

Chapter 11
Telecommunications

第11章 电信

Article 11.1: Definitions

For the purposes of this Chapter:

- (a) **cost-oriented** means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;
- (b) **dialing parity** means the ability of an end-user to use an equal number of digits to access a like public telecommunications service, regardless of the public telecommunications service supplier chosen by such end-user and in a way that involves no unreasonable dialing delays;
- (c) **end-user** means a final consumer of or subscriber to a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;
- (d) **essential facilities** means facilities of a public telecommunications network or service that:
 - (i) are exclusively or predominantly provided by a single or limited number of suppliers, and
 - (ii) cannot feasibly be economically or technically substituted in order to provide a service;
- (e) **interconnection** means linking with suppliers providing public telecommunications networks or services in order to allow the users of one supplier to communicate with the users of another supplier and to access services provided by another supplier;
- (f) **leased circuit** means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, a particular customer or other users;
- (g) **major supplier** means a supplier or suppliers which alone or together have the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for public telecommunications networks or services as a result of control over essential facilities or use of its position in the market;
- (h) **network element** means a facility or equipment used in supplying a public telecommunications service, including features, functions, and capabilities provided by means of such a facility or equipment, which may include local loop, sub loops and line sharing;

第11.1条：定义

本章的目的如下：

- (a) 成本导向是指基于成本，并可能包括合理的利润，并可能涉及不同设施或服务不同成本方法；
- (b) 拨号对等是指最终用户使用相同数量的数字访问类似公共电信服务的能力，无论该最终用户选择的公共电信服务供应商如何，并且不涉及不合理的拨号延迟；
- (c) 最终用户是指公共电信服务的最终消费者或订阅者，包括公共电信服务以外的服务供应商；
- (d) 基本设施是指公共电信网络或服务的设施，该设施：
 - (i) 仅由一个或少数供应商独家或主要提供，并且 (ii) 在经济或技术上无法可行地替代以提供服务；
- (e) 互联互通是指与提供公共电信网络或服务的供应商连接，以允许一个供应商的用户与另一个供应商的用户通信并访问另一个供应商提供的服务；
- (f) 租用电路是指两个或多个指定点之间的电信设施，这些设施专门用于或可供特定客户或其他用户使用；
- (g) 主要供应商是指一个或多个供应商，它们单独或共同拥有能力，能够实质性地影响公共电信网络或服务的相关市场参与条款（考虑到价格和供应），这是由于对基本设施的控制或利用其在市场中的地位而导致的；
- (h) 网络元素是指用于提供公共电信服务的设施或设备，包括通过该设施或设备提供的功能、功能和能力，这可能包括本地环路、子环路和线路共享；

- (i) **non-discriminatory** means treatment no less favourable than that accorded to any other user of like public telecommunications networks or services in like circumstances;
- (j) **number portability** means the ability of end-users to retain existing telephone numbers when switching between suppliers of like public telecommunications networks or services;
- (k) **physical co-location** means physical access to space in order to install, maintain or repair equipment at premises owned or controlled and used by a major supplier to supply public telecommunications networks or services;
- (l) **public telecommunications network** means the telecommunications infrastructure which a Party requires to be used to provide telecommunications services;
- (m) **public telecommunications service** means any telecommunications service which a Party requires to be offered to the public generally. Such services may include, *inter alia*, telephone and data transmission typically involving customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information;
- (n) **regulatory decisions** means decisions by regulators made pursuant to authority conferred under domestic law including in relation to:
 - (i) the making of rules for the telecommunications industry excluding legislation and statutory rules;
 - (ii) the approval of terms and conditions, standards and codes to apply in the telecommunications industry;
 - (iii) the adjudication or other resolution of disputes between suppliers of public telecommunications networks or services; and
 - (iv) licensing;
- (o) **telecommunications** means the transmission and reception of signals by any electromagnetic means;
- (p) **telecommunications regulatory body** means any body or bodies responsible for the regulation of telecommunications; and
- (q) **user** means an end-user or a supplier of public telecommunications networks or services.

Article 11.2: Scope and Coverage

- 1. This Chapter applies to:

(i) 非歧视性是指不低于向类似公共电信网络或服务的任何其他用户在类似情况下提供的待遇； (j) 号码携带是指终端用户在切换到类似公共电信网络或服务的供应商时能够保留现有电话号码的能力； (k) 物理共址是指为在主要供应商拥有的或控制的并用于提供公共电信网络或服务的场所安装、维护或修理设备而获得的空间的物理访问； (l) 公共电信网络是指一方要求用于提供电信服务的电信基础设施； (m) 公共电信服务是指一方要求向公众普遍提供的任何电信服务。此类服务可能包括但不限于电话和数据传输，通常涉及客户提供的在两个或多个点之间传输的信息，而客户的信息在端到端时形式或内容没有变化； (n) 监管决定是指监管机构根据国内法律授予的权力作出的决定，包括与以下方面的关系： (i) 为电信行业制定规则，不包括立法和法定规则； (ii) 批准适用于电信行业的条款和条件、标准和代码； (iii) 对公共电信网络或服务的供应商之间的争议进行裁决或其他解决；以及 (iv) 许可； (o) 电信是指通过任何电磁方式传输和接收信号； (p) 电信监管机构是指负责电信监管的任何机构或机构；以及 (q) 用户是指终端用户或公共电信网络或服务的供应商。

