

Part 14

END-USER RIGHTS

Exemption of certain microenterprises

86. (1) With the exception of Regulations 87 and 88, Part 14 does not apply to microenterprises providing number-independent interpersonal communications services unless they also provide other electronic communications services.

(2) A microenterprise benefitting from an exemption referred to in paragraph (1) shall inform an end-user of the exemption before the end-user is bound by a contract or any corresponding offer in a clear, comprehensive and easily accessible form. Any notification provided to the end-user pursuant to this paragraph shall be on a durable medium.

Text on enforcement provisions to be inserted here.

Non-discrimination

87. (1) Providers of electronic communications networks or services shall not apply any different requirements or general conditions of access to, or use of, networks or services to end-users, for reasons related to the end-user's nationality, place of residence or place of establishment, unless such different treatment is objectively justified.

Text on enforcement provisions to be inserted here.

Fundamental rights safeguard

88. Any measure taken by the Regulator regarding end-users' access to, or use of, services and applications through electronic communications networks that is liable to limit the exercise of the rights or freedoms recognised by the Charter shall be in accordance with Article 100 of the Code.

Information requirements for contracts

89. (1) Before a consumer is bound by a contract or any corresponding offer, a provider of publicly available electronic communications services, other than transmission services used for the provision of machine-to-machine services, shall provide the consumer with the information referred to in Regulation 5, 7 or 10 of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013 (S.I. No. 484 of 2013) as the case may be, and, in addition the information listed in Schedule 4, to the extent that the information relates to a service the provider provides.

(2) The information referred to in paragraph (1) 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 Regulator may further specify the circumstances in which provision of information referred to in paragraph (1) on a durable medium will not be feasible.

(4) Subject to any requirement of law for accessibility for products or services, the information referred to in paragraph (1) shall, upon request, be provided in an accessible format for end-users with disabilities.

(5) The Regulator may specify requirements in order to ensure compliance by providers with paragraph (4).

(6) The information referred to in paragraphs (1), (7) and (10) shall also be provided to end-users that are microenterprises or small enterprises or not-for-profit organisations, unless they have explicitly agreed to waive all or part of those provisions and the provisions of this Regulation shall apply *mutatis mutandis*. Providers shall maintain a record of such waiver in accordance with the provisions of data protection law.

(7) Providers of publicly available 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 in accordance with the requirements of Commission Implementing Regulation (EU) 2019/2243¹. That summary shall identify the main elements of the information requirements in accordance with paragraph (1), which 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;

¹ OJ L 226, 30.12.2019, p. 274.

(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 end-users with disabilities;

(f) with respect to internet access services, a summary of the information required pursuant to points (d) and (e) of Article 4(1) of Regulation (EU) 2015/2120².

(8) Providers subject to the obligations under paragraph (1) shall duly complete the contract summary template with the required information and provide the contract summary template 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.

(9) The information referred to in paragraphs (1) and (7) shall become an integral part of the contract and shall not be altered unless the contracting parties expressly agree otherwise. Providers shall maintain a record of a consumer's express consent in accordance with data protection law.

(10) 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 the Regulator, included in their tariff plan, is reached and when a service included in their tariff plan is fully consumed.

(11) The Regulator may further specify requirements in respect of the timing, format, and content of notifications referred to in paragraph (10) and the mediums upon which they may be sent.

² OJ No. L 310, 26.11.2015, p. 1.

Text on enforcement provisions to be inserted here.

Transparency, comparison of offers and publication of information

90. (1) Subject to any requirement of law for accessibility for products or services, providers of internet access services or publicly available interpersonal communications services that make the provision of those services subject to terms and conditions, shall publish such of the information referred to in Schedule 5 as may be specified by the Regulator in a clear, comprehensive, machine-readable manner and in an accessible format for end-users with disabilities. Such information shall be updated regularly.

(2) The Regulator may—

(a) further specify the requirements regarding the publication of information referred to in paragraph (1), and in particular—

(i) the requirements that the information is published in a clear, comprehensive and machine-readable manner, and

(ii) the requirement that the information is published in an accessible format for end-users with disabilities, and

(b) require a provider to which paragraph (1) applies to supply it with the information referred to in that paragraph prior to its publication by the provider.

