



## 2. Regulatory Framework

### 2.1. Greece: Regulation of the liberalised telecommunications market

#### Implementation of L.2867/2000

Law 2867/2000, which took effect a few days prior to the end of 2000, marked the full liberalisation of the telecommunications sector in Greece and, in parallel, laid the foundations for the development of the now liberalised Greek telecommunications market. As a Framework Law, L.2867/2000 established the main directions /principles for the regulation of the telecommunications sector within a fully liberalised environment, granting extensive competence to EETT and vesting it with the statutory power necessary for adoption of all executory measures in enforcing the Law. In full compliance with the provisions of L.2867/2000, and in response to the needs of the market for immediate regulatory intervention, EETT proceeded to issue a number of Decisions of a regulatory nature on important matters.

The following are among the most important Decisions issued during 2001:

#### ► **Regulations on General Authorisations and Individual Licences**

In the context of strengthening the regulatory powers of EETT through L.2867/2000 and of assigning to it the responsibility for all matters regarding licensing of

telecommunications operators, EETT has provided for all matters relating to General Authorisations and Individual Licences through the issue of corresponding regulatory acts.

In particular, the Regulation on Individual Licences<sup>11</sup> provides for all procedures, terms and conditions for granting Individual Licences to telecommunications operators, as well as all other details, especially regarding the duration, transfer, rental, joint exploitation, extension of duration, renewal, modification and revocation of such licences, pursuant to the provisions of article 6 par. 7 of L.2867/2000. Relevant provisions are also included in the Regulation on General Authorisations<sup>12</sup> for telecommunications operators active under General Authorisation status.

#### ► **Approval of OTE S.A.'s 2001 Reference Interconnection Offer**

By its Decision No. 203/4<sup>13</sup> EETT approved, following certain modifications, OTE S.A.'s 2001 Reference Interconnection Offer (RIO). The 2001 RIO, which took effect in February 2001, was published in line with the fulfilment of the obligations imposed to OTE S.A. by the relevant Community and national legislation<sup>14</sup> concerning publication of the terms, conditions and prices<sup>15</sup> for the interconnection offered, so that such interconnection is provided under conditions ensuring transparency, impartiality and equality regarding access to the public telecommunications network.

<sup>11</sup> "Regulation on Individual Licences", EETT Decision 207/02/2001, FEK Issue 195/B/01-03-2001.

<sup>12</sup> "Regulation on General Authorisations", EETT Decision 207/02/2001, FEK Issue 195/B/01-03-2001.

<sup>13</sup> "OTE S.A.'s 2001 Reference Interconnection Offer", EETT Decision 203/4, FEK Issue 138/B/12-02-2001.

<sup>14</sup> Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring Universal Service and interoperability through application of the principles of Open Network Provision (ONP), OJL 199 26/07/1997 p. 32, Presidential Decree (PD) 165/1999 (FEK Issue 159/A/1999), L.2867/2000, FEK Issue 273/A/2000.

<sup>15</sup> Given that OTE S.A. does not apply a cost-accounting system based on the use of the Long-Run Average Incremental Costs using Current Cost Accounting (LRAIC-CC) costing standard, prices were determined based on Recommendation 98/511/EC of the European Commission and taking into consideration the European practice in general.



► ***National Numbering Plan for Telephony Services and for Mobile and Personal Communications Services***<sup>16</sup>

This is a Framework Regulation that provides for matters regarding the structure and composition of the numbers used for certain telecommunications activities, of carrier selection codes and of the manner according to which the transition to the new National Numbering Plan (NNP) is to take place.

► ***Regulation on the Management and Allocation of Numbers under the National Numbering Plan for Telephony Services and for Mobile and Personal Communications Services***<sup>17</sup>

By its Decision No. 207/06, EETT provides for all matters regarding management, reservation and allocation of numbers to network operators, with the aim to ensure transparent, non-discriminatory and impartial access to the numbering resources of the National Numbering Plan. In addition, the Regulation establishes the framework for the exercise of the basic rights and obligations of both operators and users of telecommunication networks.