第11.2条：范围和覆盖范围

- 1. 本章适用于：

- (a) measures adopted or maintained by a Party relating to access to and use of public telecommunications networks and services;
- (b) measures adopted or maintained by a Party relating to suppliers of public telecommunications networks and services;
- (c) measures adopted or maintained by a Party relating to the conduct of major suppliers; and
- (d) other measures relating to public telecommunication networks or services.

2. In the event of any inconsistency between this Chapter and another Chapter, this Chapter shall prevail to the extent of the inconsistency.

3. Except to ensure that enterprises operating broadcast stations and cable systems have continued access to and use of public telecommunications networks and services, this Chapter does not apply to measures that a Party adopts or maintains relating to broadcast or cable distribution of radio or television programming.

4. Nothing in this Chapter shall be construed as:

- (a) requiring a Party to compel any enterprise to establish, construct, acquire, lease, operate, or provide telecommunications networks or services where such networks or services are not offered to the public generally;
- (b) requiring a Party to compel any enterprise exclusively engaged in the broadcast or cable distribution of radio or television programming to make available its broadcast or cable facilities as a public telecommunications network; or
- (c) preventing a Party from prohibiting persons operating private networks from using their networks to provide public telecommunications networks or services to third persons.

Section A

Access To and Use of Public Telecommunications Networks or Services

Article 11.3: Access and Use

1. Each Party shall ensure that enterprises of the other Party have access to and use of any public telecommunications network or service, including leased circuits, offered in its territory or across its borders on a timely basis and on terms and conditions that are reasonable and non-discriminatory such as those set out in paragraphs 2 to 6.

2. Each Party shall ensure that such enterprises are permitted to:

- (a) 缔约方为获取和使用公共电信网络和服务而采取或维持的措施；
- (b) 缔约方为公共电信网络和服务供应商而采取或维持的措施；(c) 缔约方为主要供应商的行为而采取或维持的措施；以及(d) 与公共电信网络或服务相关的其他措施。

2. 如果本章与另一章节之间存在任何不一致，本章应优先适用不一致的部分。

3. 除确保经营广播电台和有线电视系统的企业能够持续接入和使用公共电信网络和服务外，本章不适用于缔约方为广播或有线分配无线电或电视节目而采取或维持的措施。

4. 本章的任何内容均不得被解释为：

- (a) 要求缔约方强制任何企业建立、建设、收购、租赁、运营或提供电信网络或服务，而这些网络或服务并未向公众普遍提供；(b) 要求缔约方强制任何专门从事无线电或电视节目广播或有线分配的企业将其广播或有线设施作为公共电信网络提供；或(c) 阻止缔约方禁止私人网络运营商使用其网络向第三方提供公共电信网络或服务。

第 A 部分 公共电信网络或服务的接入和使用

第11.3条：接入和使用

1. 每一方应确保另一方的企业能够及时地接入和使用其领土内或跨境提供的任何公共电信网络或服务，包括租用电路，并且这些接入和使用应基于合理和非歧视性的条款和条件，例如第2至6段中规定的那样。

2. 每一方应确保此类企业获得许可，可以：

- (a) purchase or lease, and attach terminal or other equipment that interfaces with, a public telecommunications network;
- (b) provide services to individual or multiple end-users over leased or owned circuits;
- (c) connect owned or leased circuits with public telecommunications networks and services in the territory, or across the borders, of that Party, or with circuits leased or owned by another enterprise;
- (d) perform switching, signaling, processing, and conversion functions; and
- (e) use operating protocols of their choice.

3. Each Party shall ensure that enterprises of the other Party may use public telecommunications networks and services for the movement of information in its territory or across its borders and for access to information contained in databases or otherwise stored in machine-readable form in the territory of either Party or any WTO Member.

4. Notwithstanding paragraph 3, a Party may take such measures as are necessary to:

- (a) ensure the security and confidentiality of messages; or
- (b) protect the privacy of personal data of end users of public telecommunications networks or services,

subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks or services, other than as necessary to:

- (a) safeguard the public service responsibilities of suppliers of public telecommunications networks or services, in particular their ability to make their networks or services available to the public generally; or
- (b) protect the technical integrity of public telecommunications networks or services.

6. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:

- (a) a requirement to use specified technical interfaces, including interface protocols, for inter-connection with such networks and services;

- (a) 购买或租赁，并连接与公共电信网络接口的终端或其他设备；
- (b) 通过租用或拥有的电路向单个或多个最终用户提供服务； (c) 将拥有的或租用的电路连接到该方领土内的公共电信网络和服务，或跨越边境，或连接到另一家企业租用或拥有的电路； (d) 执行交换、信令、处理和转换功能；以及 (e) 使用其选择的操作协议。

3. 每一缔约方应确保另一缔约方的企业可在其领土内或跨越其边境使用公共电信网络和服务，以传输信息，并访问包含在任一缔约方领土内或任何世界贸易组织成员领土内以机器可读形式存储的数据库或其他信息。

4. 尽管有第3段规定，缔约方可采取必要措施：

- (a) 确保消息的安全性和保密性；或 (b) 保护公共电信网络或服务最终用户的个人隐私，

但前提是此类措施不得以构成任意或不合理的歧视手段或对服务贸易的伪装限制的方式实施。

5. 每一缔约方应确保除为以下目的所必需的情况外，不得对公共电信网络或服务的访问和使用施加任何条件：

- (a) 维护公共电信网络或服务的供应商的公共服务责任，特别是其向公众普遍提供其网络或服务的能力；或 (b) 保护公共电信网络或服务的技术完整性。

6. 在满足第5段规定的标准的前提下，公共电信网络和服务的访问和使用条件可包括：

- (a) 使用指定的技术接口，包括接口协议，以与该等网络和服务进行互联互通的要求；

- (b) requirements, where necessary, for the inter-operability of such services;
- (c) type approval of terminal or other equipment which interfaces with the network and technical requirements relating to the attachment of such equipment to such networks; and
- (d) notification, registration and licensing which, if adopted or maintained, are transparent and applications processed without undue delay.

Section B
Suppliers of Public Telecommunications Networks or Services

Article 11.4: Interconnection

- 1. Each Party shall ensure suppliers of public telecommunications networks or services in its territory provide, directly or indirectly, interconnection with the suppliers of public telecommunications networks or services of the other Party.
- 2. In carrying out paragraph 1, each Party shall ensure that suppliers of public telecommunications networks or services in its territory take reasonable steps to protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end-users of public telecommunications networks or services and only use such information for the purpose of providing those services.

Article 11.5: Number Portability

Each Party shall ensure that suppliers of public telecommunications networks or services in its territory provide number portability, to the extent technically and economically feasible, in a reasonable period of time and on terms and conditions that are reasonable and non-discriminatory.

Article 11.6: Dialing Parity and Access to Telephone Numbers

Each Party shall ensure that:

- (a) its telecommunication regulatory body has the authority to require that suppliers of public telecommunications services in its territory provide dialing parity within the same category of service to suppliers of public telecommunications services of the other Party; and
- (b) suppliers of public telecommunications services of the other Party are afforded non-discriminatory access to telephone numbers.

- (b) 在必要时，对该等服务的互操作性要求；(c) 与网络接口的终端或其他设备的类型批准，以及与将该等设备连接到该等网络相关联的技术要求；以及(d) 通知、注册和许可，如果采用或维持，则应透明，并且处理申请不应有不当延迟。

公共电信网络或服务的供应商

第11.4条：互联互通

- 1. 每一方应确保其领土内公共电信网络或服务的供应商直接或间接地与另一方的公共电信网络或服务的供应商进行互联互通。
- 2. 在执行第1款时，每一方应确保其领土内公共电信网络或服务的供应商采取合理措施，保护公共电信网络或服务的供应商和最终用户或与其有关的商业敏感信息的机密性，并且仅将此类信息用于提供这些服务的目的。

第11.5条：号码携带

每一缔约方应确保其领土内公共电信网络或服务的供应商在合理期限内，以合理和非歧视性的条款和条件提供号码携带，在技术和经济上可行的情况下。

第11.6条：拨号对等和电话号码的接入

每一缔约方应确保：

- (a) 其电信监管机构有权要求其领土内公共电信服务的供应商向另一方的公共电信服务供应商在同类服务中提供拨号对等；和
- (b) 其他缔约方的公共电信服务供应商享有非歧视性的电话号码接入权。

Article 11.7: Submarine Cable Systems

Each Party shall ensure reasonable and non-discriminatory treatment for access to submarine cable systems (including landing facilities) in its territory, where a supplier is authorised to operate a submarine cable system as a public telecommunications service.

