

# LAW ON ELECTRONIC COMMUNICATIONS

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## **CHAPTER ONE GENERAL PROVISIONS**

**Art.1.** (1) This Law shall regulate the public relations pertaining to provision of electronic communications.

(2) Electronic communications shall mean the conveyance, emission, transmission or reception of signs, signals, written text, images, sound or messages of any nature by wire, radio waves, optical or other electromagnetic medium.

**Art. 2.** This Law shall not apply to the contents of conveyed electronic communications.

**Art. 3.** This Law shall not apply when electronic communications are:

1. provided by the Ministry of Defence, Ministry of the Interior, the National Guard Service and the National Intelligence Service for their own needs as well as with regards to the internal frequency allocation and the determination of the call signs for their service radio links.

2. provided by the State Agency for Information Technology and Communications, for the needs of the national security.

## **CHAPTER TWO OBJECTIVES AND PRINCIPLES**

**Art. 4.** (1) This Law has the objectives to:

1. create appropriate conditions enabling development of competition in the provision of electronic communications, by:

a) ensuring that users, including disabled people, can derive maximal benefit in respect of choice, price and quality of electronic communications;

b) preventing distortion or restriction of competition in the electronic communications sector;

c) encouraging investment in infrastructure and stimulating innovation;

d) encouraging efficient use and management of scarce resources;

2. promote the development of the internal market for electronic communications, by:

a) removing barriers to provision of electronic communications;

b) promoting construction and development of trans-European networks, interoperability of pan-European services and end-to-end connectivity;

c) ensuring equal treatment of undertakings providing electronic communications under equivalent conditions;

d) co-operating with the regulatory authorities of the Member States of the European Union and with the European Commission in a transparent manner in order to achieve a stable regulatory practice and sustainable implementation of the European regulatory framework for electronic communications;

3. promote the interest of the citizens, by:

a) ensuring that all citizens have equal access to the universal service;

b) ensuring high level of protection of consumers in their relations with the suppliers and, in particular, availability of simple and affordable dispute resolution procedures;

c) contributing to ensuring high level of protection of personal data and privacy in electronic communications;

d) creating condition for provision of clear information by, inter alia, imposing requirements for transparency of tariffs and of the conditions for use of public electronic communications services;

e) promoting the interests of special social groups and, in particular, of disabled users;

f) creating conditions ensuring maintenance of the integrity and security of public electronic communications networks;

(2) The authorities entrusted with governance and regulation of electronic communications shall:

1. take all reasonable measures to meet the objectives under paragraph 1 in scope and terms proportional to the relevant objective;

2. take maximal account of the necessity for technological neutrality.

**Art. 5.** Where applying this Law the state authorities shall observe the principles of lawfulness, predictability, transparency, publicity, consultation, non-discrimination, proportionality, technological neutrality with regard to networks over which undertakings provide electronic communications services, and minimising regulatory intervention to what is strictly necessary.

## **CHAPTER THREE STATE GOVERNANCE OF ELECTROINIC COMMUNICATIONS**

### **Section I General Provisions**

**Art. 6.** State governance of electronic communications shall be carried out by the Council of Ministers, the National Radio Frequency Spectrum Council and the Chairperson of the State Agency for Information Technology and Communications.

**Art. 7. (1)** The Council of Ministers, at the proposal of the Chairperson of the State Agency for Information Technology and Communications, shall adopt the Electronic Communications Policy and Information Society Policy and shall promulgate them in the State Gazette.

(2) The draft acts under paragraph 1 shall be presented for public discussion under Art. 18.

**Art. 8. (1)** The Council of Ministers, at the proposal of the National Radio Frequency Spectrum Council, shall adopt a Policy for Radio Frequency Spectrum Planning and Allocation and shall promulgate it in the State Gazette.

(2) The Council of Ministers, at the proposal of the National Radio Frequency Spectrum Council, shall adopt a National Radio Frequency Allocation Table and shall promulgate it in the State Gazette.

(3) The National Radio Frequency Allocation Table shall be up-dated at least every two years.

### **Section II National Radio Frequency Spectrum Council**

**Art. 9. (1)** The National Radio Frequency Spectrum Council at the Council of Ministers, hereinafter referred to as “the Council”, shall draft and submit for adoption by the Council of Ministers a State Policy for Radio Frequency Spectrum Planning and Allocation and shall pursue its implementation.

(2) The draft of the State Policy under paragraph 1 shall be presented for public discussion according to Art. 18.

**Art. 10. (1)** The members of the Council shall be representatives of the Ministry of Finance, the Ministry of Economy and Energy, the Ministry of Transport, the Ministry of Defence, the Ministry of the Interior, the State Agency for Information Technology and Communications, the Communications Regulation Commission, the National Guard Service and the National Intelligence Service.

(2) Chairperson of the Council shall be the Chairperson of the State Agency for Information Technology and Communications or a person authorised by him/her. The state authorities and services under paragraph 1 shall appoint their representatives and ensure their participation in the work of the Council. The Chairperson of the Council shall appoint one of the representatives of the State Agency for Information Technology and Communications as organisational secretary of the Council.

(3) The Council of Ministers shall adopt Rules of Procedure of the Council at the proposal of its Chairperson.

(4) The administrative support of the Council shall be provided by the administration of the State Agency for Information Technology and Communications.

**Art. 11. (1)** The Council shall draft the National Radio Frequency Allocation Table.

(2) The Table under paragraph 1 shall be drafted in accordance with the documents of the international organisations and/or their competent bodies as well as at the proposals of the interested authorities and services, with the aim of harmonised and efficient use of the radio spectrum.

(3) In the Table under paragraph 1 the radio spectrum shall be allocated into radio frequencies, radio frequency bands and radio services for civil purposes, for the needs of the state authorities and services under Art. 3 relating to the national security, and for shared use between them.

(4) The allocation of the radio spectrum into frequencies, frequency bands and radio services shall be carried out according to the principles of radio frequency spectrum allocation and usage in the European Union and the International Telecommunication Union.

(5) The specific allocation of radio frequencies and radio frequency bands, designated for civil needs or for shared use – for civil needs and for the needs of the state bodies and services referred to in Art. 3 related to national security – shall be done, for the civil needs part, after public discussion according to Art. 18.

(6) Within 7 days after expiry of the term for public discussion, the Chairperson of the State Agency for Information Technology and Communications shall forward the draft discussed and the opinions received to the National Radio Frequency Spectrum Council. The Council shall study the opinions and shall publish on the Internet page of the State Agency for Information Technology and Communications both the opinions received and the reasoning for the not accepted and the accepted proposals. After studying the opinions the Council shall propose to the Council of Ministers to take a decision.

**Art. 12.** The state authorities and services under paragraph 1 of Art. 10 shall interact among themselves to fulfil the activity of the Council and according to the Rules under paragraph 3 of Art. 10.

**Art. 13. (1)** The Council, after coordination with the interested state authorities and services, shall take decision on the use of definite radio frequencies and radio frequency bands by radio equipment and the relevant technical parameters, the term and place of its use on the territory of the Republic of Bulgaria by foreign countries, on the grounds of reciprocity, as well as by international organisations according to international commitments taken by the Republic of Bulgaria.

(2) Requests for use of radio frequencies and radio frequency bands by foreign embassies and/or representations of international organisations shall be submitted to the Council, which shall deliver its decision on the requests within one month from their receipt.

(3) When right of use for individually assigned scarce resource – radio frequency spectrum - is required for provision of electronic communications under this Law, the Council shall inform the Communications Regulation Commission, which shall:

1. grant the relevant right of use;
2. collect the fees due, unless otherwise provided for in an international act.

**Art. 14.** The Minister of Defence shall permit the use of radio frequencies and radio frequency bands by the NATO Member States in joint exercises and operations on the territory of the Republic of Bulgaria, according to the allocation of radio frequencies and radio frequency bands for the needs of the Ministry of Defence in the National Radio Frequency Allocation Table.

### **Section III**

#### **State Agency for Information Technology and Communications**

**Art. 15. (1)** The State Agency for Information Technology and Communications shall be a budget-supported legal person with a head office in Sofia.

(2) The State Agency for Information Technology and Communications shall be a primary level spending unit of budget credits.

(3) The Chairperson of the State Agency for Information Technology and Communications shall be a specialised authority of the executive power that pursues the state policy in the field of electronic communications and the information society.

(4) The Chairperson of the State Agency for Information Technology and Communications shall be nominated by decision of the Council of Ministers and appointed by the Prime-Minister.

(5) In executing its powers the Chairperson of the State Agency for Information Technology and Communications shall be assisted by 4 deputy-chairpersons appointed by the Prime-Minister.

(6) The activity, structure and organisation of work, and the number of personnel of the State Agency for Information Technology and Communications shall be determined by Rules of Procedure adopted by the Council of Ministers at the proposal of the Chairperson of the Agency.