(3) Without prejudice to paragraphs (1) and (2), the Regulator may publish some or all of the information referred to in Schedule 5.

(4) The Regulator may, if it considers it appropriate to do so, promote self or co-regulatory measures prior to requiring an undertaking to act in accordance with paragraph (1).

(5) The Regulator shall ensure that end-users have access free of charge to at least one independent comparison tool which enables them to compare and evaluate different internet access services and publicly available number-based interpersonal communications services, and, where applicable publicly available number-independent interpersonal communications services with regard to—

(a) prices and tariffs of services provided against recurring or consumption-based direct monetary payments, and

(b) the quality of service performance, where minimum quality of service is offered or the undertaking is required to publish such information pursuant to Regulation 91.

(6) A comparison tool referred to in paragraph (5) shall—

(a)(i) be operationally independent from the providers of such services referred to in paragraph (5), and

(ii) ensure that those providers are given equal treatment in search results,

(b) clearly disclose the owners and operators of the comparison tool,

(c) set out clear and objective criteria on which the comparison is to be based,

(d) use plain and unambiguous language,

(e) provide accurate and up-to-date information and state the time of the last update,

(f) be open to any provider of internet access services or publicly available interpersonal communications services making available the relevant information, and include a broad range of offers covering a significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results,

(g) provide an effective procedure to report incorrect information, and

(h) include the possibility to compare prices, tariffs and quality of service performance between offers available to consumers and, if required by the Regulator, between those offers and the standard offers publicly available to other end-users.

(7) Comparison tools fulfilling the requirements of sub-paragraphs (a) to (h) of paragraph (6) shall, upon request by the provider of the tool, be certified by the Regulator or by a person nominated by the Regulator.

(8) The Regulator may specify requirements to be complied with by providers of the services referred to in paragraph (5) and by providers of comparison tools in order to ensure compliance with paragraphs (5) and (6). These requirements may include, without limitation, requirements regarding accessibility for end-users with disabilities.

(9) The Regulator may provide a comparison tool for the purposes of this Regulation either itself, or by way of third party procurement, even where another comparison tool meeting the requirements of this Regulation is available to end-users.

(10) Third parties, including those procured by the Regulator in accordance with paragraph (9), shall have the right to use, free of charge and in open data formats, the information published by providers of internet access services or publicly available interpersonal communications services, for the purposes of making available independent comparison tools in accordance with this Regulation.

(11) The Regulator may, at its own initiative or at the request of the Minister, require a provider of internet access services or publicly available number-based interpersonal communications services, or both, to distribute public interest information free of charge to existing and new end-users.

(12) Public interest information for the purpose of paragraph (11) shall be provided in a standardised format to relevant providers and shall, among other things, 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.

Text on enforcement provisions to be inserted here.

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

91. (1) The Regulator may specify obligations to be complied with by providers of internet access services or publicly available interpersonal communications services requiring such providers to publish comprehensive, comparable, reliable, user-friendly and up-to-date information for end-users on the quality of its 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 measures taken to ensure equivalence in access for end-users with disabilities.

(2) The Regulator may specify requirements to be complied with by providers of publicly available interpersonal communications services to inform consumers if the quality of the services they provide depends on any external factors, such as control of signal transmission or network connectivity.

(3) The Regulator may require a provider to which paragraph (1) or (2) relate to supply such information to the Regulator in advance of its publication.

(4) Measures taken to ensure quality of service in accordance with this Regulation shall comply with Regulation (EU) 2015/2120³.

(5) Where the Regulator imposes requirements in accordance with paragraph (1), it shall specify, taking utmost account of BEREC guidelines, the quality of service parameters to be measured, the applicable measurement methods, and the content, form and manner of information to be published, including possible quality certification mechanisms and where it considers it appropriate, the Regulator may specify that the quality of service parameters, definitions and measurement methods set out in Annex X should be used.