Section C
Conduct of Major Suppliers of Public Telecommunications
Networks and Services

Article 11.8: Major Supplier Competitive Safeguards

Each Party shall maintain appropriate measures for the purpose of preventing suppliers who, alone or together, are a major supplier in its territory from engaging in or continuing anti-competitive practices, including in particular:

- (a) engaging in anti-competitive cross-subsidisation;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available, on a timely basis, to suppliers of public telecommunications networks or services, technical information about essential facilities and commercially relevant information that are necessary for them to provide services.

Article 11.9: Treatment by Major Suppliers

Each Party shall ensure that major suppliers in its territory accord suppliers of public telecommunications networks and services of the other Party treatment no less favourable than such major suppliers accord in like circumstances to their subsidiaries, their affiliates or non-affiliated service suppliers regarding:

- (a) the availability, provisioning, rates, or quality of like public telecommunications networks or services; and
- (b) the availability of technical interfaces necessary for interconnection.

第11章 电信

每一缔约方应确保在其领土内对海底电缆系统（包括登陆设施）的接入给予合理和非歧视的待遇，其中供应商被授权将海底电缆系统作为公共电信服务运营。

C 公共电信网络和服务主要供应商的行为准则

第11.8条 主要供应商竞争保障措施

每一缔约方应维持适当措施，以防止在其领土内单独或共同构成主要供应商的供应商从事或继续从事反竞争行为，特别是：

- (a) 从事反竞争交叉补贴；(b) 使用从竞争对手处获得并产生反竞争结果的信息；以及(c) 未在及时的基础上向公共电信网络或服务的供应商提供有关基本设施和商业相关信息的技术信息，这些信息对于他们提供服务是必要的。

第11.9条：主要供应商的待遇

每一缔约方应确保其领土内的主要供应商给予另一方的公共电信网络和服务供应商的待遇，不低于其主要供应商在类似情况下给予其附属机构、附属机构或非附属服务供应商的待遇：

- (a) 类公共电信网络或服务的可用性、配置、费率或质量；以及 (b) 互联互通所需的技术接口的可用性。

Article 11.10: Interconnection with Major Suppliers ¹¹⁻¹

General Terms and Conditions

1. Each Party shall ensure that major suppliers in its territory provide interconnection for the facilities and equipment of suppliers of public telecommunications networks or services of the other Party:
- (a) at any technically feasible point in the major supplier’s network;
 - (b) under non-discriminatory terms, conditions (including technical standards and specifications), and rates¹¹⁻²;
 - (c) of a quality no less favourable than that provided by such major suppliers for their own like services, for like services of non-affiliated service suppliers, or for like service of their subsidiaries or other affiliates;
 - (d) in a timely fashion, on terms, conditions (including technical standards and specifications), and cost-oriented rates¹¹⁻³ that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that suppliers seeking interconnection need not pay for network components or facilities that they do not require for the service to be provided; and
 - (e) on request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

Options for Interconnecting with Major Suppliers

2. Each Party shall ensure that suppliers of public telecommunications networks or services of the other Party may interconnect their facilities and equipment with those of major suppliers in its territory pursuant to at least one of the following options¹¹⁻⁴:
- (a) a reference interconnection offer or another standard interconnection offer containing the rates, terms, and conditions that the major supplier offers generally to suppliers of public telecommunications networks or services;

¹¹⁻¹Australia's interconnection regime provides access on terms and conditions which are fair and reasonable to all parties and which do not unfairly discriminate between users. Access rights are guaranteed by legislation and the terms and conditions of access are established primarily through processes of commercial negotiation or by reference to access undertakings given by suppliers of public telecommunications networks or services which may draw upon an industry code of practice. Any code of practice and each supplier's undertaking will be subject to approval by the regulator.

¹¹⁻²In Australia, the rate at which interconnection is provided is determined by negotiation. Both negotiating parties have recourse to the regulator which will make a decision based on transparent criteria to ensure that rates are fair and reasonable in the circumstances.

¹¹⁻³In Australia, the regulator may resolve any dispute on what costs are relevant in determining rates.

¹¹⁻⁴For Australia, these options include arbitration.

第11.10条：与主要供应商互联 ¹¹⁻¹

通用条款和条件

1. 每一方应确保其领土内的主要供应商为另一方的公共电信网络或服务的供应商提供设施和设备的互联互通：
- (a) 在主要供应商网络中的任何技术可行点；²;
 - (b) 在非歧视性条款、条件（包括技术标准¹¹⁻²和费率¹¹⁻³）下，在主要供应商网络中的任何技术可行点；²;
 - (c) 不低于此类主要供应商为其自身类似服务、非附属服务供应商的类似服务或其子公司或其他附属机构的类似服务的质量；
 - (d) 及时地，在条款、条件（包括技术标准¹¹⁻³和费率¹¹⁻³），以及成本导向费率¹¹⁻³下，
- 透明、合理、考虑经济可行性，并充分解耦，以便寻求互联互通的供应商无需为其不要求的服务所必需的网络组件或设施付费；以及
- (e) 应要求，在网络终端点之外向大多数用户提供点，费用反映必要附加设施的建设成本。