► ***Regulation on the Management of Short Codes under the National Numbering Plan for Telephony Services and for Mobile and Personal Communications Services***<sup>18</sup>

The Regulation on the Management of Short Codes under the National Numbering Plan for Telephony Ser-

vices and for Mobile and Personal Communications Services, which took effect in May 2001, lays down the rules regarding the structure and management of numbers in the "1" series (short codes) under the National Numbering Plan. Furthermore, the Regulation provides for the procedures for submission of requests and for the criteria for the allocation and use of the aforementioned codes, including the charges imposed, ensuring conditions of transparent and impartial access to these codes.

► ***Regulation on the Determination of the Time of Application of the Tariffs of Telecommunications Operators***<sup>19</sup>

With this Regulation EETT, pursuant to L.2867/2000, lays down the rules regarding the obligation to publish, and the time of application of, the new tariffs of telecommunications operators who install, operate and exploit fixed or mobile telephony networks and/or provide relevant services, as well as of any changes thereto. The aim of these rules is to ensure that the relevant regulatory framework respects the principles of equal treatment of interested parties, of prohibiting unjustified discrimination, of transparency and of protection of the users as well as to safeguard free and effective competition.

► ***Determination of the Basic Level for Itemized Billing of Users of Fixed Public Telephony Networks and/or Integrated Services Digital Networks (ISDN networks)***

<sup>16</sup> "National Numbering Plan for Telephony Services and for Mobile and Personal Communications Services", EETT Decision 206/02/2001, FEK Issue 127/B/08-02-2001.

<sup>17</sup> "Regulation on the Management and Allocation of Numbers under the National Numbering Plan for Telephony Services and for Mobile and Personal Communications Services" EETT Decision 207/06/2001, FEK Issue 644/B/16-02-2001.

<sup>18</sup> "Regulation on the Management of Short Codes under the National Numbering Plan for Telephony Services and for Mobile and Personal Communications Services", EETT Decision 215/31/2001, FEK Issue 644/B/28-05-2001.

<sup>19</sup> "Regulation on the Determination of the Time of Application of the Tariffs of Telecommunications Operators", EETT Decision 208/01/2001, FEK Issue 193/B/28-02-2001.

<sup>20</sup> "Determination of the Basic Level for Itemized Billing of Users of Fixed Public Telephony Networks and/or Integrated Services Digital Networks (ISDN networks) and/or Fixed Public Telephony Services, including Value Added Services, and of the parties under obligation to provide such Billing", EETT Decision 233/34/2001, FEK Issue 1501/B/08-11-2001.



***and/or Fixed Public Telephony Services, including Value Added Services, and of the parties under obligation to provide such Billing***<sup>20</sup>

With the issue of the relevant Regulation, EETT determined (a) the basic level for itemized billing of users of Fixed Public Telephony Networks and/or Integrated Services Digital Networks (ISDN networks) and/or Fixed Public Telephony Services, including Value Added Services, and (b) the parties under obligation to provide such billing. The aim was to implement the right of users to obtain itemized bills, allowing verification and checking of the charges that result from use of public telecommunications networks and services.

***Regulation on the Assignment of Individual Radio Frequencies or Radio Frequency Bands, under Individual Licence status, for provision of Public Telecommunication Services***<sup>21</sup>

This Regulation provides in detail for the procedure regarding assignment of individual radio frequencies or radio frequency bands, as well as the for the terms and conditions of their use, for provision of public telecommunication services under Individual Licence status. In particular, the Regulation sets out the general principles governing the assignment of frequencies, providing for matters such as the assignment procedure, the usage terms and all other details pertaining to the assignment of radio frequencies intended for provision of public telecommunication services under Individual Licence status.

***Regulation on the Determination of Spectrum Usage Fees and Radio Frequency Assignment Fees***<sup>22</sup>

This Regulation applies in all cases where assignment of radio frequencies is required, pursuant to EETT Decision 210/2 of 28 February 2001. The subject-matter of the Regulation deals, inter alia, with the determination of the parties under obligation to pay radio spectrum assignment and usage fees, the time of payment of such fees and the manner in which they are calculated, in accordance with the detailed Appendices attached to the Regulation in question and constituting an integral part thereof.

***Regulation on the Determination of Operating Fees for Special Radio Networks***<sup>23</sup>

This Regulation applies in all cases of special radio networks operating within the territory of Greece, and determines the parties under obligation to pay operating fees for special radio networks, the time of payment of such fees and the manner in which they are calculated, in accordance with the detailed Appendices attached to the Regulation and constituting an integral part thereof.