**Art. 16.** The Chairperson of the State Agency for Information Technology and Communications shall:

1. draft and submit for adoption by the Council of Ministers electronic communications policy and strategies, as well as policy, strategies and programmes in the field of information society;

2. draft and issue, or submit for adoption by the Council of Ministers, secondary legislative acts according to his/her competence;

3. create conditions to ensure freedom and confidentiality of communications;

4. represent the Republic of Bulgaria in the international organisations in the field of electronic communications and the information society;

5. support the development and introduction of standards, technical requirements and specifications relating to the electronic communications and the information society;

6. ensure the fulfilment of the commitments of the Republic of Bulgaria arising from the membership in the European Union and international organisations and concerning governance of electronic communications and information society;

7. participate in the activities of the international standardisation organisations and the technical standardisation committees in the Republic of Bulgaria related to electronic communications and information society;

8. perform international registration of radio frequencies and radio frequency bands, as well as of the radio equipment using them;

9. perform international coordination of radio frequencies and radio frequency bands for all services, as well as of the technical characteristics of the radio equipment using them, for the needs of the national security;

10. co-ordinate and/or approve investment programmes and projects in accordance with the priorities in the field of information society and communications;

11. perform inter-departmental coordination in the preparation and submission of drafts of Council of Ministers' normative acts in the field of electronic communications and information society.

**Art. 17. (1)** The Chairperson of the State Agency for Information Technology and Communications shall:

1. establish, operate, maintain and develop an electronic communications network and points of control related to the national security which shall be serviced by staff employed on specific positions;

2. ensure electronic communications for crisis management, according to the Law for Crisis Management, and under "martial law" regime, "war time" regime or "state of emergency" regime, according to the Law for Defence and Armed Forces of the Republic of Bulgaria.

(2) The Chairperson of the State Agency for Information Technology and Communications shall ensure the reliable operation, security, independence and protection of the electronic communications networks for transfer of classified information for the purposes of state governance, related to the national security, observing the requirements of the Law for Protection of Classified Information.

**Art. 18. (1)** Prior to issuing or submitting to the Council of Ministers of the secondary legislative acts provided for in this Law, the Chairperson of the State Agency for Information Technology and Communications shall publish a notice about the drafts prepared in a national daily as well as a notice accompanied by the draft prepared on the Internet page of the State Agency for Information Technology and Communications.

(2) The notice under paragraph 1 shall indicate the place where the interested parties may obtain the drafts and at least a 30-day time-limit within which they may present written opinion on them.

(3) The Chairperson of the State Agency for Information Technology and Communications shall study the opinions and reflect the accepted proposals.

(4) The public discussion procedure shall be finalised by publishing, on the Internet page of the State Agency for Information Technology and Communications, the opinions delivered, the proposals accepted and the places and texts where they are reflected, and the reasoning for the proposals rejected.

**Art. 19.** The funds for supporting the activities of the State Agency for Information Technology and Communications shall be collected in its budget from:

1. twenty five per cent of the final bid price after conducting an auction for the use of individually assigned scarce resource;

2. twenty five per cent of the one-off fee for the use of assigned supplementary radio frequency spectrum;

3. thirty five per cent of the annual fees for use and temporary use of individually assigned scarce resource - radio frequency spectrum;

4. twenty five per cent of the annual fees for using the geo-stationary orbit positions allocated to the Republic of Bulgaria according to international agreements;

5. funds for co-financing of projects for the development of communications and information society;

6. other revenues.

**Art. 20. (1)** The budget funds of the State Agency for Information Technology and Communications shall be spent for:

1. projects supporting the development of the information society, electronic communications and postal services;

2. development of the single national and European information space: diverse, reliable and compatible broadband services;

3. supporting the research and development activity in the field of information society, electronic communications and postal services;

4. supporting the introduction of information technologies in small and medium size enterprises;

5. development of education and professional training in the field of information technology;

6. projects ensuring affordable electronic communications services;

7. research and marketing activities in the field of information society, information technology, electronic communications and postal services;

8. participation in European projects, programmes and other initiatives;

9. projects related to establishing and modernising electronic communications networks and postal infrastructure;

10. release of radio frequency spectrum for civil needs;

11. projects in support of the state governance, pertaining to information technology, electronic communications and postal services;

12. projects pertaining to the national security and defence, after co-ordination with the Ministry of Defence and the Ministry of the Interior;

13. activities and participation in projects connected with NATO and other organisations for joint security;

14. projects related to the governance of the country in crises, disasters and industrial failures, after co-ordination with the Ministry of State Policy in Disasters and Emergencies.

(2) The spending of the resources for the activities under paragraph 1, except item 10, item 12 and item 13 shall be subject to the principles of competitiveness, transparency and equal treatment.

(3) In implementing the projects relating to the national security, NATO and other organisations for joint security, the procedures applicable to them shall be followed.



4) The State Agency for Information Technology and Communications shall prepare an annual report on the spending of the resources under paragraph 1, which shall be published on its Internet page by 31 March of the following year.

## **CHAPTER FOUR REGULATION OF ELECTRONIC COMMUNICATIONS**

### **Section I Communications Regulation Commission**

**Art. 21.** (1) The functions of regulation and control over carrying out electronic communications shall be exercised by the Communications Regulation Commission, hereinafter referred to as “the Commission”.

(2) The Commission shall be an independent specialised state body – a legal person with a registered office in Sofia.

(3) The Commission shall execute the primary and secondary legislative acts, as well as the general administrative acts, in the field of electronic communications, and implement the electronic communications policy, the radio spectrum planning and allocation policy and the postal services policy.

(4) The Commission shall regulate and control the provision of electronic communications in accordance with this Law.

(5) The Commission shall register and control the activity of providing certification services related to the electronic signature under the Law on Electronic Document and Electronic Signature.

**Art. 22.** (1) The Commission shall be a collective body consisting of five members, including Chairperson and deputy Chairperson.

(2) The Commission members shall be Bulgarian citizens:

1. with an educational and qualification degree “Master”;
2. with permanent residence on the territory of the country;
3. with no previous convictions of crimes of general nature.

(3) The Chairperson of the Commission shall be determined and dismissed by decision of the Council of Ministers and shall be appointed by order of the Prime Minister for a term of 5 years.

(4) The deputy Chairperson and two members of the Commission shall be elected and dismissed by decision of the National Assembly for a term of 5 years.

(5) One member of the Commission shall be appointed and dismissed with an edict of the President of the Republic of Bulgaria for a term of 5 years.

(6) The number of consecutive mandates under paragraph 3, 4 and 5 shall be no more than two for each member of the Commission.

(7) The members of the Commission shall have all rights under a Contract of Employment, except those that contradict or are incompatible with their legal status.

**Art. 23.** (1) The members of the Commission may not be natural persons-sole traders, owners, partners, shareholders, managers, procurators, consultants or members of managing or control bodies of trade companies, state enterprises and non-profit legal persons in the field of communications and certification services under the Law on Electronic Document and Electronic Signature.

(2) The members of the Commission may not occupy another paid position or receive remuneration under a civil contract, except in the cases where they exercise scientific or lecturing activity.

**Art. 24.** (1) The mandate of a Commission member shall be terminated upon his/her death or by the relevant authorities prior to expiry of his/her mandate in the following cases:

1. upon the Commission member’s written request, within one month of receiving the request;
2. upon established incompatibility with the requirements of this Law;

3. when a Commission member is sentenced to prison for a deliberate crime of general nature;

4. upon a Commission member's incapability to fulfil his/her obligations for a period longer than three consecutive months.

(2) Within one month of a Commission member's mandate termination, the competent authorities shall determine or elect, respectively, and appoint a new member until expiry of the relevant mandate.

(3) On expiry of a Commission member's mandate, he/she shall continue to exercise his/her powers until the act of determination or election and appointment of a new member comes into force.

**Art. 25.** The remuneration of the members of the Commission shall be determined as follows:

1. Chairperson – 90 per cent of the basic remuneration of the Chairperson of the National Assembly;

2. Deputy Chairperson – 95 per cent of the basic remuneration of the Chairperson of the Commission;

3. Rest of the members – 90 per cent of the basic remuneration of the Chairperson of the Commission.

**Art. 26. (1)** Every member of the Commission shall disclose in writing before the Commission any material commercial, financial or other business interest he/she may have in taking a concrete decision and shall not participate in its consideration and voting.

(2) Material commercial, financial or other business interest shall always be present for the persons under paragraph 1, when the members of their families, relatives of direct line of descent without limitations, relatives from the lateral branch of the family up to and including 4<sup>th</sup> degree, and relatives by marriage up to and including 2<sup>nd</sup> degree, as well as persons with whom each of them is economically related, provide electronic communication networks and/or services.

(3) On taking office, the members of the Commission shall submit declarations on the presence or absence of material commercial, financial or other business interest. The declarations shall also contain the names and addresses of persons economically related to members of the Commission or to members of their families, to relatives of direct line of descent without limitations, to relatives from the lateral branch of the family up to and including 4<sup>th</sup> degree, and to relatives by marriage up to and including 2<sup>nd</sup> degree, as well as the business interests which have arisen. The declarations shall be kept in a special public register with the Commission

(4) At least once in 6 months the Commission members shall submit declarations as required in paragraph 3.

(5) One year after termination or expiry of their mandate, the members of the Commission may not be owners, shareholders, partners, managers, procurators or members of managing or control bodies, employees or consultants of companies, providing public electronic communications networks and/or services, and shall not submit notifications under Art. 68 and obtain rights of use under this Law, and/or permissions and/or licences under the Law on Electronic Document and Electronic Signature and under the Law on Postal Services.