与主要供应商互联的选项

2. 每一方应确保另一方公共电信网络或服务的供应商能够根据以下至少一项选项，将其设施和设备与该方领土内主要供应商的设施和设备互联互通¹¹⁻⁴：
- (a) 参考互联报价或包含主要供应商向公共电信网络或服务的供应商通常提供的费率、条款和条件的另一种标准互联报价；

¹¹⁻¹澳大利亚的互联制度提供公平合理的条款和条件，对所有各方均无不公平歧视。接入权由立法保障，接入条款主要通过商业谈判过程或参考公共电信网络或服务的供应商提供的接入承诺来建立，这些承诺可能参考行业行为准则。任何行为准则和每个供应商的承诺均需监管机构批准。

¹¹⁻²在澳大利亚，互联互通的费率由谈判决定。双方谈判方均可向监管机构申诉，监管机构将根据透明标准做出决定，以确保费率在具体情况中公平合理。

¹¹⁻³在澳大利亚，监管机构可以解决关于确定费率相关成本的任何争议。

¹¹⁻⁴对于澳大利亚，这些选项包括仲裁。

- (b) the terms and conditions of an existing interconnection agreement; or
- (c) through negotiation of a new interconnection agreement.

Public Availability of Procedures for Interconnection Negotiations

3. Each Party shall ensure that applicable procedures for interconnection negotiations with major suppliers in its territory are made publicly available.

Public Availability of Terms and Conditions for Interconnection with Major Suppliers

4. Each Party shall ensure, where interconnection is provided under paragraph 2(a), that the rates, terms, and conditions are made publicly available.

Article 11.11: Resale

Each Party¹¹⁻⁵ shall ensure that major suppliers in its territory:

- (a) offer for resale, at reasonable rates,¹¹⁻⁶ to suppliers of public telecommunications services of the other Party, public telecommunications services that such major supplier provides at retail to end users that are not suppliers of public telecommunications services; and
- (b) do not impose unreasonable or discriminatory conditions or limitations on the resale of such services.

Article 11.12: Unbundling of Network Elements

Each Party shall provide its telecommunications regulatory body with the authority to require that major suppliers in its territory provide suppliers of public telecommunications networks and services of the other Party access to network elements for the provision of public telecommunications networks or services on an unbundled basis, and on terms and conditions and at cost-oriented rates that are reasonable and non-discriminatory.

¹¹⁻⁵Australia may determine in accordance with its law and regulations which public telecommunications services must be offered for resale by major suppliers in accordance with paragraph 1, based on the need to promote competition or such other factors as the Party considers relevant.

¹¹⁻⁶For the purposes of Article 11.11(a): 1) a Party may determine reasonable rates through any methodology it considers appropriate; and 2) wholesale rates, set pursuant to a Party’s law and regulations, shall be considered reasonable.

- (b) 现有互联协议的条款和条件；或 (c) 通过协商新互联协议。

互联谈判程序的公开可用性

3. 每一方应确保其领土内与主要供应商进行互联谈判的适用程序是公开可用的。

与主要供应商互联的条款和条件的公开可用性

4. 每一方应确保，在根据第2(a)段提供互联的情况下，费率、条款和条件是公开可用的。

第11.11条：转售

每一缔约方¹¹⁻⁵ 应确保其领土内的主要供应商：

- (a) 转售的报价，费率合理，¹¹⁻⁶ 向其他缔约方的公共电信服务供应商提供此类主要供应商向非公共电信服务供应商的最终用户提供零售服务的公共电信服务；以及 (b) 不对此类服务的转售施加不合理或歧视性的条件或限制。

第11.12条：网络元素解绑

每一缔约方应向其电信监管机构提供授权，要求其领土内的主要供应商以非捆绑方式向另一方的公共电信网络和服务供应商提供网络元素，以合理和非歧视的条款和条件以及成本导向费率提供服务。

¹¹⁻⁵澳大利亚可根据其法律和法规，基于促进竞争或缔约方认为相关的其他因素的需要，确定哪些公共电信服务必须由主要供应商根据第1段的规定进行转售。

¹¹⁻⁶根据第11.11（a）条的目的：1）缔约方可通过其认为适当的方法确定合理费率；以及2）根据缔约方的法律和法规设定的批发费率应被视为合理的。

Article 11.13: Provisioning and Pricing of Leased Circuits

1. Each Party shall ensure that major suppliers in its territory provide enterprises of the other Party leased circuit services that are public telecommunications networks or services in a reasonable period of time, on terms and conditions, and at rates, that are reasonable and non-discriminatory.
2. In carrying out paragraph 1, each Party shall provide its telecommunications regulatory body the authority to require major suppliers in its territory to offer such leased circuit services that are public telecommunications networks or services to enterprises of the other Party at capacity-based, cost-oriented prices.