(6) A provider shall comply with an obligation imposed under paragraph (1) or a requirement imposed under paragraph (2) within such reasonable period as the Regulator may specify.

(7) The Regulator shall, before specifying obligations under paragraph (1), have regard to any views expressed to it under any public consultation carried out by it in accordance with Regulation 107.

Text on enforcement provisions to be inserted here.

Contract duration and termination

92. (1) Conditions and procedures for contract termination shall not act as a disincentive to changing service provider.

(2) 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 24 months.

³ OJ No. L 310, 26.11.2015, p. 1.

(3) Paragraphs (1) and (2) 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 this Regulation.

(4) Paragraphs (1) and (2) shall also apply to end-users that are microenterprises, small enterprises or not-for-profit organisations unless they have specifically agreed to waive those provisions and waiver of these requirements shall not be made a condition of such end-users entering a contract for the services referred to in those paragraphs. Providers shall maintain a record of such waiver in accordance with the provisions of data protection law.

Prolongation of a fixed term contract

(5)(a) In this Regulation a fixed duration contract that is automatically prolonged is any contract that following the expiry of a fixed term automatically continues on the same terms and conditions and irrespective of the term of the prolongation.

(b) Where a contract or 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, end-users shall be entitled to terminate the contract at any time with a maximum one-month notice period, or such shorter notice period as may be specified by the Regulator, and without incurring any costs except the charges for receiving the service during the notice period.

(c) A provider of services to which subparagraph (b) applies shall not prevent an end-user from terminating their contract in accordance with that subparagraph.

(6) Before a fixed duration contract is automatically prolonged the provider concerned shall inform the end-user, in a prominent and timely manner (being not less than one month before the prolongation date) 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 end-users best tariff advice relating to their services. Providers shall provide end-users with best tariff information at least annually.

Termination of contracts – change of contractual conditions

(7) A provider of publicly available electronic communications services other than number-independent interpersonal communications services, shall, not less than one month prior to the date of implementation of any change in the contractual conditions that is proposed by that provider, notify end-users in a clear and comprehensible manner on a durable medium, of—

- (a) the proposed change in the conditions of the contract for the service, and
- (b) where applicable, their right to terminate their contract without incurring any further cost if they do not accept the modification.

(8) The Regulator may specify requirements to be complied with by a provider of the services referred to in paragraph (7), in order to ensure compliance with that paragraph.

(9) Subject to paragraph (10) and in accordance with paragraph (12), an end-user has the right to terminate their contract with a provider referred to in paragraph (7) during the termination period without incurring further cost if they do not accept a proposed change referred to in paragraph (7).

(10) A proposed change in the conditions of a contract shall not entitle an end-user to terminate the contract in accordance with paragraph (9) where the change is—

- (a) exclusively to the benefit of the end-user,
- (b) is of a purely administrative nature and has no negative effect on the end-user, or
- (c) is directly imposed by law.

(11) Whether a contract change is exclusively to the benefit of the end-user shall be assessed by the Regulator on the basis of objective criteria and the Regulator may require a provider, where it proposes to exclude or has excluded the right of an end-user to terminate a contract on the basis of the exclusions referred to in paragraph (10), to justify such an exclusion.

(12) Where, in accordance with paragraph (7), a provider notifies an end-user of a proposed change to its contractual conditions in excess of one month prior to the date of implementation of the proposed contract change, the end-

user shall be entitled to terminate the contract without incurring any further costs during the termination period, being—

(a) the period commencing on the date of notification of the proposed contract change and concluding on the date immediately prior to the date of implementation of the proposed contract change, or

(b) the period commencing four months prior to the date of implementation of a notified proposed contract change and concluding on the date immediately prior to the date of implementation of the proposed contract change,

whichever is the shorter period, or where they are of the same duration, that period.

Termination of contracts – discrepancy of service

(13) Any significant continued or frequently recurring discrepancy between the actual performance of an electronic communications service, other than an internet access service or a number-independent interpersonal 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 law, including the right to terminate the contract free of cost.

(14)(a) Where an end-user 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 under this Regulation or other provision of law, no compensation shall be due by the end-user other than for retained subsidised terminal equipment.