***Regulation on Costing and Pricing Principles***<sup>24</sup>

In the context of the authorities granted to EETT under L.2867/2000 with respect to determining the principles that telecommunications operators must follow in costing and pricing their services, EETT, by its Decision No. 211/3, defined the costing and pricing principles regarding access to and use of the Local Loop, Leased

<sup>21</sup> "Regulation on the assignment of Individual Radio Frequencies or Radio Frequency Bands, under Individual Licence status, for provision of Public Telecommunication Services", EETT Decision 210/02/2001, FEK Issue 285/B/19-03-2001.

<sup>22</sup> "Regulation on the Determination of Spectrum Usage Fees and Radio Frequency assignment Fees", EETT Decision 210/03/2001, FEK Issue 351/B/30-03-2001.

<sup>23</sup> "Regulation on the Determination of Operating Fees for Special Radio Networks", EETT Decision 220/10/2001, FEK Issue 939/B/20-07-2001.

<sup>24</sup> "Regulation on Costing and Pricing Principles", EETT Decision 211/03/2001, FEK Issue 466/B/20-04-2001.



Lines and Interconnection, as well as the operators under obligation to apply these principles.

This essentially refers to the formulation of the general framework governing costing/pricing for these services, through the definition of the general principles that the obliged operators must follow in costing and pricing the above-mentioned services.

The key underlying principles of the Regulation are those referring to cost-orientation, objectivity, non-discrimination, transparency, sufficient publicity and unbundling, as well as the principle of effective competition.

► **Approval of OTE S.A.'s Reference Unbundling Offer (RUO) concerning Unbundled Access to the Local Loop**

**Part 1: Fully Unbundled Access**

**Part 2: Shared Access**

By its Decision No. 217/29<sup>25</sup>, EETT approved with modifications OTE S.A.'s Reference Unbundling Offer (RUO) concerning Fully Unbundled Access to the Local Loop. This is Part 1 of the relevant RUO that regulates the terms and conditions (including prices) for provision by OTE S.A. of Fully Unbundled Access to its Local Loop to beneficiary telecommunications operators. The aforementioned Part 1 of the RUO covers only matters relating to Fully Unbundled Access.

The details concerning implementation of Shared Unbundled Access to the Local Loop of OTE S.A. are regulated in Part 2<sup>26</sup> of the RUO, published in late December 2001. The aforementioned Reference Offers were

published pursuant to the provisions of EU Regulation 2887/2000/EC, which specifies harmonised terms for Unbundled Access to the Local Loop in order to strengthen the competitive provision of a broad range of electronic communications services. They also form part of the obligations, imposed to operators who until recently enjoyed the legal monopoly over voice telephony, regarding provision to third parties of information and unbundled access under the same terms and with the same quality as those applied to the operators' own services or to the companies associated with them. The terms and conditions are publicized through the relevant Reference Offer, which is subject to the control and approval of the National Regulatory Authority.

► **Regulation on the Procedures, Terms and Conditions for conclusion of National Roaming contracts between Operators holding Individual Licences for installation, operation or exploitation of 2G and/or 3G Mobile Public Telecommunication Networks<sup>27</sup>**

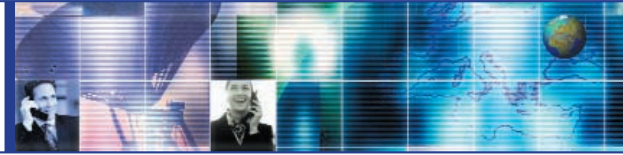
This Regulation, the provisions of which do not apply to Mobile Virtual Networks Operators (MVNOs), provides for the procedures, terms and conditions governing the conclusion of national roaming contracts between operators holding Individual Licences for installation, operation or exploitation of 2G and/or 3G Mobile Public Telecommunication Networks.

The national roaming agreement refers to all services which the applicant operator provides through his 2G and/or 3G mobile public telecommunications network for which he

<sup>25</sup> "Reference Offer for Fully Unbundled Access to the Local Loop of the Hellenic Telecommunications Organisation S.A. (OTE S.A.)" EETT Decision 217/29/2001, FEK Issue 751/B/15-06-2001.