(6) Any interested party shall be entitled to require from the court to cancel decisions adopted in violation of paragraph 1.

**Art. 27. (1)** The Chairperson of the Commission shall:

1. represent the Commission or authorise persons to represent it;

2. organise and manage the activity of the Commission;

3. convene, propose draft agenda and chair the Commission meetings;

4. conclude, amend and terminate employment contracts with employees of the Commission administration, representing the Commission in his capacity as an employer in the relations with the employees of the administration;

5. organise and be responsible for the implementation of the budget of the Commission.

(2) The activities under paragraph 1, item 4 and 5 shall be performed in accordance with rules adopted by decision of the Commission.

**Art. 28.** (1) In its activity the Commission shall be assisted by its administration.

(2) The Commission, at the proposal of its Chairperson and/or member, shall discuss and adopt Rules of Procedure determining the system, activity, organisation of work and structure of the Commission and its administration, which shall be published in the State Gazette.

(3) The Commission, at the proposal of its Chairperson and/or member, shall approve, by decision, the internal rules for determining the remuneration of the employees of the administration and the available resources in the budget of the Commission.

(4) The basic monthly remunerations of the employees of the administration shall be determined in accordance with the internal rules adopted by decision of the Commission under paragraph 3, at the proposal of its Chairperson and/or member.

(5) By decision of the Commission, the Commission members and the employees of its administration shall receive extra remuneration to their basic remuneration for execution of specific duties under terms and conditions set out in the internal rules for the salary.

(6) The financial means under paragraph 5 shall be determined in the amount of up to 35 per cent of the gross annual salary amount and shall be included in the budget of the Commission.

## **Section II Powers**

**Art. 29.** The Commission shall exercise its powers and execute its functions and tasks in order to achieve the objectives under Art. 4 and in accordance with the principles under Art. 5.

**Art. 30.** The Commission shall have the following powers:

1. define the markets for electronic communications networks and/or services subject to regulation under this Law;

2. study, analyse and prepare assessment on the level of competition on the relevant markets for electronic communications networks and/or services;

3. determine undertakings which have significant market power on the relevant market;

4. impose, maintain, amend or withdraw specific obligations of undertakings with significant market power for achieving the purposes of this Law;

5. by way of exception, impose grounded and proportionate provisional specific obligations in the cases, provided for in this Law;

6. designate undertakings for the provision of universal service;

7. work out, adopt and update the regulatory policy for the use of numbers, addresses and names for the provision of electronic communications;

8. work out and adopt general and normative administrative acts, related to its powers, in the cases provided for in this Law;

9. work out and submit for issuing or acceptance by the competent state bodies drafts of secondary legislation, in the cases provided for in this Law;

10. grant, amend, supplement, transfer, suspend, terminate or withdraw rights of use for individually assigned scarce resource;

11. grant and terminate temporary rights of use for individually assigned scarce resource;

12. grant, amend, supplement, transfer, suspend, terminate or withdraw rights of use of scarce resource for the provision of electronic communications over existing and/or new electronic communications networks for analogue terrestrial broadcasting, after decision of the Electronic Media Council;

13. study and provide information to the Electronic Media Council on the technical parameters needed for analogue terrestrial broadcasting of radio and TV programmes, for a settlement, region or the entire territory of the Republic of Bulgaria, as specified by the Electronic Media Council, including available radio frequencies, admissible radiated power, possible points of emission and other technical information needed;

14. work out, adopt and update the National Numbering Plan;

15. assign, reserve and withdraw numbers, addresses and names;
16. organise the allocation by international organisations of numbers, addresses and names for electronic communications in the Republic of Bulgaria;
17. represent the Republic of Bulgaria in the international organisations of regulatory authorities in the field of electronic communications;
18. perform the functions of a national standardisation organisation before the European Telecommunications Standardisation Institute (ETSI), and participate in the work of the technical committees on standardisation in the Republic of Bulgaria, related to electronic communications;
19. keeps the registers as provided for by this Law;
20. conduct public discussions, consultations and opinion polls in the cases and by the procedures, provided for in this Law;
21. resolve disputes between undertakings;
22. consider complaints of end users in the cases provided for in this Law.

**Art. 31. (1)** The Commission shall promote the development of competition in the provision of electronic communications networks and services by:

1. applying regulatory measures to restrict the possible barriers to competition;
2. removing obstacles and barriers to competition within its competence;
3. treating equally all undertakings that provide electronic communications networks and/or services under the same circumstances;
4. cooperating with the other regulatory authorities and the European Commission for developing a consistent regulatory practice and implementation of the *acquis communautaire*.

**Art. 32.** The Commission shall have the following powers pertaining to radio spectrum management for civil purposes:

1. manage the radio spectrum by:
  - a) working out and publishing in the State Gazette the spectrum management regulatory policy;
  - b) assigning radio frequencies and radio frequency bands for the provision of electronic communications.
2. determine the specific technical requirements for the operation of the electronic communications networks and the associated facilities.
3. perform international coordination of radio frequencies and radio frequency bands, as well as of the radio equipment using them, for all services with the exception of the aeronautical mobile service, aeronautical mobile satellite service, aeronautical radio navigation, aeronautical satellite radio navigation, maritime mobile service, maritime mobile satellite service, maritime radio navigation and maritime satellite radio navigation.
4. perform national coordination of radio frequencies and radio frequency bands with all interested state bodies, departments and services aimed at ensuring the safety of aeronautical and maritime navigation and protection of the national security and defence.
5. prepare documents for registration in international electronic communications organisations of the coordinated radio frequencies and radio frequency bands and the radio equipment using them. The documents prepared shall cover all services with the exception of the aeronautical mobile service, aeronautical mobile satellite service, aeronautical radio navigation, aeronautical satellite radio navigation, maritime mobile service, maritime mobile satellite service, maritime radio navigation and maritime satellite radio navigation. The registration documents shall be submitted to the State Agency for Information Technology and Communications to complete international registration.
6. conduct examinations and issue radio amateur certificates.
7. exercise control over the efficient use of the radio spectrum and/or the sources of radio interference in the radio spectrum for civil needs.
8. exercise control over the observance of the established international rules of procedure for the radio services.

9. assign the allocated call signs of the transmitting radio facilities of the amateur radio service and the listeners' call signs.

10. provide conditions for the provision of electronic communications for the purposes of the maritime and aeronautical search and rescue, as well as for broadcasting current information for ensuring the safety of maritime and aeronautical navigation and land transport.

11. participate, jointly with the Chairperson of the State Agency for Information Technology and Communications, in the work of the international organisations related to radio spectrum management.

12. in view of the public interest, on its own initiative or on the initiative of an interested undertaking providing electronic communications, may allocate the available scarce resource – radio spectrum and geo-stationary orbital positions, allocated to the Republic of Bulgaria under international agreements – which shall be used for the provision of electronic communications networks and/or services for public or private use.

**Art. 33.** (1) The Commission shall establish and keep registers of:

1. the undertakings which have notified the Commission of their intention to provide electronic communications;

2. the undertakings which have rights of use of individually assigned scarce resource.

(2) The registers under paragraph 1 shall contain the following information:

1. identification data of the person providing electronic communications, after submission of a notification:

a) for natural persons: full name and permanent address;

b) for legal natural persons-sole traders: name (company), head office and registered address;

2. manner of provision of electronic communications;

3. public electronic communications services provided;

4. territorial coverage, where applicable;

5. telephone (fax, e-mail address), address and contact person details.

(3) The Commission shall publish the registers under paragraph 1 on its Internet page.

**Art. 34.** The Commission shall exercise control over the applications of:

1. the electronic communications legislative acts;

2. the pricing principles and rules, provided for in this Law;

3. parameters and requirements for quality of service;

4. specific conditions and parameters for the rights of use for scarce resource;

5. applicable requirements under Art. 73 and the specific obligations for the provision of electronic communications;

6. requirements for universal service provision.

**Art. 35.** (1) In exercising its powers the Commission shall express its opinion by motivated decisions.

(2) The decisions under paragraph 1 shall be individual or general administrative acts and shall be subject to appeal before the Supreme Administrative Court under the Administrative Proceedings Code.

(3) The Commission may also adopt, by decisions, legislative administrative acts within its competence.

(4) The general and legislative administrative acts shall be published in the official section of the State Gazette.

(5) The decisions are adopted by the members of the Commission with simple majority.

(6) Appealing the following individual administrative acts shall not suspend their execution, unless a law court rules otherwise:

1. decisions demanding information from undertakings necessary for analysis of relevant markets;
2. decisions on determination and analysis of relevant markets, determination of undertakings with significant market power, imposing specific obligations to undertakings with significant market power;
3. decisions relating to the execution of imposed specific obligations by undertakings with significant market power;
4. decisions on disputes between undertakings.

**Art. 36. (1)** When preparing drafts of general and normative administrative acts, provided for in this Law, the Commission shall conduct public consultation procedures by publishing notices on the prepared drafts and the grounds for its preparation in a national daily newspaper and on its Internet page.

(2) The notice under paragraph 1 shall indicate the place where the interested parties can obtain the draft and at least a 30-day period in which they may submit written opinions thereon.

(3) The Commission shall study the opinions and reflect the accepted proposals.

(4) The public consultation procedure shall finish by publishing on the Commission's Internet page the opinions received, the proposals accepted, the places and texts where the accepted proposals are reflected, and the reasons for rejection of the remaining proposals.

