimed at increasing access to the internet and broadband services, based on their own market structure, such that these policies reflect diversity in cultures, gender, languages and social interests;
4. ensure that national regulatory authorities work with stakeholders to expand broadband coverage and use through multi-stakeholder partnerships, in parallel to government initiatives to promote financially sustainable programs, particularly with a view to bridging the market gap that may exist in some countries;
5. adopt regulatory regimes that facilitate the use of all transport media, whether wireline, power line, cable, wireless or any other new technology;
6. ensure that national regulatory authorities put forward initiatives for encouraging public access to broadband and internet services in schools, libraries and other community centers, making special efforts to reach communities and marginalized people, for example disabled people;
7. ensure that national regulatory authorities propose initiatives aimed at encouraging and inducing open access and infrastructure sharing models in order to reduce the overall costs of providing services and, consequently, the costs for consumers.

5.3.3 Section 3: Access to electronic communications infrastructure

5.3.3.1 Article 168: General principles

With a view to facilitating access to electronic communications infrastructure, Member States shall:

1. foster, within a competitive framework, the introduction of innovative services using new technologies at an affordable level of pricing;
2. promote affordable electronic communications equipment, which could include national manufacturing of electronic communications equipment, reduced customs tariffs and duties, as well as consumers' loans to make electronic communications equipment more affordable;
3. develop a full range of public access options, including the creation of public telecentres and multi-purpose community centers;
4. develop local projects and inputs, including content that is useful for local populations and marginalized groups, thereby increasing their relevance and hence their long-term financial sustainability;
5. institute education and training programs, including digital training, to encourage the use of electronic communications and their impact on the local people and marginalized groups, thereby increasing the long-term financial sustainability of ICT projects.

5.3.3.2 Article 169: Availability of universal access/service

1. Member States shall take the necessary measures to ensure that, as a minimum, all consumers within their territory have access to the services listed in Articles 170, 171, 172, 173 and 174 below, regardless of their disability, sex, ethnic origin, socio-economic level or geographical location and at affordable prices
2. Without prejudice to more generous domestic measure for consumers.
3. Member States may extend the scope of application of this Article to microenterprises, small and medium-sized enterprises and not-for-profit organizations.

5.3.3.3 Article 170: Provision of electronic communications services

1. Member States shall ensure that reasonable requests for connection to an electronic communications network are satisfied by at least one provider and may, if necessary, designate one or more providers to that effect, such that all parts of the national territory is covered.
2. The connection provided must be such as to enable the consumer access to electronic communications services referred to below:
 - a. Available adequate broadband internet access services;
 - b. Voice communications services.
3. Member States shall ensure that the electronic communications services referred to in paragraph 2 above are accessible at a specified level of quality and at an affordable rate in light of specific national conditions, and that the speed of internet access services are sufficient to allow the inclusion of consumers in the digital economy, as defined by the national regulatory authorities.

4. The access referred to in paragraph 2 above may be offered either at a fixed location or in mobile form. However, given the importance of mobile connectivity for the digital inclusion of people in the **WAEMU/ECOWAS** zone and their full social and economic participation in society, Member States are encouraged to promote access that is not provided at a fixed location, i.e. mobile access.
5. Without prejudice to paragraph 6 below, any bit rate allowing data transmission speeds greater than or equal to 1 Gb/s is deemed sufficient within the meaning of paragraph 3 above.
6. Each Member State shall define the adequate broadband internet access service for the purposes of paragraph 2 above with a view to ensuring the bandwidth necessary for consumers' social and economic participation in society. The adequate broadband internet access service referred to in said paragraph shall be capable of delivering the bandwidth necessary for supporting at least the minimum set of services set out in Annex 5 of this Regulation. As part of this exercise, each Member State shall take into account national conditions and the minimum bandwidth enjoyed by the majority of consumers within the territory of that Member State, and taking into account any guidelines agreed by national regulatory authorities within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation.

5.3.3.4 Article 171: Directories, telephone information services and customer service

1. Member States shall ensure that:
 - a. A directory containing the credentials of all subscribers, including their fixed and mobile telephone numbers, is made available to users in a form approved by the national regulatory authority. Such directory can be printed or electronic or both;
 - b. A directory containing all names of providers of electronic and ICT communications services, contact numbers, including consumer information lines, social media and relevant annual reports, is made available to users under a form approved by the national regulatory authority. This directory can be printed or electronic or both;
 - c. At least one telephone information service covering all listed subscribers is available to all users, including users of public access services and centers;
 - d. Customer service (call center) is available from each network operator or service provider so that users can be assisted, request service information and submit complaints;
 - e. Undertakings providing the services described above apply the principles of non-discrimination to the processing and presentation of information provided to them by providers.
2. Member States shall undertake to give effect to these provisions with all due respect for the applicable laws and regulations in force in regard to personal data and privacy protection. In particular, where a subscriber explicitly so requests, his information shall not be included in any directories.

5.3.3.5 : Article 172: Emergency services

1. Member States shall ensure that emergency calls can be free of charge from any fixed or mobile telephone, including community access centres.

2. The requirements of paragraph 1 above also apply for Community roaming consumers, in accordance with relevant provisions of the relevant Community legal and regulatory framework.

5.3.3.6 Article 173: Public access points/centers and community access points

1. In order among other things, to enable users not subscribed to any communication service to have access thereto, Member States undertake to ensure public access points/centers and/or community access points are installed, including the Minimum set of electronic communications services, including internet services, under reasonable conditions, in terms of quantity and geographical distribution.
2. Without prejudice to more generous national legislation for people, Member States shall ensure that national regulatory authorities are in the position to impose schedules for the deployment of public access points/centers, with the aim of having at least one public access point/center or community access point in each locality numbering **five hundred (500) inhabitants or more**, by **31st December 2022**.
3. **WAEMU/ECOWAS** will monitor implementation of this measure on an annual basis.
4. Exemptions may be granted by the Commission at the request of Member States, duly justified by the specificities of domestic sectors.

5.3.3.7 Article 174: Special measures in favor of certain social groups

1. Where the need exists, in particular because of the existence of gaps, Member States shall take special measures to ensure that certain social groups have at least equivalent access to publicly available telephone services, including emergency and directory services, free of charge or at an affordable price.
2. The social groups referred to in paragraph 1 above include among others the following consumers:
 - a. Marginalized users such as people with disabilities, women, girls and rural people, and
 - b. All users with specific social needs.

5.3.3.8 Article 175: Review of the scope of service/universal access

1. Policy oversight and review requires the following two components.
 - a. On the one hand, the adoption by Member States of measurable targets for improving connectivity and access to the use of electronic communications, objectives which may be based on distance, population density and length of time needed to have access to electronic communications services; and
 - b. On the other hand, holding regular reviews of universal access/service policies, regulations and practices in order to adapt to the evolving nature of electronic communications services and consumers' needs.
2. Member States shall contribute to the periodic review of the scope of the universal service by the Commission as provided for in Article 233 paragraph 3a of this Regulation, in particular by communicating to the Commission, in accordance with the procedures formulated by the latter,

national data resulting from the supervision and review of policies referred to in paragraph 1 above.

5.3.3.9 Article 176: Mandatory additional services

1. Member States may decide to make additional services accessible to the public, within their national territory, beyond those services that already come under the heading of universal service obligations as referred to above in Article 169 of this Regulation.
2. In such case, no compensation mechanism involving specific undertakings shall be imposed.

5.3.4 Section 4: Implementation and management of universal access/service

5.3.4.1 Article 177: Cooperation for the management of universal access / service

1. Cooperation in this area must be explored on different levels as mentioned below:
 - a. Between the private sector and communities, so that, where possible, the market can deliver universal access/service;
 - b. Between communities, public authorities and the private sector, to ensure that the access gap is dealt with in a manner that is relevant to the communities;
 - c. Within government, to reap the full benefits of electronic communications, beyond infrastructure and technology, extending to health, education, agriculture and other sectors.
2. Cooperation should also be exercised to support successful management of universal access/service resources, through the establishment of oversight committees composed of sector stakeholders (public, private and civil society), taking advantage of knowledge to guide the design and implementation of the universal access/service strategy and projects aimed at to addressing gaps in access to supply and demand. Such committees should be responsible for making recommendations to the entity in charge, on how to address potential inefficiencies and with regard to possible shortcomings in the implementation of the project.

5.3.4.2 Article 178: Arrangements for implementation

1. Member States shall determine the most efficient and appropriate approach for ensuring the implementation of universal service, with due respect for the principles of objectivity, transparency, non-discrimination and proportionality. They shall endeavor to keep market distortions to a minimum, particularly where they take the form of service provision at rates or under conditions that differ from those prevailing in a normal commercial operation, while protecting the public interest.
2. Member States shall put in place the legislative and regulatory framework governing the implementation of the universal service. As such, they ensure in particular that:
 - a. The definition of actions for the implementation of the universal service takes into account in particular:
 - i. regional planning policy, both at national and Community level;

- ii. the multisectoral equipment policy, in particular so that universal service actions can be carried out simultaneously with other infrastructure sectors, such as water, transport and energy;
 - iii. social policy in Member States to subsidize access of disadvantaged groups to communications services, including voice and data;
 - iv. optimal management of scarce resources (among others, frequencies and numbers) and limited financial resources.
 - b. Each year, the national regulatory authority shall propose to the Minister the actions to be carried out under the universal service, when it is proven that there is a deficit in operations in certain areas.
3. To these ends, Member States may, where necessary, designate one or more undertakings or groups (including community networks, social enterprises, not-for-profit organizations, among others) to ensure the provision of universal service, as defined in Articles 169, 170, 171, 172, 173 and 174, such that all parts of the territory are covered. Member States may designate different undertakings or different groups of undertakings to provide different components of universal access/service and/or to cover different parts of the national territory.
4. When Member States designate a network operator or service provider to fulfill universal service obligations over all or part of the national territory, they shall do so through a mechanism that is effective, objective, transparent and non-discriminatory, and which does not exclude any undertaking a priori, including the call for tenders. The specifications and the regulations for call for tenders shall specify in particular:
 - a. The nature of the services to be provided;
 - b. The territory or area to be covered;
 - c. The level of universal service quality to be guaranteed;
 - d. Selection criteria;
 - e. The conditions for the provision of services;
 - f. The operating and maintenance conditions after deployments;
 - g. The means of identification of the disadvantaged groups concerned.
5. The designation mechanism shall select a candidate from among those who provide proof of their ability to deliver the indicated service under the required conditions, throughout the territory considered. Member States shall give priority to existing providers in the country.
6. Where appropriate, Member States shall notify the Commission of the undertakings in charge of the universal service in their territory.

5.3.4.3 Article 179: Quality of service provided by designated undertakings

1. Member States shall ensure that the undertakings or groups entrusted with the task of providing users with the services referred to in Articles 169, 170, 171, 172, 173 and 174 of this Regulation

provide the national regulatory authorities a regularly account of their activities and results achieved in that regard.

2. National regulatory authorities shall establish performance objectives for undertakings or groups assuming universal service obligations pursuant to Articles 169, 170, 171, 172, 173 and 174 of this Regulation, in accordance with the procedures described in this Article.
3. Pursuant to the provisions of this Regulation relating to the regime applicable to network operators and service providers, individual licenses and authorizations may specify results to be achieved for the provision of universal service/access.
4. Persistent failures of an entity to achieve the performance objectives and quality levels specified for the implementation of Articles 169, 170, 171, 172, 173 and 174 of this Regulation may entail the implementation of sanctions by national regulatory authorities.
5. National regulatory authorities are entitled to require independent verification of a provider's performance of the obligations incumbent upon it pursuant to Articles 169, 170, 171, 172, 173 and 174 of this Regulation.

5.3.5 Section 5: Financing and management of the universal access policy

5.3.5.1 Article 180: Level and structure of prices

1. Without prejudice to the provisions of this Regulation relating to pricing of electronic communications services, national regulatory authorities shall ensure the provision of universal access/service to everyone at affordable rates, in accordance with the affordability objectives of **WAEMU/ECOWAS**.
2. National regulatory authorities may, at the request of the Minister in charge of the sector, require undertakings designated pursuant to Article 178 to make available to users with low incomes or specific social needs tariffs, options or schemes that differ from those normally prevailing in commercial operations, particularly with a view to ensuring universal service.
3. The conditions under which such facilities are granted must be proportional, transparent, non-discriminatory and publicly promulgated. National regulatory authorities may require the modification or elimination of all or part of these services.

5.3.5.2 Article 181: Calculating the cost of the universal service

1. To assist national regulatory authorities in determining whether the provision of universal service places an unjustified burden on the undertakings designated as provider, Member States undertake to provide for the adoption of a method for calculating the costs of the universal service, based on net costs.
2. The net cost corresponds to the difference between the investment and operating costs associated with provision of the universal service and the relevant revenues. The relevant revenues are direct and indirect revenues generated by the universal service.

3. The net cost of any special-price scheme offers made by a provider to certain categories of subscribers to ensure their access to the universal service shall be deducted from that provider's contribution to the universal service fund.
4. The calculation of the net cost of universal service obligations shall be submitted for auditing by an entity that is unconnected with the body responsible for managing the fund. The result of the net cost calculation and the conclusions of the audit shall be made publicly available.