(b) Where the end-user chooses to retain terminal equipment bundled at the moment of the conclusion of the contract, any compensation due shall not exceed its *pro rata temporis* value as agreed at the moment of the conclusion of the contract or the remaining part of the service fee until the end of the contract, whichever is the smaller.

(c) The Regulator may, following the procedure referred to in Regulation 107, 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 subparagraph (b).

(d) A provider shall lift any condition on the use of terminal equipment retained in accordance with this Regulation on other networks free of charge within such time period as may be specified by the Regulator and at the latest, upon payment of any compensation by the end-user.

Machine-to-machine services

(15) The rights referred to in paragraphs (7), (9) and (14) shall benefit only end-users of transmission services used for machine-to-machine services that are consumers, microenterprises, small enterprises or not-for-profit organisations.

Text on enforcement provisions to be inserted here.

Provider switching and number portability

93. (1) In the case of switching by an end-user between providers of internet access services—

(a) the providers concerned shall provide the end-user with adequate information before and during the switching process and ensure continuity of the internet access service, unless technically not feasible,

(b) the receiving provider shall ensure that the activation of the internet access service occurs within the shortest possible time on the date and within the timeframe expressly agreed with the end-user,

(c) the transferring provider shall continue to provide its internet access service on the same terms until the receiving provider activates its internet access service, and

(d) loss of service during the switching process shall not exceed one working day.

(2) The Regulator shall ensure the efficiency and simplicity of the switching process for the end-user and may specify requirements to be complied with by providers in this regard.

(3) Providers shall ensure that an end-user with a number from the national numbering scheme has the right, upon request, to retain his or her number independently of the undertaking providing the service—

(a) in the case of geographic numbers, at a specific location, and

(b) in the case of non-geographic numbers, at any location.

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

(4) Where an end-user terminates a contract with a provider, the provider shall ensure that the end-user can retain the right to port to a number from the national numbering plan to another provider for a minimum of one month after the date of termination, or such other period as may be agreed with the provider, unless that right is renounced by the end-user. A record of such renunciation by an end-user shall be maintained by the provider in accordance with data protection law.

(5) Providers to which paragraph (3) applies shall ensure that pricing among providers related to the provision of number portability as provided for in paragraph (3) is cost-oriented and that no direct charges are applied to end-users.

(6) The Regulator may issue a direction to a provider to ensure compliance by that provider with its obligations under paragraph (5).

(7) Providers to which paragraph (3) applies shall ensure that-

(a) the porting of numbers and their subsequent activation shall be carried out within the shortest possible time on the date explicitly agreed with the end-user and providers shall maintain a record of such agreement in accordance with data protection law,

(b) in the case where an end-user has concluded an agreement to port a number to a new provider, that number shall be activated within one working day from the date agreed with the end-user,

(c) in the case of failure of the porting process, the transferring provider shall reactivate the number and related services of the end-user until the porting is successful,

(d) the transferring provider shall continue to provide its services on the same terms and conditions until the services of the receiving provider are activated, and

(e) loss of service during the porting process shall not exceed one working day.

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.

(8) The receiving provider shall lead the switching and porting processes set out in paragraphs (1) and (7) and both the receiving and transferring providers shall cooperate in good faith. They shall not delay or abuse the switching or porting processes, nor shall they port numbers or switch end-users without the end-users' explicit consent, and a record of this explicit consent shall be maintained in accordance with data protection law. The end-users' contracts with the transferring provider shall be terminated automatically upon conclusion of the switching process.

(9) Without prejudice to paragraph (7), the Regulator may take measures to 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 end-user. This shall include, where technically feasible, a requirement for the porting to be completed through over-the-air provisioning, unless an end-user requests otherwise. Providers shall comply with any switching or porting process established by the Regulator.

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

(11) Transferring providers shall refund, upon request, any remaining credit to a consumer using pre-paid services. Such refunds may be subject to a fee only if provided for in the consumer's contract. Any such fee shall be proportionate and commensurate with the actual costs incurred by the transferring provider in offering the refund.