**Art. 37. (1)** Before adopting a decision on issues of public importance for electronic communications development, the Commission shall conduct public consultations.

(2) The procedure under paragraph 1 shall start with publication of a notice on the upcoming public consultations in a national daily newspaper, as well as on the Commission's Internet page.

(3) The notice under paragraph 2 shall indicate the issue posed for discussion, the place where the interested parties can see the Commission's position on the issue subject to discussion, the grounds behind the Commission's position, and a term, not shorter than 14 days within which written opinions can be submitted.

(4) The Commission shall consider all opinions and publish on its Internet page the grounds for the adopted decision.

**Art. 38. (1)** The Commission shall prepare an annual report and submit it, within the second quarter of the following year, to the National Assembly, the President of the Republic of Bulgaria and the Council of Ministers. The report shall contain:

1. analysis of the universal service provision, including the degree of satisfaction and quality;
2. assignment of the scarce resource and the applied mechanisms for its efficient use;
3. allocation of the numbers of the National Numbering Plan;
4. assessment of the development of competition in the markets of electronic communication networks and/or services, the application of the price formation principles and development prospects;
5. financial state and institutional development of the Commission and its administration;
6. report on the accomplishment of the activities during the preceding year.

(2) In making the assessment under paragraph 1, item 4, the Competition Protection Commission shall express its opinion within one month.

(3) The Commission shall publish the report under paragraph 1 and post it on its Internet page.

**Art. 39. (1)** The Commission shall be entitled to set up administrative structures in relation to the execution of its powers.

(2) The decision for setting up structures under paragraph 1 shall specify their head and staff, the terms for executing their activity and their functions and tasks.

### **Section III Provision of Information**

**Art. 40. (1)** The Commission may address to undertakings that provide electronic communications written reasoned requests for provision of information, including financial information, in the relevant volume, time scale and level of details, required for discharging its regulatory functions. In its reasons for requesting the information, the Commission shall specify the reasons and purposes for which the information is requested. The information requested shall be proportionate to the purposes for which it is intended.

(2) The Commission, when requested by the State Agency for Information Technology and Communications, the Ministry of Defence and/or the Ministry of the Interior, shall provide the information under paragraph 1 for the needs of the state policy, planning, protection of the national security, defence and crisis management.

(3) When requesting the information under paragraph 1, the Commission shall require from undertakings providing such information to declare explicitly in writing on a case-by-case basis, which part of the information provided shall be considered a commercial secret.

(4) The members of the Commission and the employees of its administration shall not disclose the information obtained under paragraph 1 if it has been declared to be a commercial secret.

(5) After a reasoned request from the European Commission or other regulatory authorities of the Member States of the European Union, the Commission shall provide them with the information under paragraph 1.

(6) Where the information under paragraph 1 is provided to the State Agency for Information Technology and Communications, the European Commission or other regulatory authorities of the Member States of the European Union, the Commission shall require from them to keep the commercial secret in accordance with paragraph 3.

(7) The undertakings under paragraph 1 can require with a reasoned written request that the information they have provided to the Commission, shall not be made available by the European Commission to regulatory authorities of other Member States of the European Union.

(8) When making the information under paragraph 1 available to the European Commission or to regulatory authorities of Member States of the European Union, the Commission shall inform the undertakings that have provided that information to it previously.

**Art. 41. (1)** In accordance with the provisions of the Law on Access to Public Information, the Commission, when requested, shall provide information, obtained from undertakings that provide electronic communications.

(2) The terms and conditions for access to the information under paragraph 1 shall be stipulated by the Commission in a normative administrative act.

### **Section IV Interaction and Consultations with the European Commission and the National Regulatory Authorities of the European Union Member States**

**Art. 42. (1)** The Commission shall send to the European Commission and the other regulatory authorities of the Member States of the European Union the draft decision on definition of a relevant market and the analysis regarding its effectiveness and competitiveness.

(2) Where the Commission finds lack of effective competition on the relevant market, the draft decision under paragraph 1 shall propose designation of an undertaking as having significant market power on the relevant management, as well as imposition of new or amendment of existing specific obligations.

(3) If, based on the market analysis, the Commission concludes that the relevant market is effectively competitive, the draft decision under paragraph 1 shall also include a reasoned proposal for maintenance or withdrawal of existing specific obligations.

(4) With the decision under paragraph 1 the Commission may:

1. define markets other than the ones already defined in accordance with the decision under Art. 152, paragraph 4, in compliance with the practices of the Member States of the European Union;

2. designate an undertaking or undertakings as having, individually or jointly, significant market power on the relevant market.

(5) If, within 30 days of the date of submission of the draft decision under paragraph 1, no proposals are put forward by the European Commission or the national regulatory authorities of the European Union Member States, the Commission shall adopt the draft decision under paragraph 1.

(6) The European Commission may extend the term under paragraph 5 with two months, requiring from the Commission to postpone the adoption of the decision in the cases under paragraph 4. The European Commission shall take a decision to extend the term when it concludes that the specific obligations proposed will affect directly or indirectly the trade between the Member States, creating barriers to the single market, or when it concludes that the measures proposed will be incompatible with *acquis communautaire* or with the objectives under Art. 4.

(7) The European Commission can put a veto on the draft decision of the Commission. In this case, the Commission shall withdraw the draft decision and can prepare a new draft or take other action in accordance with the directions of the European Commission, if any.

(8) Except in the case under paragraph 7, the Commission shall comply with the proposals of the European Commission and the regulatory authorities of the Member States and shall reflect them in the draft decision prior to its final approval informing the European Commission about that.

(9) In exceptional circumstances, when the imposition of the specific obligations, as specified in the draft decision under paragraph 2, requires a long period of time and the Commission considers that there is an urgent need to safeguard competition and the interests of the users, it may, instead of undertaking the action under paragraph 1 and 4, impose reasoned, proportionate and provisional specific obligations, as provided for in this Law. It shall communicate those provisional specific obligations to the European Commission and the national regulatory authorities of the European Union Member States with the full reasons for their imposition, as well as the identified competition problems.

(10) The Commission can extend the term of validity of the provisional specific obligations or render them permanent, subject to the provisions of paragraph 1-4.

(11) The Commission can withdraw the draft decision under paragraph 1, 2 and 3 at any time during the procedure of its consideration with the European Commission and the regulatory authorities of the Member States.

**Art. 43.** The Commission shall observe the requirements for confidentiality of the information received by the European Commission and the regulatory authorities of other European Union Member States.

## **Section V**

### **Interaction with the Competition Protection Commission**

**Art. 44.** (1) The Communications Regulation Commission and the Competition Protection Commission shall interact and coordinate their action to achieve the objectives under Art. 4 in accordance with this Law and on the basis of rules adopted with decisions of both commissions.

(2) The rules under paragraph 1 shall be published on either commission's Internet page.

**Art. 45.** The interaction between the Commission and the Competition Protection Commission shall be carried out in the following forms:

1. consultations.
2. exchange of information.
3. submission of opinions.
4. joint working groups

## **Section VI**

### **Interaction with the Electronic Media Council in the Field of Digital Broadcasting**

**Art. 46.** The Commission shall interact with the Electronic Media Council in accordance with the terms and conditions of this Law and the Law on Radio and Television.

**Art. 47.** (1) At the request of the Electronic Media Council, the Commission shall inform it about the possible electronic communications networks for terrestrial digital broadcasting, taking into consideration the available free scarce resource – radio spectrum.



(2) Based on the information under paragraph 1, the Electronic Media Council shall:

1. determine two Bulgarian audio programmes and two Bulgarian television programmes that each terrestrial digital broadcasting network can distribute; it shall also determine in which of the networks the programmes of the Bulgarian National Television and the Bulgarian National Radio, included in the two audio programmes and the two TV programmes, shall be distributed;

2. hold a competition for selection of operators of audio and television activity under the Law on Radio and Television that can distribute their programmes over their networks under item 1;

3. determine with a decision the audio and television operators that can distribute their programmes over their networks under item 1 and award them licences for audio and/or television activity.

(3) After taking the action under paragraph 2, the Electronic Media Council shall inform the Commission about the decisions taken and the licences awarded.

**Art. 48. (1)** Based on the decision of the Electronic Media Council under Art. 47, paragraph 2, item 3, while abiding by the requirements of this Law and by the procedure, provided for in Chapter five, the Commission shall start a competitive procedure for selecting an undertaking that can be granted rights of use of individually assigned scarce resource – radio spectrum, for the provision of electronic communications through terrestrial digital broadcasting networks.

(2) The undertakings granted rights of use under paragraph 1, shall distribute the programmes, determined by the Electronic Media Council under **Art. 47**, paragraph 2, for the particular network.

(3) Along with the programmes, determined by the Electronic Media Council under Art. 47, paragraph 2, the undertakings granted rights of use under paragraph 1, shall also distribute other programmes licensed or registered under the Law on Radio and Television.

(4) The expert commission for organisation of the contest shall also include representatives of the Electronic Media Council determined with a decision of the Council.

**Art. 49. (1)** The commission shall adopt normative administrative acts stipulating the conditions for access to electronic communication services through the terrestrial digital broadcasting networks and for the provision of electronic communication services to persons with hearing and sight disabilities.