5.3.5.3 Article 182: Funding of universal access/service

1. Funding or subsidy for universal access/service must be targeted and are to be determined and delivered in a manner that is transparent, non-discriminatory, inexpensive and competitively. Such funding or grant can occur through a number of means, including:
 - a. A universal service fund, which should be developed as a mechanism within broader market-oriented approach to achieve universal access;
 - b. A universal service fund financed by a broad range of market players, managed by neutral bodies such as national regulatory authorities or any other body independent of its beneficiaries under the supervision of the national regulatory authority, and used to kick-start public access projects that meet the needs of the local community;
 - c. Governments may also consider a full range of other financing mechanisms:
 - i. Competitive minimum subsidy auctions could be used, as an option, to reduce the amount of financing necessary for public access projects financed by a universal service fund;
 - ii. Public access projects can be designed to achieve long-term financial sustainability, especially where consideration is given to innovative low-cost technologies.
2. Each Member State undertakes to ensure the effective establishment of a universal service financing fund, the objective of which shall be to promote the development of universal service at the national level, in accordance with the provisions of Articles 169, 170, 171, 172, 173 and 174 of this Regulation. The universal service fund must be developed as a mechanism within broader market-oriented approach to achieve universal access.
3. The purpose of the fund shall be in particular to compensate any undertaking responsible for providing the universal service, by financing the net cost of the universal service, as determined in Article 181, and taking into account the possible commercial advantage induced by the provision of this service.
4. The fund, which is devoted to the electronic communications sector, may finance, inter alia, the following infrastructures as part of the implementation of the universal service as defined in Articles 169, 170, 171, 172, 173 and 174 of this Regulation:
 - a. Electronic communications infrastructure and/or associated resources;
 - b. Subject to sufficient availability of resources, any other related infrastructure which, without being part of the infrastructure referred to in subparagraph a) above, conditions its deployment, in particular energy and road infrastructure.

5. Each Member State shall establish a mechanism for the distribution and control of funds managed by the national regulatory authority or an independent body with a board of directors in which electronic communications network operators and services providers, who are contributors to this fund, are members.
6. The rules applicable to the creation, the rates of contributions from network operators and services providers and to the operation of the fund are determined in accordance with the principles of transparency, non-discrimination and proportionality, as well as in compliance with the provisions of this Regulation.
7. National regulatory authorities may decide not to require contributions from undertakings whose turnover in the Member State is below a certain threshold.
8. For any project financed by universal access/service funds and resources, a monitoring and evaluation plan should be in place, and the entities in charge of universal service should publish annual accounts to assess progress of projects and measure their impact. These should be made public on the entity's website and available for viewing as needed by the public to ensure transparency and accountability.

5.4 Chapter IV: Services to Community roaming customers

5.4.1 Article 183: Requirements for services to Community roaming customers

1. Users of public mobile communications networks traveling within the **Union / Community** should not pay excessive prices for Community roaming services, compared to competitive national prices, when making calls and receiving calls, sending and receiving SMS messages and when using packet switched data communication services.
2. To this end, national regulatory authorities shall observe the following requirements:
 - a. They shall contribute to the smooth functioning of the internal market while ensuring a high level of consumer protection, fostering competition and transparency in the market and providing both incentives for innovation and consumer choice;
 - b. They shall facilitate development of a harmonized legal and pricing mechanism for retail services relating to Community roaming;
 - c. Such mechanism also includes the setting of retail prices for regulated Community roaming services across the **Union / Community**, with a view to abolishing retail roaming surcharges without distorting the domestic or visited markets;
 - d. They shall also lay down rules aimed at increasing price transparency and improving the provision of price information to users of Community roaming services;
3. Without prejudice to relevant provisions of the relevant legal and regulatory framework which must be compatible with Community law.

6 Title 6 - Protection of consumer rights

6.1 Chapter I: Guiding principles for consumers' protection

6.1.1 Article 184: Level of harmonization

1. Unless otherwise provided for in this Title, Member States undertake not to maintain or introduce in their national law consumer protection provisions that do not comply with the provisions of this Title. This commitment also concerns cases of including more, or less, stringent national provisions aimed at ensuring a level of protection different from that established in this Title.
2. Member States may continue to apply more stringent national consumer protection provisions diverging from those laid down in the present Title until **DD/MM/Year**, provided that those provisions were in force **on the date of entry into force of this Regulation** and any restrictions to the functioning of the internal market resulting therefrom are proportionate to the objective of consumer protection.

6.1.2 Article 185: Exemption of certain microenterprises

1. With the exception of Articles 186 and 187 below, this Title 6 shall not apply to microenterprises providing number-independent interpersonal communications services, unless they also provide other electronic communications services.
2. National regulatory authorities shall ensure that consumers are informed of an exemption under paragraph 1 above before concluding a contract with a microenterprise benefitting from such an exemption.

6.1.3 Article 186: Non-discrimination

Unless such different treatment is objectively justified, electronic communications network operators or service providers shall not apply any different requirements or general conditions of access to, or use of, networks or services to consumers, for reasons related to following aspects:

1. Consumer's nationality;
2. Consumer's place of residence; or
3. Consumer's place of establishment.

6.1.4 Article 187: Safeguarding fundamental rights

1. National measures regarding consumers' access to, or use of, services and applications through electronic communications networks shall respect the African Charter on Human and Peoples' Rights (hereinafter referred to as the "Charter") and general principles of **Union/Community** law.
2. Any measure referred to in paragraph 1 above, which would be liable to limit the exercise of the rights or freedoms recognized by the Charter shall be imposed only if it meets the following requirements:
 - a. Such measure must be provided for by law and respects those rights or freedoms;

- b. It must be is proportionate, necessary, and genuinely meets general interest objectives recognized by **Union/Community** law or the need to protect the rights and freedoms of others, in line with the Charter and with general principles of **Union/Community** law, including the right to an effective remedy and to a fair trial;
- c. Due respect for the principle of the presumption of innocence and the right to privacy.
- d. A prior, fair and impartial procedure shall be guaranteed, including the right of the person or persons concerned to be heard, subject to the need for appropriate conditions and procedural arrangements in duly substantiated cases of urgency in accordance with the Charter.

6.2 Chapter II: Protection of personal data

6.2.1 Article 188: Protection of personal data in the electronic communications sector

Without prejudice to the relevant provisions of Community law in force with regard to the protection of personal data, the provisions of this Chapter apply to the processing of personal data in the electronic communications sector.

6.2.2 Article 189: Scope

The following shall be subject to the present Chapter:

1. Processing of personal data in the electronic communications sector by any natural or legal person, institution, authority or entity, in particular network operators and providers of electronic communications services;
2. Any processing carried out on the territory of a Member State by a controller or processor in the context of the activities of its establishment located in the **WAEMU/ECOWAS** zone;
3. Any processing carried out outside the **WAEMU/ECOWAS** zone by a controller or processor as part of the activities of its establishment located in the **WAEMU/ECOWAS** zone.
4. Any processing carried out outside the **WAEMU/ECOWAS** zone by a controller or processor in the context of the activities of its establishment located outside the **WAEMU/ECOWAS** zone, when the following conditions are met:
 - a. Data subjects are in the territory of the **Union/Community**; and
 - b. The activities of the establishment relate to one or both of the following aspects:
 - i. Offering of goods or services to such data subjects in the **Union/Community**, irrespective of whether a payment of the data subject is required, or
 - ii. Monitoring of their behaviour, as far as their behaviour takes place within the **Union/Community**.

6.2.3 Article 190: Out of scope

The provisions of this Chapter shall not apply to data processing carried out by the competent authorities for the following purposes:

1. Prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties;
2. National Defense;
3. Safeguarding against and the prevention of threats to public security.

6.2.4 Article 191: Data protection authority

1. Each Member State shall ensure that the tasks assigned in this Regulation to the data protection authority are carried out by a competent body.
2. Where these tasks are entrusted wholly or partially to authorities other than the national regulatory authority, the latter shall provide these authorities with assistance on all relevant aspects to facilitate the protection of personal data in the electronic communications sector.
3. The data protection authority is responsible for ensuring that processing of personal data is carried out in accordance with existing Community texts and the provisions the provisions of this Chapter.

6.2.5 Article 192: Processing of personal data for the purposes of the legitimate interests

Processing of personal data shall also be considered legitimate where such processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject, in particular where the data subject is a child. This case shall not apply to processing carried out by public authorities in the performance of their tasks.

6.2.6 Article 193: Confidentiality and security of personal data

1. Communications by means of a public electronic communications network and publicly available electronic communications services, as well as the related traffic data, shall be treated confidentially.
2. In particular, listening, tapping, storage or other kinds of interception or surveillance of communications and the related traffic data by persons other than consumers, without the consent of the consumers concerned, shall be prohibited, except when legally authorized to do so in accordance with existing legislation.
3. Paragraphs 1 and 2 shall not prevent technical storage, which is necessary for the conveyance of a communication, without prejudice to the principle of confidentiality.
4. Paragraphs 1, 2 and 3 shall not affect any legally authorized recording of communications and the related traffic data when carried out in the course of lawful business practice for the purpose of providing evidence of a commercial transaction or of any other business communication.
5. The use of electronic communications networks to store information or to gain access to information stored in the terminal equipment of a subscriber or consumer shall only be allowed on following conditions:
 - a. The subscriber or consumer concerned is provided with clear and comprehensive information, inter alia about the purposes of the processing, and

- b. The subscriber or consumer is offered the right to refuse such processing by the data controller.
6. The provision of paragraph 5 above shall not prevent any technical storage or access for the sole purpose of carrying out or facilitating the transmission of a communication over an electronic communications network, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or consumer.
7. The provider of a publicly available electronic communications service must take appropriate technical and organizational measures to safeguard security of its services, if necessary, in conjunction with the operator of the public electronic communications network with respect to network security. Having regard to the state of the art and the cost of their implementation, these measures shall ensure a level of security appropriate to the risk presented.
8. In case of a particular risk of a breach of the security of the network, the provider of a publicly available electronic communications service must inform the subscribers concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, of any possible remedies, including an indication of the likely costs involved.

6.2.7 Article 194: Transfer of personal data to a non-WAEMU/ECOWAS country

The data controller shall inform the data protection authority and obtain its authorization prior to any transfer of personal data to a country that is not a member of WAEMU/ECOWAS.

6.2.8 Article 195: Processing of traffic data

1. Without prejudice to paragraphs 2, 3 and 5 of this Article, traffic data relating to subscribers and consumers processed and stored by the operator of a public electronic communications network or provider of publicly available electronic communications services must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication.
2. Traffic data necessary for the purposes of subscriber billing and interconnection payments may be processed. Such processing is permissible only up to the end of the period during which the bill may lawfully be challenged or payment pursued.
3. The provider of a publicly available electronic communications service may process the data referred to in paragraph 1 on following conditions:
 - a. Such processing is necessary for marketing electronic communications services or for the provision of value-added services;
 - b. Such processing is executed to the extent and for the duration necessary for such services or marketing; and
 - c. The subscriber or consumer to whom the data relate has given his/her consent.

Consumers or subscribers shall be given the possibility to withdraw their consent for the processing of traffic data at any time.

4. Without prejudice to the rights referred to in section 5 of this Chapter, the service provider must inform the subscriber or consumer of the types of traffic data, which are processed and of the

duration of such processing for the purposes mentioned in paragraph 2 and, prior to obtaining consent, for the purposes mentioned in paragraph 3.

5. Processing of traffic data, in accordance with paragraphs 1, 2, 3 and 4, must be restricted to persons acting under the authority of operators of public electronic communications networks and providers of publicly available electronic communications services handling the tasks listed below, and must be restricted to what is necessary for the purposes of such activities:
 - a. Billing or traffic management;
 - b. Customer enquiries;
 - c. Fraud detection; and
 - d. Marketing electronic communications services or providing a value-added service.
6. Paragraphs 1, 2, 3 and 5 shall apply without prejudice to the possibility for competent bodies to be informed of traffic data in conformity with applicable legislation with a view to settling disputes, in particular interconnection or billing disputes.

6.2.9 Article 196: Protection regarding itemized billings

1. Subscribers shall have the right to receive non-itemized bills.
2. National regulatory authorities shall apply national provisions in order to reconcile the rights of subscribers receiving itemized bills with the right to privacy of calling consumers and called subscribers, for example by ensuring that sufficient alternative privacy enhancing methods of communications or payments are available to such consumers and subscribers.

6.2.10 Article 197: Issues relating to calling and connected line identification

1. The service provider that offers presentation of calling line identification shall offer to consumers the following possibilities:
 - a. To the calling consumer, the possibility of preventing the presentation of the calling line identification on a per-call basis, using a simple means and free of charge. The calling subscriber must have this possibility on a per-line basis;
 - b. To the called subscriber, the possibility, of preventing the presentation of the calling line identification of incoming calls, using a simple means and free of charge for reasonable use of this function.
2. Where presentation of calling line identification is offered and where the calling line identification is presented prior to the call being established, the service provider must offer the called subscriber the possibility, using a simple means, of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling consumer or subscriber.
3. Where presentation of connected line identification is offered, the service provider must offer the called subscriber the possibility, using a simple means and free of charge, of preventing the presentation of the connected line identification to the calling consumer.

4. National regulatory authorities shall ensure that, where presentation of calling and/or connected line identification is offered, the providers of publicly available electronic communications services inform the public thereof and of the possibilities set out in the present Article.

6.2.11 Article 198: Location data other than traffic data

1. Without prejudice to the provisions of this Chapter on the protection of personal data, location data other than traffic data relating to consumers or subscribers of public electronic communications networks or publicly available electronic communications services may be processed only under the following conditions:
 - a. Such processing shall be authorized in accordance with the provisions of this Regulation;
 - b. Such data are made anonymous, or the consumers or subscribers have given consent; and
 - c. Such processing is implemented to the extent and for the duration necessary for the provision of a value-added service.
2. Without prejudice to the provisions of this Chapter on the right of the data subject to information, the service provider shall provide consumers or subscribers, prior to obtaining their consent, with the following information:
 - a. The type of location data other than traffic data which will be processed;
 - b. The purposes and duration of the processing; and
 - c. Whether the data will be transmitted to a third party for the purpose of providing the value-added service

Consumers or subscribers shall be given the possibility to withdraw their consent for the processing of location data other than traffic data at any time.

