

Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (Text with EEA relevance) (Codified version)

Article 2

For the purpose of this Directive:

- (a) ‘public authorities’ means all public authorities, including the State and regional, local and all other territorial authorities;
- (b) ‘public undertakings’ means any undertaking over which the public authorities may exercise directly or indirectly a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it.

A dominant influence on the part of the public authorities shall be presumed when these authorities, directly or indirectly in relation to an undertaking:

- (i) hold the major part of the undertaking’s subscribed capital; or
 - (ii) control the majority of the votes attaching to shares issued by the undertakings; or
 - (iii) can appoint more than half of the members of the undertaking’s administrative, managerial or supervisory body;
- (c) ‘public undertakings operating in the manufacturing sector’ means all undertakings whose principal area of activity, defined as being at least 50 % of total annual turnover, is in manufacturing. These undertakings are those whose operations fall under Section D — Manufacturing being subsection DA up to and including subsection DN of the NACE (Rev.1) classification⁽¹⁾;
 - (d) ‘undertaking required to maintain separate accounts’ means any undertaking that enjoys a special or exclusive right granted by a Member State pursuant to Article 86(1) of the Treaty or is entrusted with the operation of a service of general economic interest pursuant to Article 86(2) of the Treaty, that receives public service compensation in any form whatsoever in relation to such service and that carries on other activities;
 - (e) ‘different activities’ means, on the one hand, all products or services in respect of which a special or exclusive right is granted to an undertaking or all services of general economic interest with which an undertaking is entrusted and, on the other hand, each other separate product or service in respect of which the undertaking is active;
 - (f) ‘exclusive rights’ means rights that are granted by a Member State to one undertaking through any legislative, regulatory or administrative instrument, reserving it the right to provide a service or undertake an activity within a given geographical area;
 - (g) ‘special rights’ means rights that are granted by a Member State to a limited number of undertakings, through any legislative, regulatory or administrative instrument, which, within a given geographical area:
 - (i) limits to two or more the number of such undertakings, authorised to provide a service or undertake an activity, otherwise than according to objective, proportional and non-discriminatory criteria; or

- (ii) designates, otherwise than according to such criteria, several competing undertakings, as being authorised to provide a service or undertake an activity; or
- (iii) confers on any undertaking or undertakings, otherwise than according to such criteria, any legal or regulatory advantages which substantially affect the ability of any other undertaking to provide the same service or to operate the same activity in the same geographical area under substantially equivalent conditions.

(1) OJ L 83, 3.4.1993, p. 1.