(2) Before adoption of the acts under paragraph 1, the Commission shall conduct public consultations under Art. 36 and request the opinion of the Electronic Media Council.

(3) The Electronic Media Council shall accept the opinions under paragraph 2 within 30 days of the reception of the draft acts from the Commission.

## **Section VII Financing**

**Art. 50.** The Commission shall be a primary level spending unit to budget credits.

**Art. 51. (1)** The Commission shall administer the following revenues of its budget:

1. administrative fees;
2. forty per cent of the annual fees for use and temporary use of individually assigned scarce resource – radio spectrum;
3. fees for use of scarce resource – numbers from the National Numbering Plan;
4. licence and registration fees under the Law on Postal Services and the Law on Electronic Document and Electronic Signature.
5. five per cent of the final bid price after conducting a tender for the use of individually assigned scarce resource.
6. five per cent of the annual fees for the use of geo-stationary orbital positions assigned to the Republic of Bulgaria under international agreements.
7. five per cent of the one-off fee for the use of assigned supplementary radio spectrum.
8. twenty per cent of the fines and property sanctions provided for in this Law.

9. interests on overdue receivables.

10. donations.

(2) The resources of the budget of the Commission shall be spent for financing its activity, including projects related to market regulation and liberalisation; for capital expenditures; for ensuring effective and active control; for improvement of the necessary equipment; for qualification and training.

**Art. 52.** The Commission shall draw up and publish on its Internet page by May 30 an annual draft report on the expected revenues under Art. 51, with the exception of the administrative fee for control, and the respective expenses to ensure its activity for the next year, which shall be agreed with the Minister of Finance.

**Art. 53. (1)** If the expected revenues for the relevant year do not cover the expenditures of the Commission, the difference shall be compensated by changing the amount of the administrative fee for control.

(2) Each year, by 30 September of the current year, the Commission shall submit a Tariff for the Fees Collected by the Commission for adoption by the Council of Ministers. The fees shall be collected from 1 January of the next year.

### **Section VIII** **Dispute Resolution between Undertakings**

**Art. 54. (1)** Where an undertaking providing electronic communications networks and/or services fails to fulfil an obligation under this Law within two months, either affected party can submit a written request to the Commission, asking for its assistance in reaching consent or in giving binding instructions.

(2) The request under paragraph 1 shall contain the circumstances on which it is based and shall be accompanied by certified copies of documents proving the circumstances provided, and a document for the payment of an administrative fee in the case of binding instructions requested from the Commission.

**Art. 55. (1)** When the affected party has made a request for assistance in reaching consent, the Commission shall, within 7 days of receiving the request, appoint by decision a special commission.

(2) The special commission shall hear the opinions of the parties, clarify the reasons for the request and explain the adverse impact of a failure to reach consent.

(3) If the parties fail to reach consent within 30 days of receiving the request, either affected party under paragraph 1 may request from the Commission to give binding instructions within 14 days.

(4) The procedure for assistance to reach consent shall be free of charge.

**Art. 56. (1)** When the affected party has requested binding instructions, the Commission shall, within 7 days of receiving the request, determine, by decision, a special commission, which shall include at least one qualified lawyer. External experts may also be invited to take part in the work of the special commission as members or consultants.

(2) The special commission shall consider the request and the documents attached thereto within 7 days of its inception.

(3) In the case of incomplete or irregular documents, the chairperson of the special commission shall notify the person in writing, fixing thereby a 7-day time-limit from receiving the notification, for correcting the incomplete or irregular documents.

(4) If the incomplete or irregular documents have not been corrected within the time-limit under paragraph 3, the commission shall dismiss the request.

**Art. 57. (1)** The special commission under of Art. 55, paragraph 1, shall, within 3 days of expiry of the time-limit under Art. 56, paragraph 2 or 3, send a copy of the request to the interested parties, giving them a 7-day time-limit to submit their opinions and enclose the related evidence.

(2) Within 3 days of receiving the opinions under paragraph 1, the special commission shall send copies of them to the party which has filed the request, allowing it a 7-day time-limit to submit an opinion and enclose other evidence thereto.

**Art. 58.** (1) The special commission shall study the request made and the opinions of the interested parties, all the evidence enclosed thereto and, require additional evidence, if needed, including inspections made by authorised employees under this Law.

(2) The inspections under paragraph 1 shall be conducted within the time-limit and volume as determined by the special commission. Where necessary the time-limit can be extended. In all cases the time-limit for conducting inspections under paragraph 1 shall not be longer than 14 days.

(3) Having collected all the evidence, the special commission shall discuss the request and the evidence collected on the case in the presence of the parties or their authorised representatives.

(4) The interested parties shall be notified in writing of the date, time and place of the meeting at least 7 days in advance whereby the notice shall specify that in case of non-appearance of any party representatives the special commission shall consider the request in their absence.

(5) The special commission shall draw up a record of the meeting held, which shall contain:

1. members of the special commission and list of participants;
2. presentation of the opinions of the parties;
3. conclusions of the special commission from the meeting;
4. date and time.

**Art. 59.** Within two months of receiving the request under Art. 54, the special commission shall prepare a report and submit it to the Commission, enclosing thereto the documentation collected in the course of the procedure and a draft decision of the Commission on the request.

**Art. 60.** The Commission shall consider the report under Art. 59 at its first meeting following the report's submission, and:

1. accept the results of the work of the special commission and take a motivated decision on the request submitted under Art. 54;
2. give orders for taking additional action to check up the actual situation, and for its analysis by the special commission and preparation of a new draft decision, setting a time-limit to that effect.

**Art. 61.** (1) Within 4 months of receiving the request under Art. 54, the Commission, by justified decision, shall give mandatory instructions on the request or dismiss it.

(2) Within 3 days of adoption of the decision under paragraph 1, it shall be published on the Commission's Internet page, except for the information determined by the parties as commercial secret.

**Art. 62.** (1) When the request submitted for dispute resolution is also within the competence of a national regulator of another Member State of the European Union, the special commission under Art. 55 shall consider the request and the documents enclosed thereto.

(2) The Commission shall send copies of the request to the competent regulatory authorities and ask for their opinion.

(3) The Commission and the national regulatory authorities under paragraph 1 may jointly decline the resolution of a dispute when they decide that other mechanisms exist which could facilitate its resolution in a timely manner, notifying the parties to that effect within 14 days.

(4) Where no resolution of a dispute has been reached within four months, if the dispute has not been referred to a court by the party seeking the dispute resolution and if either party has stated its desire to have the dispute resolved by the Commission, the Commission shall make efforts to resolve the dispute.

(5) Prior to a dispute resolution the special commission may require, through the Commission, additional evidence from the affected undertaking and the relevant national regulatory authorities.

(6) Having collected all the evidence, the special commission shall prepare a report and submit it to the Commission enclosing the collected documentation thereto.

(7) The Commission shall adopt by decision an opinion on the request made, which it shall send to the relevant regulatory authority.

(8) Upon receiving confirmation by the relevant national regulator on the opinion prepared, the Commission shall, by decision, give instructions, in conformity with the opinion, sending them to the affected parties.

### **Section VIII Separate Accounting**

**Art. 62.** Undertakings providing public electronic communications networks and/or services, which have special or exclusive rights to provide services in other sectors, including other EU Member States, shall keep separate accounts for the activities associated with the provision of electronic communications networks and/or services.

## **CHAPTER FIVE PROVISION OF ELECTRONIC COMMUNICATIONS**

### **Section I General provisions**

**Art. 64.** Electronic communications shall be provided freely after notification and/or after granting right of use for individually assigned scarce resource, in compliance with the requirements of this Law and of the acts on the implementation thereof.

**Art. 65. (1)** Electronic communications for private needs shall be provided freely, where such communications are provided through:

1. electronic communications networks without use of individually assigned scarce resource;
2. radio equipment using radio frequency spectrum which does not need to be individually assigned.

(2) The rules for provision of the electronic communications referred to in paragraph 1, item 2 shall be laid down in a normative administrative act adopted by the Commission after carrying out the procedure of public discussion under Art. 36. The act shall be promulgated in the State Gazette.

(3) The rules referred to in paragraph 2 shall contain requirements related to safeguarding human life and health, and not causing interference when using radio spectrum.

**Art. 66.** Public electronic communications shall be provided after submitting a notification to the Commission.

**Art. 67.** Where an individually assigned scarce resource is needed, electronic communications shall be provided after obtaining right of use.

**Art. 68.** Electronic communications may be provided by unlimited number of persons except in the cases of use of individually assigned scarce resource.

**Art. 69.** Public electronic communications shall be provided by natural persons-sole entrepreneurs and legal persons.

**Art. 70.** Electronic communications shall be provided throughout the whole territory of the country unless a limited territorial coverage is specified in the right of use for individually assigned scarce resource or in the general requirements for carrying out a specified activity.

**Art. 71.** The right of use for individually assigned scarce resource shall have an initial validity of up to 20 years with possible extension of up to 10 years.

**Art. 72. (1)** The Commission shall adopt, after public discussion under Art. 36, a List of the public electronic communications networks and/or services the provision of which is subject to general requirements. The decision of the Commission, together with the List, shall be promulgated in the State Gazette.