3. Where consent of the consumers or subscribers has been obtained for the processing of location data other than traffic data, they must continue to have the possibility, using a simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network or for each transmission of a communication.
4. Processing of location data other than traffic data in accordance with the provisions of the present Article must be restricted to persons acting under the authority of the public electronic communications network operator or provider of publicly available electronic communications services or of the third party providing the value added service, and must be restricted to what is necessary for the purposes of providing the value added service.

6.2.12 Article 199: Unsolicited communications

1. The use of automated calling systems without human intervention (automatic calling machines), facsimile machines (fax) or electronic mail for the purposes of direct marketing may only be allowed in respect of subscribers who have given their prior consent.
2. Notwithstanding paragraph 1, where a natural or legal person obtains from its customers their electronic contact details for electronic mail, in the context of the sale of a product or a service,

the same natural or legal person may use these electronic contact details for direct marketing of its own similar products or services, under the following conditions:

- a. These customers have not initially refused such use;
 - b. These customers are given clearly and distinctly the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when they are collected; and
 - c. These customers are given clearly and distinctly the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details on the occasion of each message.
3. National regulatory authorities shall take appropriate measures to ensure that, free of charge, unsolicited communications for purposes of direct marketing, in cases other than those referred to in paragraphs 1 and 2, are not allowed either without the consent of the subscribers concerned or in respect of subscribers who do not wish to receive these communications. The choice between these options to be determined by national legislation. Without prejudice to the provisions of Article 192 above.
4. In any event, the practice of sending electronic mail for purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communications cease, shall be prohibited.
5. Paragraphs 1 and 3 shall apply to subscribers who are natural persons. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of subscribers other than natural persons with regard to unsolicited communications are sufficiently protected.

6.2.13 Article 200: Protection relating to subscriber directories

1. Member States shall ensure that subscribers, before they are included in any printed or electronic directory of subscribers available to the public or obtainable through directory enquiry services, in which their personal data can be included, are informed, free of charge, of the following:
 - a. The purpose(s) of such directories;
 - b. Any further usage possibilities based on search functions embedded in electronic versions of the directory.
2. Member States shall ensure that subscribers are given the opportunities listed below, to the extent that their personal data are relevant for the purpose of the directory as determined by the provider of the directory:
 - a. Subscribers shall be in the position to determine whether their personal data, and if so, which one, shall be included in a public directory;
 - b. Subscribers shall be in the position to verify, correct or withdraw such data.
3. Not being included in a public subscriber directory, verifying, correcting or withdrawing personal data from it shall be free of charge.

4. Member States may require that for any purpose of a public directory other than the search of contact details of persons on the basis of their name and, where necessary, a minimum of other identifiers, additional consent be asked of the subscribers.
5. Paragraphs 1, 2 and 3 shall apply to subscribers who are natural persons. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of subscribers other than natural persons with regard to their entry in public directories are sufficiently protected.

6.2.14 Article 201: Right to personal data portability

1. The data subject shall have the right to receive the personal data concerning him or her, which he or she has provided to a controller, in a structured, commonly used and machine-readable format and have the right to transmit those data to another controller without hindrance from the controller to which the personal data have been provided, where following requirements are met:
 - a. The processing is based on consent of the data subject or on a contract pursuant to relevant provisions of Community law; and
 - b. The processing is carried out by automated means.
2. In exercising his or her right to data portability pursuant to paragraph 1 above, the data subject shall have the right to have the personal data transmitted directly from one controller to another, where technically feasible.
3. The exercise of the right referred to in paragraph 1 above shall be without prejudice to the provisions of Article 202 below. That right shall not apply to processing necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller and shall not adversely affect the rights and freedoms of others.

6.2.15 Article 202: Right to be forgotten

In cases where the controller has published personal data and is required to erase it in accordance with the relevant provisions of **Union/Community** law, the controller must take all reasonable steps to inform all controllers that process the published data of the request and the need to erase any links to such data, any copy or reproduction thereof.

6.3 Chapter III: Right of consumers to information and transparency

6.3.1 Article 203: Information relating to contracts

1. Providers of publicly available electronic communications services other than transmission services used for the provision of machine-to-machine services shall, before a consumer is bound by a contract or any corresponding offer, provide the information referred to in Parts A to D of Annex 3 of the present Regulation, to the extent that that information relates to a service they provide.
2. The information shall be provided in a clear and comprehensible manner on a durable medium or, where provision on a durable medium is not feasible, in an easily downloadable document

made available by the provider. The provider shall expressly draw the consumer's attention to the availability of that document and the importance of downloading it for the purposes of documentation, future reference and unchanged reproduction

3. The information shall, upon request, be provided in an accessible format for consumers with disabilities.
4. Providers of publicly available electronic communications services other than transmission services used for the provision of machine-to-machine services shall provide consumers with a concise and easily readable contract summary. That summary shall identify the main elements of the information requirements referred to above. Those main elements shall include at least:
 - a. The name, address and contact information of the provider and, if different, the contact information for any complaint;
 - b. The main characteristics of each service provided;
 - c. The respective prices for activating the electronic communications service and for any recurring or consumption-related charges, where the service is provided for direct monetary payment;
 - d. The duration of the contract and the conditions for its renewal and termination;
 - e. The extent to which the products and services are designed for consumers with disabilities;
 - f. With respect to internet access services, a summary of the information required pursuant to Parts E to D of Annex 3 of the present Regulation.
5. By **DD/MM/Year**, the Commission shall, after consulting national regulatory authorities acting within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation, adopt implementing acts specifying a contract summary template to be used by providers to fulfil their obligations under paragraph 4 above.
6. Providers subject to the obligations under paragraph 1 shall duly complete that contract summary template with the required information and provide the contract summary free of charge to consumers, prior to the conclusion of the contract, including distance contracts. Where, for objective technical reasons, it is impossible to provide the contract summary at that moment, it shall be provided without undue delay thereafter, and the contract shall become effective when the consumer has confirmed his or her agreement after reception of the contract summary.
7. The information referred to in paragraphs 1 and 3 shall become an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise.
8. Where internet access services or publicly available interpersonal communications services are billed on the basis of either time or volume consumption, their providers shall offer consumers the facility to monitor and control the usage of each of those services. This facility shall include access to timely information on the level of consumption of services included in a tariff plan. In particular, providers shall notify consumers before any consumption limit, as established by competent authorities in coordination, where relevant, with national regulatory authorities, included in their tariff plan, is reached and when a service included in their tariff plan is fully consumed.

9. Member States may maintain or introduce in their national law provisions requiring providers to provide additional information on the consumption level and temporarily prevent further use of the relevant service in excess of a financial or volume limit determined by the competent authority.
10. Member States shall remain free to maintain or introduce in their national law provisions relating to aspects not regulated by the present Article, in particular in order to address newly emerging issues.

6.3.2 Article 204: Transparency, comparison of offers and publication of information

1. Where providers of internet access services or publicly available interpersonal communication services make the provision of those services subject to terms and conditions, competent authorities shall, where relevant, in coordination with national regulatory authorities, ensure that the information referred to in Annex 4 of the present Regulation is published in a clear, comprehensive, machine-readable manner and in an accessible format for consumers with disabilities.
2. Upon request, such service providers shall supply that information to the competent authority and, where relevant, to the national regulatory authority, before its publication
3. Such information shall be updated regularly.
4. Competent authorities may, where relevant, in coordination with national regulatory authorities, take the following initiatives:
 - a. Proceed to the publication of said information themselves;
 - b. Specify additional requirements regarding the form in which such information is to be published.
5. Where relevant, competent authorities shall, in coordination with national regulatory authorities, ensure that end- users have access free of charge to at least one independent comparison tool which enables them to compare and evaluate different internet access services and publicly available number-based interpersonal communications services, and, where applicable, publicly available number-independent interpersonal communications services. This comparison requirement concerns the following aspects of these services:
 - a. Prices and tariffs of services provided against recurring or consumption-based direct monetary payments; and
 - b. The quality of service performance, where minimum quality of service is offered or the undertaking is required to publish such information pursuant to Article 206 of the present Regulation.
6. The comparison tool referred to above must meet the following requirements:
 - a. Be operationally independent from the providers of such services, thereby ensuring that those providers are given equal treatment in search results;
 - b. Clearly disclose the owners and providers of the comparison tool;
 - c. Set out clear and objective criteria on which the comparison is to be based;

- d. Use plain and unambiguous language;
 - e. Provide accurate and up-to-date information and state the time of the last update;
 - f. Be open to any provider of internet access services or publicly available interpersonal communications services making available the relevant information, and include a broad range of offers covering a significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results;
 - g. Provide an effective procedure to report incorrect information;
 - h. Include the possibility to compare prices, tariffs and quality of service performance between offers available to consumers and, if required by Member States, between those offers and the standard offers publicly available to other consumers.
7. Upon request by the provider of the tool, any comparison tools fulfilling the requirements listed above shall be certified by competent authorities in coordination, where relevant, with national regulatory authorities.
8. With a view to making available such independent comparison tools, any third party shall have a right to use, free of charge and in open data formats, the information published by providers of internet access services or publicly available interpersonal communications services.
9. Member States may require that providers of internet access services or publicly available number-based interpersonal communications services, or both, distribute public interest information free of charge to existing and new consumers, where appropriate, by the means that they ordinarily use in their communications with consumers. In such a case, that public interest information shall be provided by the relevant public authorities in a standardized format and shall, inter alia, cover the following topics:
- a. The most common uses of internet access services and publicly available number-based interpersonal communications services to engage in unlawful activities or to disseminate harmful content, in particular where it may prejudice respect for the rights and freedoms of others, including infringements of data protection rights, copyright and related rights, and their legal consequences; and
 - b. The means of protection against risks to personal security, privacy and personal data when using internet access services and publicly available number-based interpersonal communications services.

6.4 Chapter IV: Consumer rights in terms of service quality

6.4.1 Article 205: Scope

The provisions of this Chapter relate to internet access services and publicly available interpersonal communications services.

6.4.2 Article 206: Quality of service requirements

1. In coordination with other competent authorities, national regulatory authorities may require providers of internet access services and of publicly available interpersonal communications services to publish comprehensive, comparable, reliable, user-friendly and up-to-date information for consumers on:
 - a. The quality of their services, to the extent that they control at least some elements of the network either directly or by virtue of a service level agreement to that effect, and on
 - b. Measures taken to ensure equivalence in access for consumers with disabilities.
2. In coordination with other competent authorities, national regulatory authorities may also 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. Upon request, such information shall be supplied to the national regulatory and, where relevant, to other competent authorities before its publication.
4. The measures to ensure quality of service shall comply with the regulatory requirements in terms of access to an open internet and roaming on public mobile communications networks within the **WAEMU/ECOWAS** space.

6.4.3 Article 207: Quality of service indicators

1. In coordination with other competent authorities, national regulatory authorities shall specify, taking utmost account of guidelines adopted by national regulatory authorities within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation, the following elements:
 - a. The quality of service parameters to be measured;
 - b. The applicable measurement methods; as well as
 - c. The content, form and manner of the information to be published, including possible quality certification mechanisms.

Where appropriate, the parameters, definitions and measurement methods set out in Annex 6 of the present Regulation shall be used.

2. By **DD/MM/Year**, in order to contribute to a consistent application of the present Article and of Annex 6 of the present Regulation, national regulatory authorities acting within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation shall, after consulting stakeholders and in close cooperation with the Commission, adopt guidelines detailing the relevant quality of service parameters, including the following elements:
 - a. Parameters relevant for consumers with disabilities;
 - b. The applicable measurement methods;
 - c. The content and format of publication of the information; and

- d. Quality certification mechanisms.

6.5 Chapter V: Provider switching and number portability

6.5.1 Article 208: Requirements in the event of provider switching

1. In the case of switching between providers of internet access services or of number-based interpersonal communications services, the providers concerned shall provide the consumer with adequate information before and during the switching process and ensure continuity of the internet access service, unless technically not feasible.
2. The receiving provider shall ensure that the activation of the internet access service, the number-based interpersonal communications service or of both occurs within the shortest possible time on the date and within the timeframe expressly agreed with the consumer.
3. The transferring provider shall continue to provide its internet access service on the same terms until the receiving provider activates its internet access service.
4. Loss of service during the switching process shall not exceed one working day.
5. National regulatory authorities shall ensure the efficiency and simplicity of the switching process for the consumer.

6.5.2 Article 209: Right to number portability

1. Consumers with numbers from the national numbering plan shall have the right to retain their numbers, upon request, independently of the undertaking providing the service, in accordance with Annex 7 of the present Regulation.
2. Where a consumer terminates a contract, he shall be able to retain the right to port a number from the national numbering plan to another provider for a **minimum of one (01) month** after the date of termination, unless that right is renounced by the consumer.
3. National regulatory authorities shall ensure that pricing among providers related to the provision of number portability is cost-oriented, and that no direct charges are applied to consumers.

6.5.3 Article 210: Deadlines for portability

1. The porting of numbers and their subsequent activation shall be carried out **within the shortest possible time** on the date explicitly agreed with the consumer. In any case, consumers who have concluded an agreement to port a number to a new provider shall have that number activated within **one (01) working day** from the date agreed with the consumer.
2. In the case of failure of the porting process, the transferring provider shall reactivate the number and related services of the consumer until the porting is successful.
3. The transferring provider shall continue to provide its services on the same terms and conditions until the services of the receiving provider are activated. In any event, the loss of service during the process of provider switching and the porting of numbers shall **not exceed one (01) working day**.