Article 11.14: Co-location

1. Each Party shall ensure that major suppliers in its territory provide to suppliers of public telecommunications services of the other Party physical co-location of equipment necessary for interconnection or access to unbundled network elements on a timely basis and on terms, conditions and at cost-oriented rates that are reasonable and non-discriminatory.
2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall ensure that major suppliers in its territory provide alternative solution, which may include facilitating virtual co-location, on a timely basis and on terms, conditions and at cost-oriented rates that are reasonable and non-discriminatory.
3. Each Party may determine, in accordance with its law and regulations, which premises in its territory are subject to paragraphs 1 and 2.

Article 11.15: Access to Poles, Ducts, Conduits, Transmission Towers, Underground Facilities and Rights of Way

Each Party shall maintain appropriate measures for the purpose of preventing major suppliers in its territory from denying access to poles, ducts, conduits, transmission towers, underground facilities and rights-of-way, or any other structures deemed necessary by the Party, owned or controlled by such major suppliers, to suppliers of public telecommunications networks or services of the other Party in a manner which would constitute anti-competitive practices.

Article 11.16: Denial of Access

Each Party shall ensure that any decision of the Party to deny access will be provided with a clear and detailed written explanation.

第11.13条：租用电路的提供和定价

1. 每一缔约方应确保其领土内的主要供应商在合理期限内向另一方的企业提供租用电路服务，该服务为公共电信网络或服务，且提供服务的条款和条件以及费率应为合理和非歧视的。
2. 在执行第1段时，每一缔约方应向其电信监管机构授予要求其领土内主要供应商向另一方的企业提供公共电信网络或服务的租用电路服务，并按基于容量的成本导向费率提供。

第11.14条：共址

1. 每一缔约方应确保其领土内主要供应商及时向另一方的公共电信服务供应商提供用于互连或访问解束网络元素所需的设备的物理共址，并提供合理和非歧视性的条款、条件和成本导向费率。
2. 如因技术原因或空间限制，物理共址不切实际，每一缔约方应确保其领土内主要供应商及时提供替代方案，该方案可包括促进虚拟共位，并提供合理和非歧视性的条款、条件和成本导向费率。
3. 每个缔约方应根据其法律和法规，确定其领土内哪些场所适用第1段和第2段。

第11.15条：对电杆、管道、导管、传输塔、地下设施和通道权的接入

每个缔约方应采取适当措施，以防止其领土内的主要供应商拒绝向公共电信网络或服务或其他缔约方供应商提供电杆、管道、导管、传输塔、地下设施和通道权，或任何其他由缔约方认为必要的、由该等主要供应商拥有或控制的设施，以构成反竞争行为。

第11.16条：拒绝访问

每一缔约方应确保其拒绝接入的决定将提供清晰和详细的书面解释。

Section D
Regulatory Measures

D部分 监管措施

Article 11.17: Independent Regulatory Bodies

1. Each Party shall ensure that any telecommunications regulatory body that it establishes or maintains is independent and separate from, and not accountable to, any supplier of public telecommunications networks or services. To this end, each Party shall ensure that its telecommunications regulatory bodies do not hold a financial interest or maintain an operating role in any supplier of public telecommunications networks or services.
2. Each Party shall ensure that the decisions and procedures of its telecommunications regulatory body are impartial with respect to all interested persons. To this end, each Party shall ensure that its regulatory body does not hold a financial interest in any supplier of public telecommunications networks or services, and that any financial interest that the Party holds in a supplier of a public telecommunications networks or services does not influence the decisions and procedures of its telecommunications regulatory body.
3. Each Party shall ensure that the decisions of, and procedures used by, its telecommunications regulatory bodies shall be fair and impartial and shall be made and implemented without undue delay.

Article 11.18: Flexibility in the Choice of Technology

Neither Party may prevent suppliers of public telecommunications networks or services from choosing the technologies they wish to use to supply their services, including packet-based services and commercial mobile wireless services, subject to requirements necessary to satisfy legitimate public policy interests, including protection of the technical integrity of public telecommunications networks and services.

Article 11.19: Universal Service

Each Party shall administer any universal service obligation that it maintains in a transparent, non-discriminatory, and competitively neutral manner and shall ensure that its universal service obligation is not more burdensome than necessary for the kind of universal service that it has defined.