(2) Amendments to the List referred to in paragraph 1 may be introduced on initiative of the Commission or at the proposal of an interested party, after public discussion according to Art. 36.

### **Section II Provision of Electronic Communications Subject to General Requirements**

**Art. 73. (1)** Any undertaking that has submitted a notification on provision of electronic communications under Art. 66 must comply with the general requirements determined according to the

type of electronic communications network and/or service. The general requirements shall be adopted by decisions of the Commission, in compliance with the principle of transparency, non-discrimination and proportionality.

(2) The decisions referred to in paragraph 1 shall be adopted after public discussion according to Art. 36 and shall be promulgated in the State Gazette.

(3) Depending on the type of the electronic communications network and/or service the applicable general requirements approved by the decisions referred to in paragraph 1 may contain all or some of the following requirements:

1. to negotiate and provide access to and interconnection of its network with the networks of other undertakings providing electronic communications, inter alia:

a) to ensure interoperability of its services with those of the other undertakings;

b) to maintain the integrity and guarantee the security of its network;

c) if possible, to provide shared use of premises and network facilities to the other undertakings providing public electronic communications networks and/or services;

2. requirements and conditions related to providing rights of way;

3. to provide to the Commission the information referred to in Art. 40 and Art. 75, paragraph 2;

4. to assign numbers from the National Numbering Plan for use by end-users when the provision of electronic communications is connected with use of numbers;

5. to guarantee the protection of confidentiality of communications and users' data;

6. to ensure:

a) observance of the conditions not allowing harmful electromagnetic fields and radiation;

b) observance of the requirements for electromagnetic compatibility;

c) use in the network only of equipment that is in good technical condition and has passed conformity assessment under the Law on Technical Requirements to Products;

d) observance of conditions related to the efficient use of radio frequency spectrum and not allowing harmful interference, when such use is not subject to granting right of use;

e) application of the operative standards in the field of electronic communications networks and/or services;

7. to cooperate in protecting the public interest, in protecting the national security and in ensuring the provision of electronic communications for the needs of defence and also under crisis, by:

a) ensuring conditions for restricting and terminating the transmission of content which is contradictory to the legislation in force;

b) not providing electronic communications which contain misleading signs and/or signals for help, disaster, emergency, accident or alarm;

c) enabling lawful tracking of traffic in its network on the part of the competent state authorities;

d) providing at its own expenses conditions for interception of electronic communications by providing interfaces for the purposes of security and public order;

e) ensuring possibility for use of its network and network facilities in the event of crises under the Law on Crisis Management, in the event of introduction of a "state of martial law" or "state of war", or "state of emergency" under the Law on Defence and Armed Forces of the Republic of Bulgaria.

8. to pay the administrative fees according to Chapter Eight;

9. to pay contributions to the Universal Service Compensation Fund;

10. to ensure transmission of radio and/or television programmes of public importance.

(4) The Commission may impose on undertakings providing public electronic communications networks and/or services specific obligations according to the conditions and order of Chapter Nine as well as other obligations provided for in this Law.

**Art. 74.** An undertaking which notifies the Commission of its intention to provide public electronic communications shall have, inter alia, the rights to:

1. provide electronic communications networks and/or services from the date of submitting to the Commission a notification completed in a standard form unless granting right of use for an individually assigned scarce resource is necessary;
2. construct, use and manage electronic communications networks and facilities;
3. negotiate and obtain access to and interconnection with networks of other undertakings providing public electronic communications networks and/or services, in compliance with the requirements of the legislation in force;
4. offer one or all services within the scope of the universal service, when designated to offer one or all services within the scope of the universal service on the whole territory of the country or on a part thereof according to Chapter Eleven.

**Art. 75. (1)** The rights under Art. 74 shall come into force as of the date of a duly submitted notification to the Commission, completed in a standard form, except in the cases when it is necessary to have right of use granted for an individually assigned scarce resource.

(2) The notification shall contain:

1. identification data of the person providing electronic communications – name (business name), seat, head office address and the relevant uniform identification code;
2. short description and basic parameters of the public electronic communications network and/or service;
3. territorial coverage;
4. contact person and contact data;
5. estimated starting date of providing public electronic communications.

(3) The notification shall be submitted in the Bulgarian language.

(4) In case of incomplete notification, the Commission shall, within 7 days of receipt, notify the person in writing to eliminate the incompleteness.

(5) Where it has been found, from a notification submitted, that the provision of the activity would require the use of an individually assigned scarce resource, the Commission shall inform the person in writing about the necessity of submitting an application for granting right of use for an individually assigned scarce resource.

(6) The Commission shall enter the person's data in the register under Art. 33, paragraph 1, item 1 within 14 days of the date of receipt of the notification or elimination of the incompleteness.

(7) The undertaking providing public electronic communications shall notify the Commission of any change in the notification data under paragraph 1 within 14 days of the change.

**Art. 76.** The undertaking may terminate provision of electronic communications networks and/or services and shall notify the Commission thereof.

**Art. 77. (1)** The undertaking providing electronic communications under general requirements may request in writing from the Commission a certificate of entry in the register under Art. 33, paragraph 1, item 1.

(2) The Commission shall issue the certificate under paragraph 1 within 7 days of receipt of the request. The certificate shall specify the rights under Art. 74 related to provision of electronic communications networks and/or services, construction of electronic communications infrastructure, including right-of-way, negotiating access to and interconnection of networks.

(3) For issuing the certificate under paragraph 1 an administrative fee shall be payable in the amount determined in the Tariff of Fees Collected by the Commission under this Law. A document for a paid fee shall be enclosed with the request.

(4) A certificate shall not be issued in case a document for a paid administrative fee is not enclosed.

**Art. 78. (1)** In the event of established non-compliance with the applicable general requirements and/or specific obligations imposed, the Commission shall inform the undertaking

providing electronic communications of the non-compliance established, within 7 days of establishment, giving it a time-period not shorter than one month from the notification to express an opinion and remedy the non-compliance.

(2) If the undertaking providing electronic communications fails to eliminate the non-compliance within the time-period specified by the Commission, the Commission shall impose a fine or a property sanction according to this Law.

(3) The Commission may adopt a decision on termination of the provision of electronic communications by the undertaking under Art. 75 in case of presence of one of the following circumstances:

1. established systematic non-compliance with the applicable requirements under Art. 73 and/or the specific obligations;

2. established significant violation of this Law;

3. withdrawn right of use for an individually assigned scarce resource.

(4) The undertaking referred to in paragraph 3 may submit a notification for provision of the same electronic communications services not earlier than 6 months from the effective date of the decision for termination thereof.

### **Section III** **Granting of Rights of Use – General Provisions**

**Art. 79.** Right of use shall be required for use of an individually assigned scarce resource for provision of electronic communications.

**Art. 80. (1)** The requirements for granting of right of use shall be identical for all undertakings wishing to provide one and the same type of electronic communications through use of an individually assigned scarce resource.

(2) Rights of use shall be granted following the principles of objectivity, proportionality, equal treatment and transparency.

**Art. 81. (1)** Where the number of applicants is greater than the number of persons who or which could obtain right of use for the respective available scarce resource, the Commission shall grant right of use for an individually assigned scarce resource after conducting a contest or an auction.

(2) The Commission shall grant right of use for an individually assigned scarce resource without a contest or an auction in the following cases:

1. for own needs of the state authorities related to their functions and to diplomatic representations or other organisations having the statute of diplomatic missions;

2. for provision of electronic communications for private needs;

3. when the number of applicants is less than or equal to the number of persons who could obtain right of use for the respective available scarce resource;

4. for provision of electronic communications by using existing and/or new analogue electronic communications networks for terrestrial analogue broadcasting, after a decision of the Council for Electronic Media;

5. when granting a temporary right of use under Art. 109.

(3) The subject, scope and term of validity of a right of use under paragraph 2, item 4 may not differ from the subject, term of validity and scope of the licence for radio or television activity.

**Art. 82. (1)** The applications for use of an individually assigned scarce resource - radio frequency spectrum - for provision of electronic communications for private needs shall be satisfied without conducting a contest or an auction and the resource shall be assigned for use to the first applicant in time of submitting the application.

(2) paragraph 1 shall be applied also to the cases when the scarce resource is required to ensure a transmission medium in the networks of undertakings providing public electronic communications.

**Art. 83. (1)** The procedure of granting a right of use shall start after submission of an application for use of individually assigned scarce resource completed in a standard form approved by the Commission. The application shall contain:

1. identification data of the person applying for right of use:
  - a) for natural persons: full name, uniform citizen's code and permanent address; for foreign persons: personal identification number;
  - b) for legal persons and natural persons – sole entrepreneurs: name (business name), seat, head office address and the respective identification code.
2. indication of the individually assigned scarce resource required – radio frequency spectrum and/or numbers, and/or the geo-stationary orbit position;
3. short description of the type of electronic communications which require the use of individually assigned scarce resource;
4. description of the technical characteristics of the electronic communications network and facilities;
5. description of the service or services to be provided by the person using the individually assigned scarce resource, in case the latter is designated for providing public electronic communications.
6. time period for use of the individually assigned scarce resource;
7. starting date of usage of the individually assigned scarce resource;
8. initial territorial coverage;
9. contact person and contact data.