4. Operators whose access networks or facilities are used by either the transferring or the receiving provider, or both, shall ensure that there is no loss of service that would delay the switching and porting process.

6.5.4 Article 211: Portability procedure and cooperation obligation

1. The receiving provider shall lead the switching and porting processes set out in Articles 208, 209 and 210 of the present Chapter.
2. To this end, both the receiving and transferring providers shall cooperate in good faith. They shall not delay or abuse the switching and porting processes, nor shall they port numbers or switch consumers without the consumer's explicit consent.
3. The consumers' contracts with the transferring provider shall be terminated automatically upon conclusion of the switching process.

6.5.5 Article 212: Intervention of the national regulatory authority

1. National regulatory authorities may establish the details of the switching and porting processes, taking into account national provisions on contracts, technical feasibility and the need to maintain continuity of service to the consumers. This shall include, where technically feasible, a requirement for the porting to be completed through over-the-air provisioning, unless a consumer requests otherwise.
2. National regulatory authorities shall also take appropriate measures ensuring that consumers are adequately informed and protected throughout the switching and porting processes and are not switched to another provider without their consent.

6.5.6 Article 213: Winding-up of contracts

1. If so requested by the consumers using pre-paid services, the transferring provider shall refund any remaining credit to him;
2. Such refund may be subject to a fee only if provided for in the contract.
3. Any such fee shall be proportionate and commensurate with the actual costs incurred by the transferring provider in offering the refund.

6.5.7 Article 214: Penalties and compensations

1. Member States shall lay down rules on penalties in the case of the failure of a provider to comply with the obligations laid down in the present Article, including delays in, or abuses of, porting by, or on behalf of, a provider.
2. Member States shall lay down rules on the compensation of consumers by their providers in an easy and timely manner in the case of the failure of a provider to comply with the obligations laid down in the present Article, as well as in the case of delays in, or abuses of, porting and switching processes, and missed service and installation appointments.

6.5.8 Article 215: Information requirements

In addition to the information required under Parts C to D of Annex 3 of the present Regulation, national regulatory authorities shall ensure that consumers are adequately informed about the existence of the rights to compensation referred to in Article 214.

6.6 Chapter VI: Contract duration and termination

6.6.1 Article 216: Maximum duration of contracts

1. Conditions and procedures for contract termination shall not act as a disincentive to changing service provider. To this end, contracts concluded between consumers and providers of publicly available electronic communications services other than number-independent interpersonal communications services and other than transmission services used for the provision of machine-to-machine services, shall not mandate a commitment period longer **than twenty-four (24) months**. Member States may adopt or maintain provisions, which mandate shorter maximum contractual commitment periods.
2. The present Article shall not apply to the duration of an instalment contract where the consumer has agreed in a separate contract to instalment payments exclusively for deployment of a physical connection, in particular to very high-capacity networks. An instalment contract for the deployment of a physical connection shall not include terminal equipment, such as a router or modem, and shall not preclude consumers from exercising their rights under the present Article.
3. The present Article shall also apply to microenterprises, small enterprises and not-for-profit organizations, unless they have explicitly agreed to waive those provisions.

6.6.2 Article 217: Automatic prolongation and right to terminate contracts

1. Where a contract or national law provides for automatic prolongation of a fixed duration contract for electronic communications services other than number-independent interpersonal communications services and other than transmission services used for the provision of machine-to-machine services, after such prolongation, the consumer is entitled to terminate the contract at any time with **a maximum one-month (01) notice period**, as determined by Member States, and without incurring any costs except the charges for receiving the service during the notice period.
2. Before the contract is automatically prolonged, providers shall inform consumers, in a prominent and timely manner and on a durable medium, of the end of the contractual commitment and of the means by which to terminate the contract. In addition, and at the same time, providers shall give consumers best tariff advice relating to their services. Providers shall provide consumers with best tariff information at least annually.

6.6.3 Article 218: Requirements in the event of change in the contractual conditions

1. Consumers shall have the right to terminate their contract without incurring any further costs upon notice of changes in the contractual conditions proposed by the provider of publicly available electronic communications services other than number-independent interpersonal communications services. Such right shall not apply in the following cases:

- a. The proposed changes are exclusively to the benefit of the consumer;
 - b. The proposed changes are of a purely administrative nature and have no negative effect on the consumer; or
 - c. The proposed changes are directly imposed by **WAEMU/ECOWAS** or national law.
2. Providers shall notify consumers **at least one (01) month in advance** of any change in the contractual conditions, and shall simultaneously inform them of their right to terminate the contract without incurring any further costs if they do not accept the new conditions. The right to terminate the contract shall be exercisable within **one (01) month after notification**. Member States may extend that period by **up to three (03) months**. National regulatory or other competent authorities shall ensure that notification is made in a clear and comprehensible manner on a durable medium.

6.6.4 Article 219: Rights in the event of performance discrepancy

1. Any significant continued or frequently recurring discrepancy between the actual performance of an electronic communications service, and the performance indicated in the contract, shall be considered to be a basis for triggering the remedies available to the consumer in accordance with national law, including the right to terminate the contract free of cost.
2. The provision of paragraph above shall not apply to an internet access service or a number-independent interpersonal communications service. It only applies to contracts concluded or renewed **from the entry into force of this Regulation**.

6.6.5 Article 220: Requirements with regard to compensation by consumers

1. Where a consumer has the right to terminate a contract for a publicly available electronic communications service, other than a number-independent interpersonal communications service, before the end of the agreed contract period pursuant to the present Regulation or to other provisions of **WAEMU/ECOWAS** or national law, no compensation shall be due by the consumer other than for retained subsidized terminal equipment.
2. Where the consumer chooses to retain terminal equipment bundled at the moment of the contract conclusion, any compensation due shall not exceed the following amounts, whichever is the smaller:
 - a. The pro rata temporis value as agreed at the moment of the conclusion of the contract; or
 - b. The remaining part of the service fee until the end of the contract.
3. National regulatory or other competent authorities may determine other methods to calculate the compensation rate, provided that such methods do not result in a level of compensation exceeding that calculated in accordance with the paragraph 2 above.
4. The provider shall lift any condition on the use of that terminal equipment on other networks free of charge at a time specified by national regulatory or other competent authorities and at the latest upon payment of the compensation.

6.6.6 Article 221: Scope of rights relating to the duration and termination of contracts

As far as transmission services used for machine-to-machine services are concerned, the rights mentioned in Articles 218 and 220 of the present Regulation shall benefit both consumers, microenterprises, small enterprises and not-for-profit organizations.

6.7 Chapter VII: Equitable access to internet services

6.7.1 Article 222: Right of consumers to an open internet

1. Consumers shall have the right to access and distribute information and content, use and provide applications and services, and use terminal equipment of their choice, irrespective of the consumer's or provider's location or the location, origin or destination of the information, content, application or service, via their internet access service.
2. Without prejudice to legal and regulatory provisions at Community and national level, that complies with **WAEMU/ECOWAS** law, related to the lawfulness of the content, applications or services.
3. When providing internet access services, providers of internet access services shall treat all traffic equally, without discrimination, restriction or interference, and irrespective of the sender and receiver, the content accessed or distributed, the applications or services used or provided, or the terminal equipment used.
4. The obligations of internet access service providers arising from paragraph 3 above shall not prevent such providers from implementing reasonable traffic management measures. In order to be deemed to be reasonable, such measures shall be transparent, non-discriminatory and proportionate, and shall not be based on commercial considerations but on objectively different technical quality of service requirements of specific categories of traffic.
5. Traffic management measures may entail processing of personal data only if such processing is necessary and proportionate to achieve the objectives set out in paragraph 4 above. Such processing shall be carried out in accordance with the relevant provisions of this Regulation on the protection of personal data.

6.7.2 Article 223: Transparency measures guaranteeing access to an open internet

1. Providers of internet access services shall ensure that any contract which includes internet access services specifies at least the elements referred to in Part E of Annex 3 of this Regulation.
2. Providers of internet access services shall publish the information referred to in paragraph 1 above. They shall put in place transparent, simple and efficient procedures to address complaints of consumers relating to the rights and obligations laid down in the present Chapter.
3. Any significant discrepancy, continuous or regularly recurring, between the actual performance of the internet access service regarding speed or other quality of service parameters and the performance indicated by the provider of internet access services in accordance with points 1 to 4 of Part E of Annex 3 of the present Regulation, where the relevant facts are established by a

monitoring mechanism certified by the national regulatory authority, be deemed to constitute non-conformity of performance for the purposes of triggering the remedies available to the consumer in accordance with national law. This provision shall apply only to contracts concluded or renewed **from the entry into force of the present Regulation**.

6.8 Chapter VIII: Other consumer rights

6.8.1 Article 224: Bundled offers

1. The following provisions shall apply to all elements of the bundle including, mutatis mutandis, those not otherwise covered by those provisions, if a bundle of services or a bundle of services and terminal equipment offered to a consumer comprises at least an internet access service or a publicly available number-based interpersonal communications service:
 - a. Paragraph 4 of Article 203;
 - b. Paragraphs 1 to 4 of Article 204;
 - c. Articles 216 to 221; and
 - d. Article 208.
2. Where the consumer has, under **WAEMU/ECOWAS** law, or national law in accordance with **WAEMU/ECOWAS** law, a right to terminate any element of the bundle as referred to in paragraph 1 above before the end of the agreed contract term because of a lack of conformity with the contract or a failure to supply, Member States shall provide that the consumer has the right to terminate the contract with respect to all elements of the bundle.
3. Any subscription to additional services or terminal equipment provided or distributed by the same provider of internet access services or of publicly available number-based interpersonal communications services shall not extend the original duration of the contract to which such services or terminal equipment are added, unless the consumer expressly agrees otherwise when subscribing to the additional services or terminal equipment.
4. Paragraphs 1 and 3 above shall also apply to microenterprises, small enterprises, or not-for-profit organizations, unless they have explicitly agreed to waive all or parts of those provisions.
5. Member States may also apply paragraph 1 above as regards other provisions laid down in Chapters III, IV, V and VI of Title 6 of this Regulation.

6.8.2 Article 225: Availability of services

1. National regulatory authorities shall take all necessary measures to ensure the fullest possible availability of voice communications services and internet access services provided over public electronic communications networks in the event of catastrophic network breakdown or in cases of force majeure.
2. National regulatory authorities shall ensure that providers of voice communications services take all necessary measures to ensure uninterrupted access to emergency services and uninterrupted transmission of public warnings.

6.8.3 Article 226: Public warning system

1. By **DD/MM/Year**, Member States shall ensure that, when public warning systems regarding imminent or developing major emergencies and disasters are in place, providers of mobile number-based interpersonal communications services transmit public warnings to the consumers concerned.
2. Notwithstanding paragraph 1 above, Member States may determine that public warnings be transmitted through publicly available electronic communications services other than those referred to in paragraph 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 consumers, including those only temporarily present in the area concerned, taking utmost account of eventual guidelines adopted by national regulatory authorities within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation. Public warnings shall be easy for consumers to receive.
3. By **DD/MM/Year**, and after consulting the authorities in charge of the competent authorities in charge of receiving emergency calls, national regulatory authorities shall publish eventual guidelines adopted within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation, on how to assess whether the effectiveness of public warning systems under paragraph 2 above is equivalent to the effectiveness of those under paragraph 1 above.

6.8.4 Article 227: Equivalent access and choice for consumers with disabilities

1. The competent authorities shall specify requirements to be met by providers of publicly available electronic communications services to ensure that consumers with disabilities benefit from the following facilities:
 - a. Access to electronic communications services, including the related contractual information provided pursuant to Article 203, equivalent to that enjoyed by the majority of consumers; and
 - b. Choice of undertakings and services available to the majority of consumers.
2. In taking the measures referred to in paragraph 1 of the present Article, the competent authorities shall encourage compliance with the relevant standards or specifications laid down in accordance with the applicable standardization procedures.

6.8.5 Article 228: Directory enquiry services

1. All providers of number-based interpersonal communications services that attribute numbers from a numbering plan shall meet all reasonable requests to make available, for the purposes of the provision of publicly available directory enquiry services and directories, the relevant information in an agreed format, on terms which are fair, objective, cost oriented and non-discriminatory.
2. National regulatory authorities may impose obligations and conditions on undertakings that control access to consumers, for the provision of directory enquiry services, in accordance with Chapter I of Title 4 of the present Regulation, in particular paragraph 11 of Article 71. Such obligations and conditions shall be objective, equitable, non-discriminatory and transparent.

3. Member States shall not maintain any regulatory restrictions which prevent consumers in one Member State from accessing directly the directory enquiry service in another Member State by voice call or SMS and shall take measures to ensure such access.
4. The present Article shall apply subject to the requirements of **WAEMU/ECOWAS** law on the protection of personal data and privacy and, in particular, of Article 200 of the present Regulation.

7 Title 7 - Transitional and final provisions

7.1 Chapter I: Transitional provisions

7.1.1 Article 229: Existing licenses, authorizations and declarations

1. **No later than the date of its entry into force**, Member States shall adapt to the provisions of the present Regulation existing licenses, authorizations and declarations.
2. Where the application of paragraph 1 of this Article results to a restriction of the rights or an increase in the obligations of an undertaking subject to the licensing, authorization or declaration regime, the Member State may extend the validity of those rights and obligations by a maximum of **nine (09) months as from the date of entry into force** of the present Regulation.
3. A Member State may request a temporary extension of a condition linked to an existing license, authorization or declaration prior to the date of entry into force of the present Regulation, if it can show that suppression of that condition creates excessive difficulties for the undertakings benefiting from it, and if it is not possible for those undertakings to negotiate new agreements under reasonable commercial conditions prior to the date of entry into force of the present Regulation.
4. Member States' requests for extension shall be brought before the Commission, which shall examine them in the light of the specific situation of each Member State and the undertakings concerned. If necessary, the Commission may request the opinion of national regulatory authorities acting within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation, which shall decide without delay.
5. Based on the aforementioned analysis, the Commission shall reach a decision and may accept or reject the request. In the event of a request being accepted, the Commission shall decide on the scope and duration of the extension to be granted. Its decision shall be communicated to the Member State concerned within **the six (06) months** following receipt of the request for extension.