<sup>26</sup> "Reference Offer for Unbundled Access to the Local Loop of the Hellenic Telecommunications Organisation S.A. (OTE S.A.) – Part 2: Shared Access to the Local Loop", EETT Decision 238/95/2001, FEK Issue 1781/B/31-12-2001.

<sup>27</sup> "Regulation on the Procedures, Terms and Conditions for conclusion of National Roaming contracts between Operators holding Individual Licences for installation, operation or exploitation of 2G and/or 3G Mobile Public Telecommunication Networks", EETT Decision 218/36/2001, FEK Issue 735/B/13-06-2001.



wishes to conclude a national roaming contract, and which may be supported by the network with which he wishes to conclude the relevant contract.

### ► **Electronic Signatures**

In addition to the above, equally important at the level of legislative developments was the fact that Presidential Decree (PD) 150/2001 (transposing Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures) grants EETT extensive powers on matters relating to electronic signatures. In particular, EETT is responsible for voluntary accreditation of certification service-providers and for checking the compliance of electronic-signature products, and may also assign the exercise of the above responsibilities to private or public bodies. In parallel, EETT exercises supervision and control of the certification service-providers established in Greece, as well as of the accreditation bodies appointed by EETT itself.

## 2.2. Developments in the European Union

### 2.2.1. *The New Regulatory Framework*

Recognizing the urgent need for Europe to take advantage of the opportunities opened up by the

digital and knowledge-based economy and especially by the Internet, the Heads of State and of Government of the 15 Member States set at the Lisbon European Council (March 2000) the ambitious goal for Europe to become in the coming decade “the most competitive and dynamic knowledge-based economy in the world”. Moreover, the establishment of the “eEurope Action Plan” in the Feira European Council (June 2000) was also a result of the above assessment concerning the new emerging environment.

Towards achieving this goal, the European Parliament and the Council were working towards the adoption of the New Regulatory Framework for electronic communications, which is specially designed to meet the needs of increasingly competitive and converging markets. The new Communications Reform Package (finally adopted in March 2002) includes four harmonisation Directives<sup>28</sup>, namely a Framework Directive and three specific Directives on access and interconnection, authorisation, universal services and user rights, and data protection in telecommunications services<sup>29</sup>. In addition, it comprises a Regulation on the unbundling of the local loop, a Decision on Community radio spectrum policy, and a draft consolidated and simplified Liberalisation Directive.

<sup>28</sup> Directive of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services.

Directive of the European Parliament and of the Council on access to, and interconnection of, electronic communications networks and associated facilities.

Directive of the European Parliament and of the Council on the authorisation of electronic communications networks and services.

Directive of the European Parliament and of the Council on universal service and users' rights relating to electronic communications networks and services.

Directive of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the electronic communications sector.

<sup>29</sup> This Directive was adopted on 25 June 2002.



The New Regulatory Framework places emphasis on the following points:

- ▶ **Scope of Application:** In order to ensure cohesion among EU Member States in what regards the approach to the various infrastructures, the New Regulatory Framework covers electronic communications as well as networks in their entirety, i.e. terrestrial and satellite networks (wire-based and wireless), including (a) the public telephone network, (b) the networks using Internet Protocol (IP) technologies, (c) cable TV networks, as well as broadcast network infrastructures. In addition, the New Regulatory Framework aims at the convergence of telecommunications, IT technologies and Media, through the application of the principle of technological neutrality.
- ▶ **Deregulation:** Taking account of the transitional nature of the sector-specific measures and of the overall objective that regulation should be kept to the minimum where competition is self-sustaining, the New Regulatory Framework develops mechanisms in order to ensure the gradual phasing-out of sector-specific regulation, as effective competition develops in the individual telecommunications markets. Ex-ante intervention is still restricted to operators possessing Significant Market Power in each individual market, while in parallel the concept of Significant Market Power<sup>30</sup> is shifting towards alignment with that of Dominant Position<sup>31</sup>, as the latter is defined in the case law of the Court of Justice and the Court of First Instance of the European Communities.
- ▶ **Licensing:** In the context of opening-up of the telecommunications markets, and in order to further facilitate the entry of new players in the market for electronic communications, Individual Licences and the bureaucratic procedures associated with their granting are replaced by a system of General Authorisations for the provision of electronic communications services that are accompanied with special usage rights in cases where use of numbers or radio frequencies is required.
- ▶ **Strengthening of the internal market:** Emphasis is placed on the organisation of strong coordination mechanisms at the European level. In particular, National Regulatory Authorities must consult all interested parties on proposed decisions and take account of their comments before adopting a final decision. In order to ensure that decisions at national level do not have an adverse effect on the single market or other Treaty objectives, NRAs have the obligation to notify certain draft decisions to the Commission and other NRAs to give them the opportunity to comment. It is appropriate for NRAs to consult interested parties on all draft measures, which have an effect on trade between Member States. In the context of the New Regulatory Framework, the European Commission will be able, after consulting the Communications Committee, to require a National Regulatory Authority to withdraw a draft measure where it concerns definition of relevant markets or the designation or not of undertakings with significant market power,