(2) The application shall have enclosed:

1. current certificate of entry in the Commercial Register issued not earlier than one month prior to the date of submitting the application; for foreign persons - a corresponding document, where applicable;
2. a document for the fee paid up for administrative services;
3. a document certifying that the undertaking is not declared bankrupt or is not in a procedure of declaring bankruptcy;
4. a declaration that the natural person - sole entrepreneur, is not under procedure of writing off;
5. a document issued by a competent authority certifying that the natural person or legal person does not have any liabilities to the state under the Code of Tax and Insurance Proceedings established by an enforced act of a competent authority, unless payment in instalments or postponement of the liabilities has been permitted.

(3) The application and the documents enclosed thereto shall be submitted in the Bulgarian language.

(4) In case of incomplete and/or irregular documents under paragraph 1 and paragraph 2, the Commission shall notify the applicant in writing to eliminate the incompleteness or irregularities within 7 days of receipt of the notification. In case of failure to eliminate the incompleteness or irregularities within the indicated time-limit the application shall not be considered.

**Art. 84. (1)** The Commission shall, by a motivated decision, refuse granting of a right of use if:

1. the scarce resource is not available;
2. the usage of the scarce resource would threaten the national security or be in contradiction with international obligations arising from an enforced international agreement to which the Republic of Bulgaria is a party;
3. the person applying for right of use:
  - a) is declared bankrupt or in a procedure of declaring bankruptcy, or is written off;
  - b) is deprived of the right to carry out commercial activity;



c) has liabilities to the state established by an enforced act of a competent authority, or liabilities to insurance funds, unless payment in instalments or postponement of the liabilities has been permitted;

d) has had his right of use for an individually assigned scarce resource for the same type of electronic communications withdrawn for the term specified by the Commission.

(2) The circumstances referred to in paragraph 1, item 3, letters “a” and “c” shall be confirmed in a document of the relevant competent authority, and those referred to in letter “b” – by declaration of the natural person.

(3) The provision of paragraph 1, item 3, letter “b” shall apply also for managers and members of the management bodies of the undertaking.

**Art. 85.** The undertakings providing electronic communications must notify the Commission of any changes in the circumstances to be entered into the Commercial Register within 14 days of the change.

#### **Section IV** **Granting Right of Use for Individually Assigned Scarce Resource**

**Art. 86. (1)** The Commission shall adopt a decision for granting a right of use for an individually assigned scarce resource - radio frequency spectrum within 6 weeks of the date of receipt of the application or of remedying the incompleteness, in case no international coordination is required for the radio frequencies and radio frequency bands and for the technical characteristics of the radio equipment which is to use them.

(2) Where an application is submitted for use of individually assigned scarce resource, which requires international co-ordination of the radio frequencies and radio frequency bands and of the technical characteristics of the radio equipment which would use them, the Commission shall notify the applicant of the necessity for co-ordination within 7 days of filing the application and shall carry out the coordination within 8 months of the date of submission of the application.

(3) Where in an international agreement party to which is the Republic of Bulgaria a time-limit is specified for the coordination referred to in paragraph 2 and that time-limit is longer than 8 months, the co-ordination procedure shall be accomplished within the time-limit specified in the international agreement.

(4) After completion of the coordination procedure referred to in paragraph 2 the Commission shall inform the applicant of the result within 3 days.

(5) Within 14 days of receipt of the notification the applicant shall in writing confirm its wish to obtain the right of use for an individually assigned scarce resource.

(6) In case the applicant confirms its wish within the time-limit under paragraph 5 the Commission shall adopt a decision for granting a right of use for an individually assigned scarce resource – radio frequency spectrum.

**Art. 87. (1)** Within 3 days of adopting the decision on granting of right of use for an individually assigned scarce resource - radio frequency spectrum, the Commission shall in writing notify the applicant thereof.

(2) Within 14 days of receipt of the notification referred to in paragraph 1 the applicant shall deposit the fees payable to the account of the Commission.

**Art. 88. (1)** The Commission shall adopt a decision for granting right of use for an individually assigned scarce resource – numbers - within three weeks of the date of receipt of the application or of elimination of the incompleteness.

(2) Within three days of adoption of the decision referred to in paragraph 1 the Commission shall inform in writing the applicant thereof.

(3) Within 14 days of receipt of the information referred to in paragraph 2 the applicant shall deposit the fees payable to the account of the Commission.

## Section V

### Granting Rights of Use after Conducting a Contest or an Auction

**Art. 89.** The Commission may, on its own initiative, announce intention to conduct a contest or an auction should it be necessary to restrict the number of rights of use granted for a particular available scarce resource.

**Art. 90. (1)** The number of rights of use granted for individually assigned scarce resource – radio frequency spectrum – shall be restricted on considerations of efficient use of spectrum, maximising users' benefit and promotion of competition.

(2) The Commission shall hold public consultation on the announced intention by publishing at least in one national daily and on its Internet page a notice of the reasons for the restriction. The notice shall indicate:

1. the radio frequency spectrum - subject of the restrictions;
2. the expected number of rights of use to be granted;
3. the conditions that the Commission intends to impose in connection with the right of use for spectrum.

(3) The Commission shall publish the results of the public consultation on its Internet page and shall announce a contest or an auction.

(4) The Commission must, at reasonable intervals of time or upon receiving requests from interested persons, review the relevance of reasons for the restrictions on the number of rights of use for radio frequency spectrum.

(5) The Commission shall open public consultation with the interested parties on the review.

(6) Should the results of the public consultation reveal that the reasons for the restriction imposed are no longer valid, or that it would be necessary, in the interest of consumers and to promote competition, to withdraw the restrictions on the use of radio frequency spectrum, the Commission shall withdraw the restriction on the number of rights of use.

**Art. 91. (1)** After receiving an application under Art. 83 for use of individually assigned scarce resource - radio frequency spectrum or position of the geo-stationary orbit, for provision of public electronic communications and after concluding the international coordination, when applicable, the Commission shall, within 5 days, publish a notice on its Internet page and at least in one national daily. When the scarce resource requested has national coverage, the Commission shall publish the notice also in the State Gazette within 10 days. The notice shall contain:

1. information of the requested scarce resource;
2. invitation for submission of other applications for use of the same scarce resource within 21 days of the date of publication of the notice in a national daily.

(2) If within the time-limit under paragraph 1, item 2, no other application for use of the same individually assigned scarce resource is submitted to the Commission, the Commission shall, within 10 days, adopt a decision for granting a right of use for an individually assigned scarce resource.

(3) The Commission shall notify the applicant in writing within three days of adoption of the decision under paragraph 2.

(4) The applicant shall deposit the fees due to the account of the Commission within 14 days of receipt of the notification under paragraph 3.

(5) The Commission shall hand over the right of use to the applicant within three days of payment of the fees under paragraph 4. The right of use shall enter into force from the date of its handing-over to the applicant.

**Art. 92. (1)** Where an application for use of individually assigned scarce resource – numbers is submitted and the groups of numbers requested are in regions of insufficient numbering resource or where the provision of public electronic communications is bound with a specific number, the Commission shall, within 5 days, publish a notice on its Internet page. The notice shall contain:

1. information about the scarce resource requested;
2. invitation for other applications for use of the same scarce resource, to be submitted within 10 days of the date of publication of the notice.

(2) If within the time-limit under paragraph 1, item 2, no other applications are submitted to the Commission for use of the same scarce resource, the Commission shall, within 6 days, grant right of use for individually assigned scarce resource and shall notify the applicant under Art. 88.

**Art. 93.** (1) Where the requested available scarce resource is not sufficient for use by all the persons who have filed applications within the time-limit under Art. 91, paragraph 1, item 2 or Art. 92, paragraph 1, item 2, the Commission shall notify all the applicants about the applications submitted and their number, and shall by decision announce a contest or an auction.

(2) The decision under paragraph 1 shall contain:

1. subject and type of the contest or auction;
2. specific requirements to the persons that may participate, relating to technical or financial conditions or to conditions of fair competition;
3. place, deadline and order of purchasing the contest or auction papers;
4. place and deadline to apply for participation;
5. amount and terms of payment of the participation deposit;
6. initial bid and bidding increment, in case of an auction;
7. date, place and time of conducting the contest or the auction;
8. other specific requirements relating to the contest or the auction.

(3) The decision under paragraph 1 shall be published on the Internet page of the Commission and shall be promulgated in the State Gazette not later than 21 days after expiry of the deadline for submission of applications for use of individually assigned scarce resource – radio frequency spectrum or positions of the geostationary orbit under Art. 91, paragraph 1, item 2.

(4) The decision under paragraph 1 shall be published on the Internet page of the Commission and shall be promulgated in the State Gazette not later than 5 days after expiry of the deadline for submission of applications for use of individually assigned scarce resource – numbers under Art. 92, paragraph 1, item 2.

**Art. 94.** (1) A contest shall be conducted when an integral evaluation is needed for the granting of right of use.

(2) An auction shall be conducted where in view of the nature of the public electronic communications to be provided the amount of the auction bid is of substantial importance.

**Art. 95.** (1) The starting bid in an auction shall be determined by the Commission in the decision under Art. 97, paragraph 1.

(2) The bidding increment in an auction shall be specified by the Commission in the auction papers.

(3) The amount reached in the bidding shall be paid by the winning applicant within a time limit specified in the decision referred to in paragraph 1.