7.2 Chapter II: Final provisions

7.2.1 Article 230: Implementation

1. The Commission is responsible for the application of the present Regulation.
2. Member States and **WAEMU bodies/ECOWAS institutions** undertake to begin implementing the provisions of this Regulation as soon as it comes into force.
3. Member States shall communicate to the Commission the provisions of domestic law that they adopt in the field governed by the present Regulation.
4. When, on the basis of this Regulation, national regulatory authorities take decisions that are liable to have an impact on exchanges between Member States and on the establishment of the single

market, or on market entry arrangements for the purpose of providing publicly available electronic communications networks and/or services, they shall ensure that these measures as well as substantiating arguments are communicated to the Commission and to the eventual sub-regional regulatory coordination body established by national regulatory authorities pursuant to Article 40 of this Regulation **one (01) month** prior to their implementation.

5. The national regulatory authority shall take into consideration the observation of the Commission and the eventual sub-regional regulatory coordination body established by national regulatory authorities pursuant to Article 40 of this Regulation.
6. The measures shall take effect **one (01) month** after the date on which they were communicated to the Commission and the eventual sub-regional regulatory coordination body established by national regulatory authorities pursuant to Article 40 of this Regulation, unless the Commission informs the national regulatory authority that they are incompatible with this Regulation.
7. Under exceptional circumstances, where the national regulatory authority considers it urgent to take action to safeguard competition and protect the interests of users, it may adopt proportionate measures immediately, which are applicable for a limited period only. Those measures shall be communicated without delay to the Commission and to the eventual sub-regional regulatory coordination body established by national regulatory authorities pursuant to Article 40 of this Regulation, for comment.

7.2.2 Article 231: Information report

No later than **six (06) months** following the date of its entry into force, and thereafter at its request in the context of the review procedures under Article 233 below, Member States shall communicate to Commission the necessary information, including the steps taken or which are in the course of approval or implementation for purpose of implementing the provisions of this Regulation, in order to enable it to draw up a report on its application.

7.2.3 Article 232: Publication

1. The present Regulation shall be published by the Commission in the **Official Bulletin of the Union/Official Journal of the Community** within **thirty (30) days** of its signature by the **President of the Council of Ministers**.
2. It shall also be published by each Member State in its **Official Journal/National Gazette** within the same timeframe as above.

7.2.4 Article 233: Review procedures (periodic review)

1. The provisions of this Regulation and of specific Community acts adopted on the basis of the provisions of this Regulation shall be re-examined periodically, in particular with a view to determining whether they need to be amended to take account of technological and market developments concerning the different types of electronic communications networks and services.

2. Without prejudice to paragraph 1 above, the Commission shall carry out the review referred to in said paragraph by DD/MM/Year and every four (04) years thereafter, and report thereon to the Council of Ministers.
3. Without prejudice to paragraph 1 above, certain aspects of this Regulation shall be reviewed as follows, and the Commission shall submit a report to the Council regarding the outcome of the review:
 - a. The provisions relating to the scope of the universal service no later than three (03) years after its entry into force, and every four (04) years thereafter, in particular with a view to proposing to the Council of Ministers the modification or redefinition of the scope. That review shall be undertaken in light of social, economic and technological developments, taking into account, inter alia, mobility and data rates in light of the prevailing technologies used by the majority of consumers;
 - b. No later than DD/MM/Year and every four (04) years thereafter, national regulatory authorities, within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation, shall publish an opinion on:
 - i. The implementation and operation at national level of the regime applicable to network operators and service providers according to Title 3 of this Regulation and their impact on the operation of the internal market. The Commission may, taking utmost account of the opinion formulated by national regulatory authorities within the framework of the sub-regional regulatory coordination as referred to in Article 40 of this Regulation, publish a report on the application of said regime and of Annexes 1 and 2, and submit a legislative proposal to amend those provisions where it considers this to be necessary for the purpose of addressing obstacles to the proper functioning of the internal market;
 - ii. Technological and market developments concerning the different types of electronic communications services. The Commission, taking utmost account of the opinion formulated by national regulatory authorities of the sub-regional regulatory coordination as referred to in Article 40 within the framework of this Regulation, shall publish a report on the application of Title 6 (Protection of consumers), and submit a legislative proposal to amend that Title where it considers this to be necessary to ensure that the objectives set out in the present Regulation continue to be met.
4. Subject to the specific requirements of paragraph 3 above, the Commission, during the reviews indicated above, shall evaluate in particular the following aspects and may, to that end, request information from Member States, which shall be supplied without undue delay:
 - a. The market implications of the different provisions; and
 - b. Whether the ex-ante and other intervention powers pursuant to the present Regulation are sufficient to enable national regulatory authorities to address uncompetitive oligopolistic market structures, and to ensure that competition in electronic communications markets continues to thrive to the benefit of consumers.

7.2.5 Article 234: Repeal

For the WAEMU space²¹:

1. The present Regulation shall repeal and replace the following Community acts, which are also listed in the table in Annex 8, with effect from the date of its entry into force:
 - a. Directive N°01/2006/CM/UEMOA of 23 March 2006 (Harmonization of control and regulation policies in the telecommunications sector);
 - b. Directive N°02/2006/CM/UEMOA of 23 March 2006 (Harmonization of the regimes applicable to network operators and service providers);
 - c. Directive N°03/2006/CM/UEMOA of March 23, 2006 (Interconnection of telecommunications networks and services);
 - d. Directive N°04/2006/CM/UEMOA of 23 March 2006 (Universal service and network performance obligations);
 - e. Directive N°05/2006/CM/UEMOA of 23 March 2006 (Harmonization of the pricing of telecommunications services);
 - f. Directive N°06/2006/CM/UEMOA of March 23, 2006 (General framework for cooperation between national regulatory authorities in telecommunications).

For the ECOWAS space²²:

(Supplementary Act)²³

1. The present Supplementary Act shall repeal and replace the following Community acts, which are also listed in the table in Annex 8, with effect from the date of its entry into force:
 - a. Supplementary Act A/SA.1/01/07 of 19th January 2007 (Harmonization of policies and of the regulatory framework for the ICT sector);
 - b. Supplementary Act A/SA.2/01/07 of 19th January 2007 (Access and interconnection in respect of ICT sector networks and services);
 - c. Supplementary Act A/SA.3/01/07 of 19th January 2007 (Legal regime applicable to network operators and service providers);

²¹ *ToDo: In the ECOWAS version of this Regulation, delete the " For the WAEMU space", as well as the all related Community act listed in a-g.*

²² *ToDo: In the WAEMU version of this Regulation, delete the "For the ECOWAS space", as well as the all related Community act listed in a-h.*

²³ *In the ECOWAS version of this legal act, please adopt the text of this paragraph as such (together with the list of ECOWAS Community acts that follow) only if ECOWAS prefers to adopt this Community text in the form of a Supplementary Act. Note: In this case, the expressions "this Regulation" or "the present Regulation" must be replaced throughout the text by "this Supplementary Act" or "the present Supplementary Act".*

- d. *Supplementary Act A/SA.4/01/07 of 19th January 2007 (Numbering plan management);*
- e. *Supplementary Act A/SA.5/01/07 of 19th January 2007 (Management of the radio-frequency spectrum);*
- f. *Supplementary Act A/SA.6/01/07 of 19th January 2007 (Universal access/service);*
- g. *Regulation C/REG.06/06/12 of 12th June 2012 (Conditions for access to submarine cables landing stations);*
- h. *Regulation C/REG. 19/12/16 of 16th December 2017 (Conditions for access to national and international bandwidth on terrestrial networks within ECOWAS);*

(Regulation)²⁴

1. The present Regulation shall replace the following Community acts, which are also listed in the table in Annex 8, upon their repeal by an appropriate legal act of the Conference of Heads of State and Government and in accordance with the procedures prescribed therein:

- a. *Supplementary Act A/SA.1/01/07 of 19th January 2007 (Harmonization of policies and of the regulatory framework for the ICT sector);*
- b. *Supplementary Act A/SA.2/01/07 of 19th January 2007 (Access and interconnection in respect of ICT sector networks and services);*
- c. *Supplementary Act A/SA.3/01/07 of 19th January 2007 (Legal regime applicable to network operators and service providers);*
- d. *Supplementary Act A/SA.4/01/07 of 19th January 2007 (Numbering plan management);*
- e. *Supplementary Act A/SA.5/01/07 of 19th January 2007 (Management of the radio-frequency spectrum);*
- f. *Supplementary Act A/SA.6/01/07 of 19th January 2007 (Universal access/service).*

2. It shall repeal and replace the following Community acts, which are also listed in the table in Annex 8, with effect from the date of its entry into force:

- a. *Regulation C/REG.06/06/12 of 12th June 2012 (Conditions for access to submarine cables landing stations);*
- b. *Regulation C/REG. 19/12/16 of 16th December 2017 (Conditions for access to national and international bandwidth on terrestrial networks within ECOWAS);*

²⁴ In the event that ECOWAS adopts this Community text in the form of a Regulation, please rather use paragraphs 1 and 2 of this section. Reason: In the hierarchy of derivative legal acts, the Regulation is below a Supplementary Act. The latter can only be repealed by a legal act which, in the hierarchy of derivative legal acts, is at least in the rank of a Supplementary Act. As a result, the Regulation can replace the Supplementary Acts referred to in paragraph 1 only after they have been previously repealed by at least a Supplementary Act.

2. References to the repealed Community acts shall be construed as references to the present Regulation.

7.2.6 Article 235: Entry into force

1. These present Regulation shall enter into force on **the fifth (5th) day following that of its publication in the Official Bulletin of the Union/Official Journal of the Community.**
2. It is binding in all its elements and directly applicable in any Member State.

Done in **[.....place.....]**, at **DD/MM/Year**

For the Council of Ministers,
The President
N.N.

8 Annex 1: Conditions which may apply to an individual license and a general authorization

This Annex contains the list of specific conditions that may be attached to individual licenses and general authorizations, as indicated in paragraph 2 of Article 50 of this Regulation.

A. Specific conditions which may be attached to an individual license

1. Maximum duration, which must not be unreasonably short, in order, among other things, to ensure the effective use of the radio frequencies or numbers in question or to grant access to public or private property, the foregoing being without prejudice to other provisions relating to withdrawal or suspension of licenses.
2. Compliance with universal service obligations, in accordance with the provisions of this Regulation relating to interconnection and universal service.
3. Requirements related to the quality, availability and permanence of the service or network, affecting in particular the financial and technical capacities of the candidate and his management skills and conditions setting a minimum operating period and including, where applicable, and in accordance with Community law, the obligation to provide publicly available electronic communications services and public electronic communications networks.
4. Specific requirements in regard to environment, town planning and regional development considerations, in particular conditions relating to the granting of access to public or private property and to the co-location and sharing of facilities.
5. Special conditions that may be attached to the rights of use in terms of numbering:
 - a. Description of the service for which the number is used, including any requirements in regard to the provision of that service;
 - b. Effective and efficient use of numbers, in accordance with the provisions of this Regulation relating to numbering, in particular Chapter II of Title 5;
 - c. Requirements in regard to number portability, in accordance with the provisions of this Regulation relating to number portability, in particular Article 78 and Chapter V of Title 6;
 - d. Obligation to provide subscribers listed in public directories with information for the purposes of the provisions of this Regulation relating to universal service, in particular Chapter III of Title 5;
 - e. Transfer of usage rights to a third party at the initiative of the rights-holder, and conditions applicable to such transfer;
 - f. Charges for usage rights, in accordance with Article 156 paragraph 1 of this Regulation;
 - g. Any commitment made by the operator or service provider during the licensing process;
 - h. Obligations under relevant international agreements relating to usage of numbers;

- i. Obligations concerning the extraterritorial use of numbers within **WAEMU/ECOWAS** to ensure compliance with consumer protection and other number-related rules in Member States other than that of the country code, in accordance with Article 162 of this Regulation;
 - j. Maximum duration of use rights.
6. Special conditions that may be attached to the rights of use of the radio frequency spectrum:
 - a. Designation of the service or type of network or technology for which spectrum rights have been granted, including, where applicable, the exclusive use of a frequency for the transmission of content or specific audiovisual services;
 - b. Effective and efficient use of frequencies, including, where applicable, coverage requirements;
 - c. Technical and operational conditions necessary to avoid harmful interference and to limit exposure of the public to electromagnetic fields, when these conditions differ from those specified in the general authorization;
 - d. Transfer of rights of use at the initiative of the holder of these rights and conditions applicable to the transfer;
 - e. Charges for usage rights, in accordance with Article 109 of this Regulation;
 - f. Commitments made during a competitive or comparative selection procedure by the undertaking having obtained the usage right;
 - g. Obligations under relevant international agreements relating to frequency usage;
 - h. Maximum duration of use rights
 7. Conditions relating to access and interconnection obligations applicable to undertakings that provide electronic communications networks or services, in accordance with the provisions of this Regulation relating to access and interconnection and obligations arising from Community legislation.
 8. Accessibility to end-users of the numbers in the national numbering plan, including conditions in accordance with the provisions of this Regulation relating to universal service and numbering.
 9. Rules concerning the protection of personal data and privacy within the electronic communications sector in accordance with relevant provisions of this Regulation.
 10. Rules and conditions relating to consumer protection specific to the electronic communications sector, including those provided for in this Regulation.
 11. Terms of use for communications from public authorities to the general public for preventing imminent threats and major catastrophes.
 12. Terms of use during major disaster to ensure communication between emergency services, authorities and public broadcasting services.
 13. Network security.