(12)(a) A provider shall provide compensation in an easy and timely manner to end-users in the case of—

- (i) failure by the provider to comply with the obligations laid down in this Regulation,
- (ii) delays in, or abuses of, porting or switching processes, and
- (iii) missed service or instalment processes.

At a minimum, in the cases of subparagraphs (b) and (c) of this paragraph, providers shall compensate end-users for delays exceeding one working day in the following circumstances—

- (I) activation of service,
- (II) porting of a number,
- (III) loss of service, or
- (IV) where an agreed service or installation appointment is missed.

(b) The level of compensation referred to in subparagraph (a) shall be determined having taken account, among other things, of—

- (i) the terms of any agreement between the parties relevant to the particular breach,
- (ii) the duration of any loss of service experienced by the end-user,
- (iii) any failure on the part of the provider to keep the end-user informed throughout the process,
- (iv) the compliance or otherwise, by the provider with any measures taken by the Regulator in accordance with paragraph (9), and
- (v) any failure to comply with the automatic contract-termination obligation referred to in paragraph (8) and any consequential adverse impact on the end-user.

(c) For the purposes of complying with paragraph (a), a provider shall draw up a compensation scheme not later than 31 May 2021. The scheme shall be published by the provider on its website in a clear and comprehensible manner and in an easily accessible form for end-users with disabilities and in any other manner as may be required by the Regulator.

(d) In drawing up a compensation scheme a provider shall provide at least the following—

- (i) the instances in which compensation will be provided,
- (ii) the levels or limits of compensation,
- (iii) the method of compensation,
- (iv) time periods for receiving compensation,
- (v) a user- friendly procedure.

(e) In drawing up a compensation scheme a provider shall comply with any requirements specified by the Regulator.

(f) A provider shall not charge an end-user any fee associated with the payment of compensation.

(g) The Regulator may, following the procedure specified in Regulation 107, further specify the requirements to be complied with by providers for the purpose of ensuring compliance with subparagraph (a). Such requirements may

also address appropriate levels and circumstances of compensation. Any requirement imposed by the Regulator shall be objective, proportionate and transparent.

(h) Any dispute in relation to compensation payable under this paragraph shall be subject to Regulation 102.

(13) Providers shall ensure that end-users are adequately informed about the existence of the rights to compensation under this Regulation.

(14) The obligations referred to in this Regulation apply to all providers with a role in facilitating change of provider, including the provider to which the end-user is porting and any wholesale provider with involvement in the process.

Text on enforcement provisions to be inserted here.

Bundled offers

94. (1) 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, Regulation 89(7) and (8), Regulation 90(1) and (2), Regulation 92 and Regulation 93(1) and (2), shall apply to all elements of the bundle including, *mutatis mutandis*, those not otherwise covered by those provisions.

(2) Where a consumer has, under European Union law, or national law in accordance with European Union law, a right to terminate any element of the bundle as referred to in paragraph (1) before the end of the agreed contract term because of a lack of conformity with the contract or a failure to supply, the consumer has the right to terminate the contract with respect to all elements of the bundle.

(3) Any subscription to additional services or terminal equipment provided or distributed by the same provider of internet access services or of publicly available number-based interpersonal communications services shall not extend the original duration of the contract to which such services or terminal equipment are added, unless the consumer expressly agrees otherwise when subscribing to the additional services or terminal equipment. The provider shall maintain a record of any express agreement in accordance with the provisions of data protection law.

(4) Paragraphs (1) and (3) shall also apply to end-users that are microenterprises, small enterprises, or not-for-profit organisations, unless they

have explicitly agreed to waive all or parts of those provisions. Waiver of such shall not be made a condition of such end-users entering a contract for the services referred to in those paragraphs.

(5) The Regulator may also apply paragraph (1) as regards other provisions laid down in this Part.

Availability of services

95. (1) The Regulator, in consultation with the Minister shall, in the event of catastrophic network breakdown or in cases of *force majeure*, take all necessary measures to ensure the fullest possible availability of voice communication services and internet access services provided over public electronic communications networks. A measure taken by the Regulator may be by way of direction to providers concerned.