Article 11.20: Licensing Process

1. When a Party requires a supplier of public telecommunications networks or services to have a licence, the Party shall make publicly available:

第11.17条：独立监管机构

1. 每一缔约方应确保其设立或维持的电信监管机构是独立的，并与任何公共电信网络或服务的供应商分离，不对任何公共电信网络或服务的供应商负责。为此，每一缔约方应确保其电信监管机构在任何公共电信网络或服务的供应商中不持有财务利益或维持运营角色。
2. 每个缔约方应确保其电信监管机构的决定和程序对所有有关人员都是公正的。为此，每个缔约方应确保其监管机构在任何公共电信网络或服务的供应商中不持有任何财务利益，并确保该缔约方在公共电信网络或服务的供应商中持有的任何财务利益不影响其电信监管机构的决定和程序。
3. 每个缔约方应确保其电信监管机构的决定和所使用的程序是公平和公正的，并且应在不正当延迟的情况下做出和实施。

第11.18条：技术选择灵活性

任何一方不得阻止公共电信网络或服务的供应商选择其希望用于提供服务的技术，包括分组服务和商业移动无线服务，但前提是必须满足满足合法公共政策利益的要求，包括保护公共电信网络和服务的技术完整性。

第11.19条：普遍服务

每一方应以透明、非歧视性和竞争中立的方式管理其维持的任何普遍服务义务，并确保其普遍服务义务对于其定义的普遍服务类型而言不是不必要的负担。

第11.20条：许可程序

1. 当缔约方要求公共电信网络或服务的供应商获得许可证时，缔约方应当公开：

- (a) all the licensing criteria and procedures it applies, including any standard terms and conditions of the licence;
- (b) the time it normally requires to reach a decision concerning an application for a licence; and
- (c) the terms and conditions of individual licences.

2. Each Party shall ensure that, on request, an applicant receives the reasons for the denial of a licence.

3. Each Party shall ensure that licensing requirements for suppliers of telecommunications networks or services of the other Party are applied in a way that is not more burdensome than necessary.

Article 11.21: Allocation and Use of Scarce Telecommunications Resources

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including frequencies, numbers, and rights of way, in an objective, timely, transparent, and non-discriminatory manner.

2. Each Party shall make publicly available the current state of allocated frequency bands but shall not be required to provide detailed identification of frequencies assigned for specific government uses.

3. For greater clarity, measures regarding the allocation and assignment of spectrum and regarding frequency management are not measures that are *per se* inconsistent with Article 9.5 (Market Access – Cross-Border Trade in Services Chapter), which is applied to Chapter 10 (Investment) through Article 9.2.2 (Scope and Coverage – Cross-Border Trade in Services Chapter). Accordingly, each Party retains the right to establish and apply its spectrum and frequency management policies, which may limit the number of suppliers of public telecommunications networks or services, provided that it does so in a manner that is consistent with this Agreement. Each Party also retains the right to allocate frequency bands taking into account current and future needs.

4. When making a spectrum allocation for non-governmental telecommunications networks or services, each Party shall endeavour to rely on an open and transparent public comment process that considers the overall public interest. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial non-governmental telecommunications networks or services.

Article 11.22: Enforcement

1. Each Party shall provide its relevant regulatory body with the authority to enforce compliance with the Party's measures relating to the obligations set out in Articles 11.3 to 11.15 and Articles 11.20 to 11.23.

- (a) 它所适用的所有许可标准、程序，包括许可证的标准条款和条件；(b) 它通常需要的时间，以就许可证申请作出决定；以及(c) 单个许可证的条款和条件。

2. 每一方应确保，在申请时，申请人能够获得许可证拒绝的原因。

3. 每一方应确保对另一方电信网络或服务供应商的许可要求以非歧视的方式实施，其负担不应超过必要程度。

第11.21条：稀缺电信资源的分配和使用

1. 每一方应客观、及时、透明和非歧视地管理其稀缺电信资源分配和使用程序，包括频率、号码和通行权。

2. 每一方应公开已分配频率带的状态，但无需提供为特定政府用途分配的频率的详细识别。

3. 为进一步明确，涉及频谱分配和指派以及频率管理的措施本身并不与第9.5条（市场准入——跨境服务章节）相抵触，该条款通过第9.2.2条（范围和覆盖——跨境服务章节）适用于第10章（投资）。因此，每一缔约方保留制定和实施其频谱和频率管理政策的权利，只要其以与本协定一致的方式这样做，这些政策可能会限制公共电信网络或服务的供应商数量。每一缔约方还保留根据当前和未来的需求分配频段的权利。

4. 在为非政府电信网络或服务进行频谱分配时，每一缔约方应努力依赖一个考虑整体公共利益的公开透明的公开评论程序。每一缔约方应努力在为地面非政府电信网络或服务分配频谱时，普遍依赖基于市场的做法。

第11.22条：执行

1. 每一缔约方应向其相关监管机构提供执行与第11.3条至第11.15条和第11.20条至第11.23条中规定的义务相关的措施所要求的合规的权力。

2. Such authority to enforce compliance shall include the ability to impose, or seek from administrative or judicial bodies, effective sanctions, which may include financial penalties, or the modification, suspension, and revocation of licences.