B. Specific conditions which may be attached to a general authorization

1. Conditions aimed at ensuring compliance with the relevant essential requirements.
2. Conditions relating to the provision of information reasonably required with a view to verify compliance with applicable conditions and for statistical purposes.
3. Accessibility to end-users of the numbers in the national numbering plan, including conditions in accordance with the provisions of this Regulation relating to universal service and numbering.
4. Financial contributions pursuant to Article 43 of this Regulation.
5. Conditions relating to the protection of users and subscribers, in particular as regards:
 - a. Prior approval by the national regulatory authority of the standard contract concluded with subscribers;
 - b. Provision of detailed and accurate invoicing;
 - c. The availability of a dispute settlement procedure;
 - d. The publication of service access conditions, including tariffs, quality and availability, and adequate notification whenever such conditions are modified;
 - e. Transparency obligations on providers of publicly available electronic communications services in accordance with the provisions of Chapter III of Title 6 of this Regulation.
6. Rules concerning the protection of personal data and privacy within the electronic communications sector in accordance with relevant provisions of this Regulation.
7. Rules and conditions relating to consumer protection specific to the electronic communications sector, including those provided for in this Regulation.
8. Restrictions in regard to the transmission of illegal content and of harmful content relating to television broadcasting activities.
9. Conditions aimed at preventing anti-competitive behavior in electronic communications markets, and in particular measures designed to ensure that tariffs are not discriminatory and do not distort competition.
10. Financial contribution to the provision of the universal service in accordance with Community legislation.
11. Communication of information contained customer databases for the purpose of providing universal directory services.
12. Provision of emergency services.
13. Special arrangements for people with disabilities.
14. Facilitating lawful interception by competent national authorities.
15. Terms of use for communications from public authorities to the general public for preventing imminent threats and major catastrophes.

16. Terms of use during major disaster to ensure communication between emergency services, authorities and public broadcasting services.
17. Measures aimed at limiting exposure of the public to electromagnetic fields generated by electronic communications networks, in accordance with Community legislation.
18. Conditions relating to access and interconnection obligations applicable to undertakings that provide electronic communications networks or services, in accordance with the provisions of this Regulation relating to access and interconnection and obligations arising from Community legislation.
19. Special conditions that may be attached to the rights of use of the radio frequency spectrum:
 - a. Designation of the service or type of network or technology for which spectrum rights have been granted, including, where applicable, the exclusive use of a frequency for the transmission of content or specific audiovisual services;
 - b. Effective and efficient use of frequencies, including, where applicable, coverage requirements;
 - c. Technical and operational conditions necessary to avoid harmful interference and to limit exposure of the public to electromagnetic fields, when these conditions differ from those specified in the general authorization;
 - d. Maximum duration of use rights;
 - e. Transfer of rights of use at the initiative of the holder of these rights and conditions applicable to the transfer;
 - f. Commitments made during a competitive or comparative selection procedure by the undertaking having obtained the usage right;
 - g. Obligations under relevant international agreements relating to frequency usage;
 - h. Charges for usage rights, in accordance with Article 109 of this Regulation.
20. Special conditions that may be attached to the rights of use in terms of numbering:
 - a. Description of the service for which the number is used, including any requirements in regard to the provision of that service;
 - b. Effective and efficient use of numbers, in accordance with the provisions of this Regulation relating to numbering, in particular Chapter II of Title 5;
 - c. Requirements with regard to number portability, in accordance with the provisions of this Regulation relating to number portability, in particular Article 78 and Chapter V of Title 6;
 - d. Maximum duration of use rights;
 - e. Transfer of usage rights to a third party at the initiative of the rights-holder, and conditions applicable to such transfer;
 - f. Any commitment made by the operator or service provider during the licensing process;
 - g. Obligations under relevant international agreements relating to usage of numbers;

- h. Charges for usage rights, in accordance with Article 156 paragraph 1 of this Regulation;
 - i. Obligation to provide subscribers listed in public directories with information for the purposes of the provisions of this Regulation relating to universal service, in particular Chapter III of Title 5;
 - j. Obligations concerning the extraterritorial use of numbers within **WAEMU/ECOWAS** to ensure compliance with consumer protection and other number-related rules in Member States other than that of the country code, in accordance with Article 162 of this Regulation;
21. Conditions relating to interoperability of services in accordance with the provisions of this Regulation.

C. Principles to be observed

1. The conditions listed above may be imposed only in justified cases and with de respect to the principle of proportionality.
2. That list of conditions is without prejudice:
 - a. any other legal condition that is not specific to the electronic communications sector and
 - b. measures taken by Member States in accordance with requirements affecting the public interest recognized by the Treaty, national legislation and regulations, and which concern in particular public morals, public security, including criminal investigations, and public order.

9 Annex 2: Conditions that may apply to a declaration

This Annex contains the list of specific conditions that may be attached to declarations, as indicated in Article 59 of this Regulation:

1. Financial participation in universal service in accordance with the relevant provisions of Chapter III of Title 5 of this Regulation;
2. Financial contributions in accordance with Article 61 of this Regulation;
3. Interoperability of services and interconnection of networks in accordance with the provisions of this Regulation relating to interconnection;
4. Accessibility of the numbers of the national numbering plan to end-users;
5. Requirements concerning the environment, urban planning and regional development considerations, as well as requirements relating to the allocation of rights of access to public or private property, rights of use thereof, and conditions related to infrastructure sharing;
6. Quality and continuity of the network and services;
7. Protection of communications, personal data and the rights of end-users;
8. Information to be provided under the declaration procedure as provided for under this Regulation;
9. Utilization in the event of force majeure or major disaster to provide emergency and defense services;
10. Obligation to access networks/services under objective, transparent and non-discriminatory conditions;
11. Network security.

10 Annex 3: Information relating to contracts

This Annex contains the list of information to be communicated by providers of publicly available electronic communications services (other than transmission services used for the provision of machine-to-machine services), to the attention of the consumer concerned, in accordance with the Articles 203 and 223 of this Regulation:

A. Information requirements for contracts other than distance or off-premises contracts

1. Before the consumer is bound by a contract other than a distance or an off-premises contract, or any corresponding offer, the trader shall provide the consumer with the following information in a clear and comprehensible manner, if that information is not already apparent from the context:
 - a. The main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;
 - b. The identity of the trader, such as his trading name, the geographical address at which he is established and his telephone number;
 - c. The total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;
 - d. Where applicable, the arrangements for payment, delivery, performance, the time by which the trader undertakes to deliver the goods or to perform the service, and the trader's complaint handling policy;
 - e. In addition to a reminder of the existence of a legal guarantee of conformity for goods, the existence and the conditions of after-sales services and commercial guarantees, where applicable;
 - f. The duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
 - g. Where applicable, the functionality, including applicable technical protection measures, of digital content;
 - h. Where applicable, any relevant interoperability of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of.
2. Member States may adopt or maintain additional pre-contractual information requirements for contracts to which the provisions above apply.

B. Information requirements for distance and off-premises contracts

1. Before the consumer is bound by a distance or off- premises contract, or any corresponding offer, the trader shall provide the consumer with the following information in a clear and comprehensible manner:
 - a. The main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;
 - b. The identity of the trader, such as his trading name;
 - c. The geographical address at which the trader is established and the trader's telephone number, fax number and e-mail address, where available, to enable the consumer to contact the trader quickly and communicate with him efficiently and, where applicable, the geographical address and identity of the trader on whose behalf he is acting;
 - d. If different from the address provided in accordance with point (c), the geographical address of the place of business of the trader, and, where applicable, that of the trader on whose behalf he is acting, where the consumer can address any complaints;
 - e. The total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable. In the case of a contract of indeterminate duration or a contract containing a subscription, the total price shall include the total costs per billing period. Where such contracts are charged at a fixed rate, the total price shall also mean the total monthly costs. Where the total costs cannot be reasonably calculated in advance, the manner in which the price is to be calculated shall be provided;
 - f. The cost of using the means of distance communication for the conclusion of the contract where that cost is calculated other than at the basic rate;
 - g. The arrangements for payment, delivery, performance, the time by which the trader undertakes to deliver the goods or to perform the services and, where applicable, the trader's complaint handling policy;
 - h. Where a right of withdrawal exists, the conditions, time limit and procedures for exercising that right, as well as the model withdrawal form set out in Annex I(B);
 - i. Where applicable, that the consumer will have to bear the cost of returning the goods in case of withdrawal and, for distance contracts, if the goods, by their nature, cannot normally be returned by post, the cost of returning the goods;
 - j. The information that, if the consumer exercises the right of withdrawal after having made a request, he shall be liable to pay the trader reasonable costs;
 - k. Where a right of withdrawal is not provided for, the information that the consumer will not benefit from a right of withdrawal or, where applicable, the circumstances under which the consumer loses his right of withdrawal;
 - l. A reminder of the existence of a legal guarantee of conformity for goods;

- m. Where applicable, the existence and the conditions of after sale customer assistance, after-sales services and commercial guarantees;
 - n. The duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
 - o. Where applicable, the minimum duration of the consumer's obligations under the contract;
 - p. Where applicable, the existence and the conditions of deposits or other financial guarantees to be paid or provided by the consumer at the request of the trader;
 - q. Where applicable, the functionality, including applicable technical protection measures, of digital content;
 - r. Where applicable, any relevant interoperability of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of;
 - s. Where applicable, the possibility of having recourse to an out-of-court complaint and redress mechanism, to which the trader is subject, and the methods for having access to it.
2. The information referred to in paragraph 1 shall form an integral part of the distance or off-premises contract and shall not be altered unless the contracting parties expressly agree otherwise.
 3. If the service provider has not complied with the information requirements on additional charges or other costs as referred to in point (e) of paragraph 1, or on the costs of returning the goods as referred to in point (i) of paragraph 1, the consumer shall not bear those charges or costs.
 4. Member States may maintain or introduce in their national law language requirements regarding the contractual information, so as to ensure that such information is easily understood by the consumer.
 5. The information requirements laid down above do not prevent Member States from imposing additional information requirements. Without prejudice to the paragraph 1 above, if a provision of the Community legal framework on the content and the manner in which the information is to be provided conflicts with a provision stipulated above, the latter shall prevail.
 6. As regards compliance with the information requirements laid down in this Part, the burden of proof shall be on the service provider.

C. Information requirements for providers of publicly available electronic communications services other than transmission services used for the provision of machine-to-machine services

Providers of publicly available electronic communications services other than transmission services used for the provision of machine-to-machine services shall provide the following information:

1. As part of the main characteristics of each service provided, any minimum levels of quality of service to the extent that those are offered and, for services other than internet access services,

the specific quality parameters assured. Where no minimum levels of quality of service are offered, a statement to this effect shall be made.

2. As part of the information on price, where and to the extent applicable, the respective prices for activating the electronic communications service and for any recurring or consumption-related charges.
3. As part of the information on the duration of the contract and the conditions for renewal and termination of the contract, including possible termination fees, to the extent that such conditions apply:
 - a. Any minimum use or duration required to benefit from promotional terms;
 - b. Any charges related to switching and compensation and refund arrangements for delay or abuse of switching, as well as information about the respective procedures;
 - c. Information on the right of consumers using pre-paid services to a refund, upon request, of any remaining credit in the event of provider switching;
 - d. Any fees due on early termination of the contract, including information on unlocking the terminal equipment and any cost recovery with respect to terminal equipment.
4. Any compensation and refund arrangements, including, where applicable, explicit reference to rights of consumers, which apply if contracted levels of quality of service are not met or if the provider responds inadequately to a security incident, threat or vulnerability.
5. The type of action that might be taken by the provider in reaction to security incidents or threats or vulnerabilities.