(2) A provider of voice communications services shall take all necessary measures to ensure uninterrupted access to emergency services and uninterrupted transmission of public warnings. The Regulator may give a direction to a provider to give effect to this requirement.

Text on enforcement provisions to be inserted here.

Emergency communications and the single European emergency number

96. (1) A provider of publicly available number-based interpersonal communications services, where those services allow end-users to originate calls to a number in a the national or numbering scheme or in an international numbering plan (including public pay telephones), shall ensure that end-users are able to access the emergency services free of charge and without having to use any means of payment, by using the single European emergency number “112”, the national emergency number “999” and any other national emergency number that may be specified by the Regulator.

(2) Subject to paragraph (3), the emergency communications referred to in paragraph (1) shall include voice communications services, SMS and an eCall as defined in Regulation (EU) 2015/758⁴.

(3)(a) Without prejudice to paragraphs (1) and (2), the Regulator, in consultation with the Minister, having taken into account the capabilities and technical equipment of PSAPs, and having consulted with the emergency services, providers of electronic communications services, and other interested parties, in accordance with Regulation 107, shall:

⁴ OJ L123, 29.4.2015, at p.77.

(i) determine publicly available number-based interpersonal communications services that are appropriate for emergency services in accordance with paragraph (1),

(ii) specify obligations for compliance by providers for the provision of access to emergency services through the emergency communications determined in accordance with (i), and

(iii) without prejudice to subparagraph (b), specify standards to be complied with by network independent providers (as referred to in paragraph (7) of this Regulation) to ensure accurate and reliable routing and connection to the emergency services in order to fulfil the obligations in relation to access to emergency services and caller location information provision provided for in this Regulation, at a level comparable to that required of other providers of such communications services.

(b) The Regulator may review any obligations or standards specified, or any determination made in accordance with the procedures set out in this paragraph.

(4) Following a determination by the Regulator in accordance with paragraph (3), providers of the services referred to in paragraph (1) shall provide access to emergency services to the most appropriate PSAP through such emergency communications services as may be determined, and in accordance with any obligations and where applicable any standards, specified by the Regulator.

(5) The Minister, or a person nominated by the Minister, shall promote access to emergency services through the single European emergency number '112', through the national emergency number "999" and through any other national emergency number that may be specified by the Regulator, from electronic communications networks which are not publicly available but which enable calls to public networks, in particular when the undertaking responsible for that network does not provide an alternative and easy access to an emergency service.

(6)(a) Providers of the services referred to in paragraph (1) shall ensure that end-users with disabilities can enjoy access to emergency services through emergency communications equivalent to that enjoyed by other end-users, in accordance with any requirement of law for accessibility for products or services.

(b) The Regulator may, following consultation with the Minister, specify measures applicable to providers for the purpose of compliance with subparagraph (a). These shall include appropriate measures to ensure that whilst travelling in another Member State, end-users with disabilities can access emergency services on an equivalent basis with other end-users, where feasible, without any pre-registration. Those measures shall seek to ensure interoperability across Member States and shall be based to the greatest extent possible on, but not limited to, European standards or specifications laid down in accordance with Regulation 24.

(7)(a) A provider of the services referred to in paragraph (1) shall make caller location information available to the most appropriate PSAP without delay after the emergency communication is set up. This shall include network-based location information and, where available, handset-derived caller location information.

(b) The establishment and the transmission of the caller location information referred to in subparagraph (a) shall be free of charge for the end-user and the PSAP with regard to all emergency communications to the single European emergency number “112”, to the national emergency number “999”, and to any other national emergency number that may be specified by the Regulator.

(c) In the absence of standards specified by the Regulator in accordance with paragraph (3)(a)(iii), where a provider referred to in subparagraph (a) is neither a provider of a public electronic communications network, or integrated with such a provider (a ‘network independent provider’), it shall provide caller location information to the most appropriate PSAP in accordance with this paragraph only to the extent that it is technically feasible or economically viable.