Article 11.23: Resolution of Telecommunications Disputes and Appeal Processes

Each Party shall ensure that:

Recourse to a telecommunications regulatory body

- (a) enterprises of the other Party may seek timely review by a telecommunications regulatory body or other relevant body to resolve disputes regarding the Party’s measures relating to a matter set out in Articles 11.3 to 11.15 and Articles 11.20 to 11.23;
- (b) suppliers of public telecommunications networks or services of the other Party that have requested interconnection with a major supplier in its territory may have recourse, within a reasonable and publicly available period of time after the supplier requests interconnection, to a national telecommunications regulatory body or other relevant body to resolve disputes regarding the terms, conditions, and rates for interconnection with such major supplier;

Judicial review

- (c) any enterprise that is aggrieved or whose interests are adversely affected by a determination or decision of the Party’s telecommunications regulatory body may obtain judicial review of such determination or decision by an impartial and independent judicial authority; and
- (d) the making of an application for judicial review shall not have the effect of delaying the coming into operation of the telecommunications regulatory body’s decision or determination, or of suspending the operation of the decision or determination, unless otherwise determined by the relevant judicial body.

Article 11.24: Transparency

Further to Chapter 19 (Transparency), each Party shall ensure that:

- (a) regulatory decisions, including the basis for such decisions, of its telecommunications regulatory body are promptly published or otherwise made available to all interested persons;
- (b) its measures relating to public telecommunications networks or services are made publicly available, including:

2. 此执行合规的权力应包括对行政或司法机构施加或寻求有效制裁的能力，这些制裁可能包括财务处罚，或许可证的修改、暂停和撤销。

第11.23条：电信争议的解决和上诉程序 es

每一缔约方应确保：

向电信监管机构申诉

(a) 其他方的企业可及时通过电信监管机构或其他相关机构对第11.3条至第11.15条和第11.20条至第11.23条所述事项中与该缔约方措施相关的争议进行审查；(b) 其他方公共电信网络或服务的供应商，若已请求与其领土内的主要供应商互联互通，可在供应商请求互联互通后的一段合理且公开可用的期限内，向国家电信监管机构或其他相关机构申诉，以解决与与该主要供应商互联互通的条款、条件和费率相关的争议；

司法审查

(c) 任何企业如果因缔约方电信监管机构的决定或裁决而受到损害或其利益受到不利影响，可以通过公正和独立的司法机构获得对该决定或裁决的司法审查；以及 (d) 提起司法审查申请不应有

延迟电信监管机构决定或裁决的生效，或暂停决定或裁决的运营的效果，除非由相关司法机构另行决定。

第11.24条：透明度

根据第19章（透明度），每一缔约方应确保：

(a) 其电信监管机构的监管决定，包括作出此类决定的依据，应立即公布或以其他方式向所有利害关系人提供；(b) 其与公共电信网络或服务相关的措施应公开提供，包括：

- (i) tariffs and other terms and conditions of service;
- (ii) requirements for judicial review following a regulatory decision;
- (iii) specifications of technical interfaces;
- (iv) conditions for attaching terminal or other equipment to public telecommunications networks;
- (v) notification, permit, registration, or licensing requirements, if any; and
- (vi) measures of bodies responsible for preparing, amending, and adopting standards-related measures affecting access and use.

Article 11.25: Industry Participation

Each Party shall facilitate consultation with suppliers of public telecommunications networks or services of the other Party operating in its territory in the development of telecommunications policy, regulations and standards in a manner that is open to any participant in the telecommunications industry in the territory of that Party.

Article 11.26: International Standards

The Parties recognise the importance of international standards for global compatibility and interoperability of telecommunications networks and services, and undertake to promote such standards through the work of relevant international bodies, including the International Telecommunication Union and the International Organization for Standardization.

(i) 关税及其他服务条款和条件； (ii) 监管决定后的司法审查要求； (iii) 技术接口规范； (iv) 将终端或其他设备连接到公共电信网络的条款； (v) 通知、许可、注册或许可要求（如有）；以及 (vi) 负责制定、修订和采用与标准相关的措施的责任机构的措施，这些措施影响接入和使用。

第11.25条：行业参与

每一缔约方应当以开放的方式促进与另一缔约方在其领土内运营的公共电信网络或服务的供应商在制定其领土内电信政策、法规和标准方面的磋商。

第11.26条：国际标准

缔约方承认国际标准对于电信网络和服务的全球兼容性和互操作性的的重要性，并承诺通过相关国际机构的工作，包括国际电信联盟和国际标准化组织，促进此类标准。