D. Information requirements for providers of internet access services and publicly available interpersonal communications services

I. In addition to the requirements set out in Part C, providers of internet access services and publicly available interpersonal communications services shall provide the following information:

1. As part of the main characteristics of each service provided:
 - a. Any minimum levels of quality of service to the extent that these are offered, and taking utmost account of the guidelines adopted in accordance with paragraph 2 of Article 207 by national regulatory authorities within the framework of sub-regional regulatory coordination as referred to in Article 40 of this Regulation and regarding:
 - i. For internet access services: at least latency, jitter, packet loss;
 - ii. For publicly available interpersonal communications services, where they exert control over at least some elements of the network or have a service level agreement to that effect with undertakings providing access to the network: at least the time for the initial connection, failure probability, call signaling delays; and

- b. Without prejudice to the right of consumers to use terminal equipment of their choice, any conditions, including fees, imposed by the provider on the use of terminal equipment supplied.
 2. As part of the information on price, where and to the extent applicable, the respective prices for activating the electronic communications service and for any recurring or consumption-related charges:
 - a. details of specific tariff plan or plans under the contract and, for each such tariff plan the types of services offered, including where applicable, the volumes of communications (such as MB, minutes, messages) included per billing period, and the price for additional communication units;
 - b. in the case of tariff plan or plans with a pre-set volume of communications, the possibility for consumers to defer any unused volume from the preceding billing period to the following billing period, where this option is included in the contract;
 - c. facilities to safeguard bill transparency and monitor the level of consumption;
 - d. tariff information regarding any numbers or services subject to particular pricing conditions; with respect to individual categories of services, competent authorities in coordination, where relevant, with national regulatory authorities may require in addition such information to be provided immediately prior to connecting the call or to connecting to the provider of the service;
 - e. for bundled services and bundles including both services and terminal equipment the price of the individual elements of the bundle to the extent they are also marketed separately;
 - f. details and conditions, including fees, of any after-sales service, maintenance, and customer assistance; and
 - g. the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;
 3. As part of the information on the duration of the contract for bundled services and the conditions for renewal and termination of the contract, where applicable, the conditions of termination of the bundle or of elements thereof.
 4. Without prejudice to relevant provisions of this Regulation concerning the protection of personal data, information on what personal data shall be provided before the performance of the service or collected in the context of the provision of the service.
 5. Details on products and services designed for consumers with disabilities and how updates on this information can be obtained.
 6. The means of initiating procedures for the resolution of disputes including national and cross-border disputes.
- II. In addition to the requirements set out in Part C and under Chapter I of the present Part D, providers of publicly available number-based interpersonal communications services shall also provide the following information:

1. Any constraints on access to emergency services or caller location information due to a lack of technical feasibility insofar as the service allows consumers to originate calls to a number in a national or international numbering plan.
 2. The consumer's right to determine whether to include his or her personal data in a directory, and the types of data concerned, in accordance with relevant provisions of this Regulation concerning the protection of personal data, namely its Article 200.
- III. In addition to the requirements set out in Part C and under Chapter I of the present Part D, providers of internet access services shall also provide the following information:
1. Information on how traffic management measures applied by that provider could impact on the quality of the internet access services, on the privacy of consumers and on the protection of their personal data.
 2. A clear and comprehensible explanation as to how any volume limitation, speed and other quality of service parameters may in practice have an impact on internet access services, and in particular on the use of content, applications and services.
 3. A clear and comprehensible explanation of how any services other than internet access services which are optimized for specific content, applications or services, or a combination thereof, to which the consumer subscribes might in practice have an impact on the internet access services provided to that consumer.
 4. A clear and comprehensible explanation of the minimum, normally available, maximum and advertised download and upload speed of the internet access services in the case of fixed networks, or of the estimated maximum and advertised download and upload speed of the internet access services in the case of mobile networks, and how significant deviations from the respective advertised download and upload speeds could impact the exercise of the consumers' rights laid down in paragraph 1 of Article 200 of this Regulation.
 5. A clear and comprehensible explanation of the remedies available to the consumer in accordance with national law in the event of any continuous or regularly recurring discrepancy between the actual performance of the internet access service regarding speed or other quality of service parameters and the performance indicated in accordance with paragraphs 1 to 4.

E. Information requirements regarding internet access services: Transparency measures ensuring access to an open internet

Providers of internet access services shall ensure that any contract which includes internet access services specifies at least the following:

1. Information on how traffic management measures applied by that provider could impact on the quality of the internet access services, on the privacy of consumers and on the protection of their personal data.

2. A clear and comprehensible explanation as to how any volume limitation, speed and other quality of service parameters may in practice have an impact on internet access services, and in particular on the use of content, applications and services.
3. A clear and comprehensible explanation of how any services other than internet access services which are optimized for specific content, applications or services, or a combination thereof, to which the consumer subscribes might in practice have an impact on the internet access services provided to that consumer.
4. A clear and comprehensible explanation of the minimum, normally available, maximum and advertised download and upload speed of the internet access services in the case of fixed networks, or of the estimated maximum and advertised download and upload speed of the internet access services in the case of mobile networks, and how significant deviations from the respective advertised download and upload speeds could impact the exercise of the consumers' rights laid down in paragraph 1 of Article 200 of this Regulation.
5. A clear and comprehensible explanation of the remedies available to the consumer in accordance with national law in the event of any continuous or regularly recurring discrepancy between the actual performance of the internet access service regarding speed or other quality of service parameters and the performance indicated in accordance with paragraphs 1 to 4 of the present Part E.

11 Annex 4: Transparency and publication of information

This Annex contains the list of information to be published in relation to the requirements of transparency and publication of information in accordance with Article 226 of this Regulation.

In coordination, where relevant, with national regulatory authorities, the competent authority shall be in charge of following tasks:

1. Ensuring that the information in this Annex is published, in accordance with Article 226.
2. Decide which information is relevant to be published by the providers of internet access services or publicly available interpersonal communications services, and which information is to be published by the competent authority itself in coordination, where relevant, with the national regulatory authority, in order to ensure that all consumers are able to make informed choices.
3. If considered to be appropriate, promoting self- or co-regulatory measures prior to imposing any obligation.

List of information to be published in accordance with Article 226 of this Regulation.

1. Contact details of the undertaking
2. Description of the services offered
 - a. Scope of the services offered and the main characteristics of each service provided, including any minimum levels of quality of service where offered and any restrictions imposed by the provider on the use of terminal equipment supplied.
 - b. Tariffs of the services offered, including information on communications volumes (such as restrictions of data usage, numbers of voice minutes, numbers of messages) of specific tariff plans and the applicable tariffs for additional communication units, numbers or services subject to particular pricing conditions, charges for access and maintenance, all types of usage charges, special and targeted tariff schemes and any additional charges, as well as costs with respect to terminal equipment.
 - c. After-sales, maintenance and customer assistance services offered and their contact details.
 - d. Standard contract conditions, including contract duration, charges due on early termination of the contract, rights related to the termination of bundled offers or of elements thereof, and procedures and direct charges related to the portability of numbers and other identifiers, if relevant.
 - e. The following information, as applicable

- i. Information on access to emergency services and caller location, or any limitation on the latter, if the undertaking is a provider of number-based interpersonal communications services;
 - ii. Information on the degree to which access to emergency services may be supported or not, if the undertaking is a provider of number- independent interpersonal communications services.
- f. Details of products and services, including any functions, practices, policies and procedures and alterations in the operation of the service, specifically designed for consumers with disabilities, in accordance with Union law harmonizing accessibility requirements for products and services.
3. Dispute resolution mechanisms, including those developed by the service provider.

12 Annex 5: Minimum set of services for broadband internet access service within universal service

This Annex contains the minimum set of services that the adequate broadband internet access service shall be capable of supporting, in accordance with paragraph 6 of Article 170 of this Regulation.

1. E-mail;
2. Search engines enabling search and finding of all type of information;
3. Basic training and education online tools;
4. Online newspapers or news;
5. Buying or ordering goods or services online;
6. Job searching and job searching tools;
7. Professional networking;
8. Internet banking;
9. E-government service use;
10. Social media and instant messaging;
11. Calls and video calls (standard quality).

13 Annex 6: Quality of service parameters

This Annex contains the quality-of-service parameters, definitions and measurement methods in terms of quality of service in accordance with Article 207 of this Regulation

A. For operators of access to a public electronic communications network

Parameters	Definition	Measurement methods
Supply time for initial connection		
Fault rate per access line		
Fault repair time		

B. For providers of interpersonal communications services

Concerned are only those providers who exert control over at least some elements of the network or have a service level agreement to that effect with undertakings providing access to the network.


Parameters	Definition	Measurement methods
Call set up time		
Bill correctness complaints		
Voice connection quality		
Dropped call ratio		
Unsuccessful call ratio		
Failure probability		
Call signalling delays		





C. For providers of internet access services

Parameters	Definition	Measurement methods
Latency (delay)	UIT-T Y.2617	UIT-T Y.2617
Jitter	UIT-T Y.2617	UIT-T Y.2617
Packet loss	UIT-T Y.2617	UIT-T Y.2617



14 Annex 7: Provisions relating to number portability

This Annex contains the requirements for number portability in accordance with Article 209 of this Regulation.

The requirement that all consumers with numbers from the national numbering plan, who so request can retain their numbers independently of the undertaking providing the service shall apply as follows:

1. In the case of geographic numbers, at a specific location; and
2. In the case of non-geographic numbers, at any location.

This Part does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.

15 Annex 8: Community acts repealed by this Regulation

This Annex contains the list of Community acts repealed by this Regulation in accordance with Article 234 thereof.

For the WAEMU space²⁵:

N°	Number	Domain	Date
1	Directive N°01/2006/CM/UEMOA	Harmonization of control and regulation policies in the telecommunications sector	23 March 2006
2	Directive N°02/2006/CM/UEMOA	Harmonization of the regimes applicable to network operators and service providers	23 March 2006
3	Directive N°03/2006/CM/UEMOA	Interconnection of telecommunications networks and services	23 March 2006
4	Directive N°04/2006/CM/UEMOA	Universal service and network performance obligations	23 March 2006
5	Directive N°05/2006/CM/UEMOA	Harmonization of the pricing of telecommunications services	23 March 2006
6	Directive N°06/2006/CM/UEMOA	General framework for cooperation between national regulatory authorities in telecommunications	23 March 2006

For the ECOWAS space²⁶:

(Supplementary Act)²⁷

²⁵ *ToDo: In the ECOWAS version of this Regulation, delete the " For the WAEMU space", as well as the all related Community act listed in a-g.*

²⁶ *ToDo: In the WAEMU version of this Regulation, delete the "For the ECOWAS space", as well as the all related Community act listed in a-h.*

²⁷ *In the ECOWAS version of this legal act, please adopt the table below only if ECOWAS prefers to adopt this Community text in the form of a Supplementary Act. Note: In this case, the expressions "this Regulation" or "the present Regulation" must be replaced throughout the text by "this Supplementary Act" or "the present Supplementary Act".*

N°	Number	Domain	Date
1	Supplementary Act A/SA.1/01/07	Harmonization of policies and of the regulatory framework for the ICT sector	19 th January 2007
2	Supplementary Act A/SA.2/01/07	Access and interconnection in respect of ICT sector networks and services	19 th January 2007
3	Supplementary Act A/SA.3/01/07	Legal regime applicable to network operators and service providers	19 th January 2007
4	Supplementary Act A/SA.4/01/07	Numbering plan management	19 th January 2007
5	Supplementary Act A/SA.5/01/07	Management of the radio-frequency spectrum	19 th January 2007
6	Supplementary Act A/SA.6/01/07	Universal access/service	19 th January 2007
7	Regulation C/REG.06/06/12	Conditions for access to submarine cables landing stations	12 th June 2012
8	Regulation C/REG. 19/12/16	Conditions for access to national and international bandwidth on terrestrial networks within ECOWAS	16 th December 2016

(Regulation)²⁸

N°	Number	Domain	Date
1	Regulation C/REG.06/06/12	Conditions for access to submarine cables landing stations	12 th June 2012
2	Regulation C/REG. 19/12/16	Conditions for access to national and international bandwidth on terrestrial networks within ECOWAS	16 th December 2016



²⁸ In the event that ECOWAS adopts this Community text in the form of a Regulation, please rather use the table below. Reason: In the hierarchy of derivative legal acts, the Regulation is below a Supplementary Act. The latter can only be repealed by a legal act which, in the hierarchy of derivative legal acts, is at least in the rank of a Supplementary Act. As a result, the Regulation can replace the Supplementary Acts referred to in paragraph 1 only after they have been previously repealed by at least a Supplementary Act.

16 Annex 9: Correlation table

The table below puts the provisions of the preliminary draft single Regulation in relation to the provisions of the existing WAEMU/ECOWAS frameworks on electronic communications that have been integrated as part of the horizontal recast.

Note :

A dash (-) in a box in the table means that there is no corresponding provision in the existing Community framework = Provision newly introduced by the single Regulation.



This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
Article 1	<ul style="list-style-type: none"> ▪ Article 1 paragraph 2 A/SA/1/01/07 ▪ Article 1 paragraph 1 A/SA 2/01/07 ▪ Article 1 paragraph 1 A/SA/3/01/07 ▪ Article 1 paragraph 1 A/SA 4/01/07 ▪ Article 1 paragraph 1 A/SA 5/01/07 ▪ Article 1 paragraph 1 A/SA 6/01/07 ▪ Article 1 paragraph 1 Regulation C/REG.06/06/12 ▪ Article 1 Regulation C/REG. 19/12/16 ▪ Article 1 paragraph 1 Regulation C/REG.21/12/17 	<ul style="list-style-type: none"> ▪ Article 1 paragraph 2 Directive N° 01/2006/CM/WAEMU ▪ Article 1 paragraph 2 Decision N° 09/2006/CM/WAEMU
Definition 1	Article 1 paragraph 2 A/SA/3/01/07	-
Definition 2	Article 1 paragraph 2 A/SA 2/01/07	-

This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
Definition 3	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 4	Article 1 paragraph 2 A/SA 6/01/07	-
Definition 5	-	-
Definition 6	-	Article 1 paragraph 2 Decision N° 09/2006/CM/WAEMU
Definition 7	Article 1 paragraph 2 A/SA 4/01/07	-
Definition 8	-	-
Definition 9	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 10	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 11	Article 1 paragraph 2 A/SA 4/01/07	-
Definition 12	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 13	<ul style="list-style-type: none"> ▪ Article 1 paragraph 1 A/SA/1/01/07 ▪ Article 1 paragraph 2 A/SA/3/01/07 	<ul style="list-style-type: none"> ▪ Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU ▪ Article 1 Directive N° 02/2006/CM/WAEMU
Definition 14	Article 1 paragraph 2 A/SA/3/01/07	-
Definition 15	Article 1 A/SA.1/01/10	-
Definition 16	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 17	-	-
Definition 18	Article 1 paragraph 2 Regulation C/REG.06/06/12	-