(d) For the purpose of this paragraph, the Regulator, if necessary and after consulting BEREC, and in consultation with the Minister, shall lay down criteria pertaining to the accuracy and reliability of the caller location information provided and a provider to which this paragraph applies shall comply with such criteria.

(8) The Regulator may, in consultation with the Minister, specify obligations for compliance by providers of any particular class or classes that may be specified by the Regulator for the purpose of ensuring that members of the public are adequately informed about the existence and use of the single European emergency call number “112”, as well as its accessibility features, including through initiatives specifically targeting persons travelling between

Member States and end-users with disabilities. The information shall be provided in accessible formats, addressing different types of disabilities.

Text on enforcement provisions to be inserted here.

Equivalent access and choice for end-users with disabilities

98. (1) The Regulator shall specify requirements to be complied with by providers of publicly available electronic communications services in order to ensure that end-users with disabilities—

(a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users, and

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

(2) When specifying requirements in accordance with paragraph (1), the Regulator shall encourage providers to comply with the relevant standards or specifications laid down in accordance with Regulation 24.

Directory enquiry services

99. (1) A provider of number-based interpersonal communications services which attributes 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, directories and the record referred to in paragraph (3), the relevant information in an agreed format, on terms which are fair, objective, cost oriented, and non-discriminatory.

(2) In accordance with Regulation 46, the Regulator may impose obligations and conditions on undertakings that control access to end-users, for the provision of directory enquiry services and any such obligations and conditions shall be objective, equitable, non-discriminatory and transparent.

(3) Subject to Regulation 14 of the Privacy and Electronic Communications Regulations and for the purposes of this Regulation, a person that may be required to do so by the Regulator shall keep a record (to be known as the National Directory Database) of all subscribers of publicly available telephone services in the State, including those with fixed, personal and mobile numbers who have not refused to be included in that record, and shall meet all reasonable requests for access to any information contained in that record in an agreed format, on terms that are fair, objective, cost orientated and non-discriminatory, and in accordance with such terms and conditions as may be specified by the undertaking and approved by the Regulator.

(4) The Regulator shall not maintain any regulatory restriction which prevents an end-user in the State from accessing directly, by voice call or SMS, a directory enquiry service in another Member State or an end-user in another Member State from accessing directly directory enquiry services in the State and shall take measures to ensure such access in accordance with Regulation 85.

(5) This Regulation applies subject to the requirements of European Union law on the protection of personal data and privacy and in particular Regulation 12 of the Privacy and Electronic Communications Regulations.

(6) A person that fails to comply with a requirement of paragraph (1), (2) or (3) commits an offence.

(7) In proceedings for an offence under paragraph (6) it is a defence for the person charged to show that they took all reasonable steps and executed due diligence to avoid committing the offence.

Provision of additional facilities

101. (1) Without prejudice to Regulation 76(2) and subject to paragraph (3), the Regulator may specify that all providers of internet access services or publicly available number-based interpersonal communications services are required to make available free of charge—

(a) all or part of the additional facilities listed in Part B of Annex VI, subject to technical feasibility, and

(b) all or part of the additional facilities and services listed in Part A of Annex VI.

(2) A provider shall comply with any requirement made of it under paragraph (1) within such reasonable period as the Regulator shall specify,

(3) Where a provider referred to in paragraph (1) considers that it is not technically feasible to provide all or part of the additional facilities listed in Part B of Annex VI, it shall notify the Regulator of the fact and give reasons including all relevant information in support of its views.

(4) The Regulator shall consider the information given to it under paragraph (3) and any other information it considers relevant and shall either agree or disagree with the decision of the provider.

(5) Where the Regulator disagrees with the decision of the provider as aforesaid, it may issue a direction to that provider to provide all or part of the additional facilities listed in Part B of Annex VI.

(6) If the Regulator considers, after taking into account any views expressed to it under a public consultation carried out in accordance with Regulation 107, that there is sufficient access to the facilities referred to in paragraph (1) in all or in any part of the State, it may dis-apply paragraph (1) in relation to the whole or any such part of the State.

Text on enforcement provisions to be inserted here.