<sup>30</sup> According to the Regulatory Framework in force, a telecommunications operator is characterised as Operator with Significant Market Power when it holds a share equal to or higher than 25% in the geographical market where it is active and in the telecommunications scope of a specific service. However, EETT may by a specially reasoned decision and pursuant to the definitions under Community and national law, specify that an operator holding a market share lower or higher than 25% in a specific market is or is not, respectively, an Operator with Significant Market Power.

<sup>31</sup> According to the Jurisprudence of the European Court of Justice (ECJ), Dominant Position is defined as "the position of financial power that an undertaking holds and which allows it to hinder the existence of effective competition in the relevant market, allowing such undertaking to behave, to a significant degree, independently of its competitors and customers and, ultimately, of the consumers".



and where such decisions would create a barrier to the single market or would be incompatible with Community law and in particular the policy objectives that NRAs should follow.

- ▀ **Universal Service:** Maintenance of the Universal Service obligations is a key concern, in order to avoid instances of exclusion from the Information Society. In this context, the current scope of application for the Universal Service obligations is maintained, while suitable mechanisms are introduced for its review, where necessary.
- ▀ **Strengthening of Regulatory Authorities:** The New Regulatory Framework provides for strengthening of the role of National Regulatory Authorities, given that the individual markets for electronic communications are characterised by high mobility which is directly connected to technological developments, and thus require specialised regulatory intervention.

### **2.2.2. The Seventh Report of the European Commission**

As characteristically pointed out in the Seventh Report<sup>32</sup> of the European Commission, the implementation of the New Regulatory Framework is founded on the full and coherent implementation of the current Regulatory Framework.

Concerning developments in the telecommunications sector during 2001, the main conclusion, as mentioned in the Report<sup>33</sup>, is that “against a generally pessimistic macroeconomic background, the telecommunications services sector is remarkably buoyant and the National Regulatory Authorities continue to progress implementation of liberalisation”. Continuing differentiations in the

implementation of the New Regulatory Framework lead to the conclusion that the precondition for a single filed of action and a single European market for telecommunications services in the future is the creation of a strong mechanism for transparency, combined with the improvement of the coordination between National Regulatory Authorities.

According to the conclusions of the Seventh Report, National Regulatory Authorities are at the heart of the regulatory process, providing the necessary interface for implementing Community regulations in line with national regulatory frameworks and market conditions. During 2001, National Regulatory Authorities have deployed increasing expertise and authority in regulating the telecommunications sector, with results that are evident in the market (expansion in the choices available to consumers concerning services/suppliers, decrease of prices).

Referring to Greece, the Commission notes that “the adoption of the new Telecommunications Law in 2000 and the transfer of powers from the Ministry of Transport and Communications to EETT, the National Regulatory Authority, is considered by the industry as bringing clarity and legal certainty”. The Commission also notes the fact that “all operators welcome the transfer of powers to EETT. They also recognise the efforts of EETT to regulate the market efficiently”.

In relation to licensing matters, the Report states that “the new licensing regime is much lighter than the previous one, the procedures have been further simplified and time limits are stricter. It seems that, following such transfer and the adoption of the Regulations, the situation has improved dramatically and all applications for licences filed as required by law have been granted”.

<sup>32</sup> Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, “Seventh Report on the Implementation of the Telecommunications Regulatory Package”, COM (2001) 706, p.2. Also available from: [http://europa.eu.int/information\\_society/topics/telecoms/implementation/annual\\_report/7report/index\\_en.htm](http://europa.eu.int/information_society/topics/telecoms/implementation/annual_report/7report/index_en.htm)

<sup>33</sup> *ibid.*, p. 2