This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
Definition 19	-	Article 1 Directive N° 03/2006/CM/WAEMU
Definition 20	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 21	-	-
Definition 22	Article 1 paragraph 2 A/SA 2/01/07	-
Definition 23	-	-
Definition 24	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 25	-	-
Definition 26	<ul style="list-style-type: none"> ▪ Article 1 paragraph 1 A/SA/1/01/07 ▪ Article 1 Directive C/DIR/1/08/11 ▪ Article 1 A/SA.2/01/10 	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 27	Article 1 paragraph 2 A/SA 2/01/07	-
Definition 28	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 29	Article 1 A/SA.1/01/10	-
Definition 30	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 31	Article 1 A/SA.2/01/10	-
Definition 32	Article 1 paragraph 2 A/SA/3/01/07	Article 1 Directive N° 02/2006/CM/WAEMU
Definition 33	Article 1 paragraph 2 A/SA 2/01/07	-
Definition 34	Article 1 A/SA.1/01/10	-
Definition 35	Article 1 A/SA.1/01/10	-

This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
Definition 36	-	-
Definition 37	-	-
Definition 38	Article 1 paragraph 2 A/SA/3/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 39	Article 1 paragraph 2 A/SA/3/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 40	-	-
Definition 41	Article 1 A/SA.2/01/10	-
Definition 42	-	-
Definition 43	-	-
Definition 44	Article 1 paragraph 2 A/SA 2/01/07	Article 1 Directive N° 03/2006/CM/WAEMU
Definition 45	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 46	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 47	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 48	Article 1 paragraph 1 A/SA/1/01/07	Article 1 Directive N° 02/2006/CM/WAEMU
Definition 49	-	Article 1 Directive N° 04/2006/CM/WAEMU
Definition 50	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 51	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 52	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 53	-	-

This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
Definition 54	-	-
Definition 55	-	-
Definition 56	Article 1 paragraph 2 A/SA 5/01/07	-
Definition 57	Article 1 paragraph 2 A/SA 5/01/07	-
Definition 58	<ul style="list-style-type: none"> ▪ Article 1 paragraph 1 A/SA/1/01/07 ▪ Article 1 A/SA.2/01/10 	-
Definition 59	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 60	Article 1 paragraph 2 A/SA 2/01/07	Article 1 Directive N° 03/2006/CM/WAEMU
Definition 61	<ul style="list-style-type: none"> ▪ Article 1 paragraph 1 A/SA/1/01/07 ▪ Article 1 paragraph 2 A/SA 2/01/07 	-
Definition 62	Article 1 paragraph 2 A/SA 2/01/07	-
Definition 63	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 64	Article 1 paragraph 2 A/SA/3/01/07	-
Definition 65	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 66	Article 1 A/SA.2/01/10	-
Definition 67	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 68	Article 1 paragraph 2 A/SA 4/01/07	-


This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
Definition 69	Article 1 paragraph 2 A/SA 4/01/07	-
Definition 70	Article 1 paragraph 2 A/SA 4/01/07	-
Definition 71	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 72	Article 1 paragraph 2 Regulation C/REG.06/06/12	-
Definition 73	-	-
Definition 74	Article 1 A/SA.1/01/10	-
Definition 75	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 76	Article 1 paragraph 2 A/SA 4/01/07	-
Definition 77	-	-
Definition 78	Article 1 paragraph 2 A/SA 4/01/07	-
Definition 79	-	Article 1 Directive N° 03/2006/CM/WAEMU
Definition 80	Article 1 paragraph 2 A/SA 2/01/07	-
Definition 81	-	Article 1 Directive N° 05/2006/CM/WAEMU
Definition 82	-	-
Definition 83	Article 1 paragraph 2 A/SA 6/01/07	-
Definition 84	Article 1 paragraph 2 A/SA 2/01/07	-
Definition 85	-	<ul style="list-style-type: none"> ▪ Article 1 Directive N° 02/2006/CM/WAEMU



This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
		▪ Article 1 paragraph 2 Decision N° 09/2006/CM/WAEMU
Definition 86	-	-
Definition 87	<ul style="list-style-type: none"> ▪ Article 1 A/SA.1/01/10 ▪ Article 1 A/SA.2/01/10 	-
Definition 88	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 89	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 90	-	-
Definition 91	-	-
Definition 92	-	-
Definition 93	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 94	Article 1 paragraph 2 A/SA/3/01/07	Article 1 Directive N° 02/2006/CM/WAEMU
Definition 95	Article 1 paragraph 2 A/SA/3/01/07	-
Definition 96	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 97	<ul style="list-style-type: none"> ▪ Article 1 paragraph 2 A/SA/3/01/07 ▪ Article 1 paragraph 2 A/SA 6/01/07 	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 98	-	-
Definition 99	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 100	Article 1 paragraph 2 A/SA 4/01/07	-
Definition 101	Article 1 A/SA.1/01/10	-

This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
Definition 102	-	
Definition 103	Article 1 paragraph 2 A/SA/3/01/07	-
Definition 104	Article 1 paragraph 2 A/SA 2/01/07	-
Definition 105	-	
Definition 106	-	
Definition 107	-	Article 1 Directive N° 02/2006/CM/WAEMU
Definition 108	-	Article 1 Directive N° 02/2006/CM/WAEMU
Definition 109	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 110	Article 1 paragraph 2 A/SA 6/01/07	-
Definition 111	-	-
Definition 112	-	-
Definition 113	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 114	-	-
Definition 115	-	-
Definition 116	-	Article 1 Directive N° 02/2006/CM/WAEMU
Definition 117	Article 1 paragraph 2 A/SA 6/01/07	Article 1 Directive N° 04/2006/CM/WAEMU
Definition 118	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 119	Article 1 A/SA.1/01/10	-

This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
Definition 120	Article 1 paragraph 2 Regulation C/REG.06/06/12	-
Definition 121	-	-
Definition 122	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 123	<ul style="list-style-type: none"> ▪ Article 1 paragraph 1 A/SA/1/01/07 ▪ Article 1 Directive C/DIR/1/08/11 	-
Definition 124	Article 1 A/SA.1/01/10	-
Definition 125	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 126	Article 1 A/SA.1/01/10	-
Definition 127	-	-
Definition 128	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 129	-	-
Definition 130	Article 1 paragraph 2 Regulation C/REG.21/12/17	-
Definition 131	Article 1 paragraph 1 A/SA/1/01/07	Article 1 paragraph 1 Directive N° 01/2006/CM/WAEMU
Definition 132	Article 1 paragraph 1 A/SA/1/01/07	-
Definition 133	-	-
Article 2		
paragraph 1.a	Article 2 paragraph 1 sentence 1 A/SA/1/01/07	-
paragraph 1.b	-	-


This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
paragraph 1.c	Article 2 paragraph 1 sentence 2 A/SA/1/01/07	-
paragraph 1.d	Article 2 paragraph 1 sentence 4 A/SA/1/01/07	-
paragraph 1.e	Article 2 paragraph 1 sentence 2 A/SA/1/01/07	Article 2 paragraph 1 Directive N° 02/2006/CM/WAEMU
paragraph 1.f	Article 2 paragraph 2 A/SA 2/01/07	Article 2, sentence 1 Directive N° 03/2006/CM/WAEMU
paragraph 1.g	-	Article 2 paragraph 1 Directive N° 05/2006/CM/WAEMU
paragraph 1.h	Article 2 paragraph 1 A/SA 4/01/07	-
paragraph 1.i	Article 2 paragraph 1 A/SA 6/01/07	Article 2 paragraph 1 Directive N° 04/2006/CM/WAEMU
paragraph 1.j	Article 2 paragraph 1 A/SA 5/01/07	-
paragraph 1.k	-	-
paragraph 1.l	Article 2 paragraph 1 Regulation C/REG.21/12/17	-
paragraph 1.m	Article 2 Regulation C/REG.06/06/12	-
paragraph 1.n	Article 2 Regulation C/REG. 19/12/16	-
paragraph 1.o	-	-
paragraph 1.p	-	-
paragraph 1.q	-	Article 2, first dash, Directive N° 01/2006/CM/WAEMU
paragraph 1.r	-	Article 2, second dash, Directive N° 01/2006/CM/WAEMU
paragraph 1.s	-	Article 2, third dash, Directive N° 01/2006/CM/WAEMU



This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
paragraph 1.t	-	Article 2, fourth dash, Directive N° 01/2006/CM/WAEMU
paragraph 1.u	-	Article 2, fifth dash, Directive N° 01/2006/CM/WAEMU
paragraph 1.v	-	-
paragraph 2	Article 2 paragraph 1 sentence 3 A/SA/1/01/07	-
Article 3		
paragraph 1 sentence 1	<ul style="list-style-type: none"> ▪ Article 2 paragraph 1 A/SA 2/01/07 ▪ Article 2 paragraph 1 A/SA/3/01/07 	-
paragraph 1 sentence 2	-	<ul style="list-style-type: none"> ▪ Article 2, sentence 2 Directive N° 03/2006/CM/WAEMU ▪ Article 2 paragraph 2 Directive N° 05/2006/CM/WAEMU
paragraph 2	-	-
paragraph 3	-	-
paragraph 4	-	-
paragraph 5	-	-
paragraph 6	-	-
Article 4	Article 2 paragraph 2 A/SA/1/01/07 ; Article 2 A/SA/3/01/07	Article 2 Directive N° 03/2006/CM/UEMOA
paragraph 1	Article 2 paragraph 2 A/SA/1/01/07	-
paragraphs 2a), b), c)	-	-
paragraph 2d)	Article 2 paragraph 2 A/SA/3/01/07	Article 2 paragraph 2 Directive N° 03/2006/CM/UEMOA
Article 5		



This single Regulation	ECOWAS Community acts on electronic communications 	WAEMU Community acts on electronic communications 
paragraph 1	Article 3 paragraph 1 A/SA/1/01/07	-
paragraph 2	Article 5 A/SA/1/01/07	-
Article 6	Article 4 A/SA/1/01/07	-
Article 7	Article 10 A/SA/1/01/07 CEDEAO	Article 3 Directive N° 01/2006/CM/WAEMU
paragraph 1	paragraph 1	-
paragraph 2	paragraph 2	paragraph 1 sentence 1
paragraph 3.a	paragraph 2.a	paragraph 1 sentence 2
paragraph 3.b	paragraph 2.b	paragraph 2 first dash
paragraph 3.c	paragraph 2.c	paragraph 2 second dash
paragraph 3.d	paragraph 2.d	paragraph 2 third dash
Article 8	Article 6 A/SA/1/01/07	-
Article 9	Article 3 A/SA/3/01/07	-
Article 10	Article 4 A/SA/3/01/07	-
Article 11		
paragraph 1	<ul style="list-style-type: none"> ▪ Art. 5 paragraph 1 A/SA/3/01/07 ▪ Art. 6 paragraph 2 A/SA/3/01/07 	-
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<p>paragraph 3</p>	<ul style="list-style-type: none"> ▪ Article 20 paragraph 7 A/SA/1/01/07 ▪ Article 31 paragraph 7 A/SA 2/01/07 ▪ Article 33 paragraph 7 A/SA/3/01/07 ▪ Article 15 paragraph 7 A/SA 4/01/07 ▪ Article 18 paragraph 7 A/SA 5/01/07 ▪ Article 22 paragraph 7 A/SA 6/01/07 	<ul style="list-style-type: none"> ▪ Article 12.3 Directive N° 01/2006/CM/WAEMU ▪ Article 18.3 Directive N° 02/2006/CM/WAEMU ▪ Article 18 paragraph 3 Directive N° 03/2006/CM/WAEMU ▪ Article 9.3 Directive N° 04/2006/CM/WAEMU ▪ Article 9.3 Directive N° 05/2006/CM/WAEMU ▪ Article 8.2 Directive N° 06/2006/CM/WAEMU
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<p>paragraph 6</p>	<ul style="list-style-type: none"> ▪ Article 20 paragraph 3 A/SA/1/01/07 ▪ Article 31 paragraph 3 A/SA 2/01/07 ▪ Article 33 paragraph 3 A/SA/3/01/07 ▪ Article 15 paragraph 3 A/SA 4/01/07 ▪ Article 18 paragraph 3 A/SA 5/01/07 ▪ Article 22 paragraph 3 A/SA 6/01/07 	<ul style="list-style-type: none"> ▪ Article 12.1 paragraph 3 Directive N° 01/2006/CM/WAEMU ▪ Article 18.1 paragraph 3 Directive N° 02/2006/CM/WAEMU ▪ Article 18 paragraph 1 sentence 3 Directive N° 03/2006/CM/WAEMU ▪ Article 9.1 paragraph 3 Directive N° 04/2006/CM/WAEMU ▪ Article 9.1 paragraph 3 Directive N° 05/2006/CM/WAEMU
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<p>Annex 1</p>	<p>Annex A/SA/3/01/07</p>	<p>Section 2 Annex Directive N° 02/2006/CM/WAEMU</p>
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<p>Part A paragraph 2</p>	<p>Second section, paragraph 5</p>	<p>Section 1, first dash (see introduction Section 2)</p>

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Part A paragraph 5.d	Second section, paragraph 1, 4 th dash	-
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Part A paragraph 5.f	Second section, paragraph 1, sixth dash	-
Part A paragraph 5.g	-	Section 2, point b, 6 th dash
Part A paragraph 5.h	Second section, paragraph 1, sixth dash	Section 2, point b, 7 th dash
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Part A paragraph 6.c	Second section, paragraph 2, third dash	Section 2, point a, 3 th dash
Part A paragraph 6.d	Second section, paragraph 2, 4 th dash	Section 2, point a, 5 th dash
Part A paragraph 6.e	Second section, paragraph 2, 5 th dash	-
Part A paragraph 6.f-g	Second section, paragraph 2, from 6 th to 7 th dash	Section 2, point a, from 6 th to 7 th dash
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