**Art. 96.** (1) The contest papers shall be adopted by decision of the Commission and shall contain:

1. information about the scarce resource – subject of the contest;
2. a list of the necessary enclosures to the application for participation in the contest;
3. requirements to provision of public electronic communications – subject of the contest, such as: rate of development and/or servicing, quality of services, type of technology used, obligations related to the national security;
4. evaluation criteria, their relevant weight and evaluation mechanism;
5. rules of conducting the contest;
6. rules of procedure of the expert committee conducting the contest;
7. amount of the deposit for participation in the contest.

(2) The contest papers shall contain also conditions for participation in the contest and a draft right of use for individually assigned scarce resource, and enclosures containing the respective technical parameters of the rights of use.

**Art. 97.** The auction papers shall be approved by decision of the Commission and shall contain:

1. information about the scarce resource – subject of the auction;
2. a list of the necessary enclosures to the application for participation in the auction;
3. rules of conducting the auction;
4. rules of procedure of the expert committee conducting the auction;
5. criteria for non-admission and for elimination from the auction;
6. a draft right of use for individually assigned scarce resource and enclosures containing the respective technical parameters of the rights of use;
7. amount of the deposit for participation in the auction, that may not be greater than 5 per cent of the initial auction bid as well as conditions connected with the deposit for participation in the auction;
8. place, date and time of conducting the auction.

**Art. 98. (1)** The contest or auction for granting individually assigned scarce resource – radio frequency spectrum or positions from the geostationary orbit, shall be conducted not earlier than 30 days after promulgation of the decision under Art. 93, paragraph 3 in the State Gazette. In the event of announcement of several contests or auctions according to the available free scarce resource, the Commission shall determine the sequence of conducting. The Commission may conduct one contest or auction for granting more than one right of use depending on the available free scarce resource.

(2) The contest or auction for granting individually assigned scarce resource – numbers shall be conducted not earlier than 10 days after promulgation of the decision under Art. 93, paragraph 4 in the State Gazette. In the event of announcement of several contests or auctions according to the available free scarce resource, the Commission shall determine the sequence of conducting.

**Art. 99. (1)** The Commission shall appoint an expert committee to conduct the contest or the auction. One of the members of the expert committee shall be a qualified lawyer. Representatives of the interested state bodies and of the Commission may be appointed as members of the expert committee.

(2) A person having a material commercial, financial or other business interest may not be a member of the expert committee.

(3) A material commercial, financial or other business interest shall always be present where a right of use under this Law is to be granted to members of the expert committee or to their family members, including spouses, direct relatives – without exceptions, collateral relatives – up to and including fourth degree of consanguinity, and kinship by marriage – up to and including second degree of consanguinity.

(4) Each member of the expert committee shall be obliged to declare in writing before the Commission the non-existence of a material commercial, financial or other business interest of him/her or of persons economically related to him/her or to his/her family members in the choice of a given candidate and that they will not be appointed as members of the management bodies of the winning applicant within one year of granting of the right of use.

(5) The declarations under paragraph 4 shall be kept in a special public register with the Commission.

(6) The members of the expert committee shall be obliged not to disclose before third parties any information received in the course of the procedure of conducting the contest or the auction. Prior to the start of the procedure each member of the expert committee shall sign a declaration to comply with that obligation.

**Art. 100. (1)** Persons wishing to enter a contest or an auction announced by the Commission shall submit an application in writing to the Commission and shall enclose thereto:

1. all court decisions on the record of the applicant and a current certificate of entry in the Commercial Register issued not earlier than one month prior to the date of submission of the application;

2. evidence of financial capabilities, such as: annual financial statement and a profit-and-loss account, annual tax returns, bank references, documents on acquisition of fixed assets;

3. a technical project and a business plan in accordance with the requirements of Art. 96, paragraph 1, item 3;

4. a documentary proof of a paid deposit or a bank guarantee to the amount of the deposit;

5. documents certifying non-existence of the circumstances referred to in Art. 84, paragraph 1, item 3;

6. a declaration on safeguarding the confidentiality of the information contained in the contest or auction papers;

7. a documentary proof of payment for the contest or auction papers;

8. other documents related to the subject of the contest or auction.

(2) All documents submitted shall be in the Bulgarian language.

(3) Should any documents under paragraph 1, except those referred to in paragraph 1, item 3, be missing or irregular, the applicant shall be notified in writing to correct the incompleteness or irregularities within 7 days of receipt of the notification. In case of failure to correct the incompleteness or irregularities within the time limit specified, the applicant shall not be admitted to entry.

(4) A person wishing to enter the contest or auction announced by the Commission shall not be admitted to entry where the said person:

1. is declared bankrupt or is in a procedure of declaring bankruptcy, or is in a procedure of liquidation;

2. is deprived of the right to exercise commercial activity;

3. has monetary liabilities to the state established by an enforced act of a competent authority or a liability to insurance funds, unless payment in instalments or deferral of the said obligations has been allowed;

4. has had its right of use for an individually assigned scarce resource for the same type of electronic communications withdrawn for the period specified by the Commission.

**Art. 101. (1)** In a contest, the offers shall be ranked according to an integral evaluation of satisfaction of the contest requirements.

(2) In an auction, the applicants shall be ranked according to the amount of the auction bid.

**Art. 102. (1)** The expert committee shall, within 7 days of completing its work, submit to the Commission a report on the work done and on the results of the ranking as well as the entire documentation associated with the contest or auction conducted.

(2) Within 14 days of receipt of the documents under paragraph 1 the Commission shall adopt a decision on:

1. granting right of use to the applicant that won the contest or auction;

2. termination of the contest or auction without determining a winning applicant, in case the results of the ranking do not point out an applicant that complies with the requirements of the conducted contest or auction.

(3) Within three days of adoption of the decision under paragraph 2 the Commission shall send it to the State Gazette for promulgation within 5 days from receipt.

**Art. 103. (1)** The Commission shall have the right to retain the deposits of the applicants that have lodged appeals against the decision under Art. 102, paragraph 2 until the dispute is settled by the court.

(2) The deposits of the applicants that have not won shall be released three working days after expiry of the time limit for lodging an appeal against the decision under Art. 102, paragraph 2. In case of termination of the procedure the deposits of all applicants shall be released within the same time limit.

(3) The deposits of the winner and of the applicant ranked second shall be released within 3 days of entry into force of the decision under Art. 102, paragraph 2, item 1.

**Art. 104.** (1) Within 14 days of entry into force of the decision under Art. 102, paragraph 2, item 1 the Commission shall grant a right of use to the winner of the contest or auction.

(2) The winner shall be bound by the offers made at the contest or auction.

**Art. 105.** (1) In case the winner declines the right of use or fails to pay the final bid made by himself within the time limit and in the manner specified in the auction or contest papers, the right of use shall be offered to the applicant ranked second.

(2) Should the applicant ranked second decline the right of use as well, the procedure shall be terminated without granting a right of use.

(3) In the cases where two or more rights of use are subject of an auction and a ranked applicant declines a right of use or fails to pay the final bid made by himself within the time limit and in the manner specified in the auction papers, the right of use shall be offered to the applicant ranked next. Should that applicant decline the right of use as well, the procedure shall be terminated without granting a right of use.

(4) The deposits of the persons under paragraph 1. 2 and 3 shall not be returned.

## **Section VI** **Content of the Right of Use**

**Art. 106.** The rights of use for individually assigned scarce resource - radio frequency spectrum and/or positions of the geo-stationary orbit - shall specify:

1. the service and/or type of electronic communications network and/or the technology for which radio frequency spectrum is assigned;

2. the radio frequency spectrum and/or positions of the geo-stationary orbit assigned;

3. the territorial coverage, where applicable;

4. the conditions under which an undertaking may transfer its right of use without distortion of competition;

5. the parameters ensuring efficient use of radio frequency spectrum and, where applicable, requirements for coverage;

6. the technical and operational conditions ensuring avoidance of harmful interference and limiting the possibility of public exposure to harmful electromagnetic fields, when the conditions differ from the requirements under Art. 73, paragraph 3, item 6, letter "d";

7. the period of validity according to the National Radio Frequency Allocation Table;

8. the fee for use of individually assigned scarce resource - radio frequency spectrum;

9. the obligations taken by the undertakings providing public electronic communications, where an auction or contest had been conducted;

10. the obligations arising from international agreements concerning the use of radio frequency spectrum, when applicable;

11. the date of starting provision of electronic communications and time-limits for achieving effective use of the scarce resource;

12. the obligations to ensure possibility to use the scarce resource - radio frequency spectrum and/or positions of the geo-stationary orbit - and the radio equipment using it in case of crises under the Law on Crisis Management, in the event of introducing a state of martial law or state of war, or state of emergency under the Law on Defence and Armed Forces of the Republic of Bulgaria;

13. the obligations, requirements and restrictions related to the protection of the national security and defence;

14. the date of granting the right of use;

15. identification data.

**Art. 107.** The rights of use for individually assigned scarce resource - numbers - shall specify:

1. the service for which the undertaking has obtained a right of use for numbers, including all obligations related to the provision of this service;
2. the numbers assigned;
3. the requirements for efficient use of numbers;
4. the requirements for number portability;
5. obligations to provide public information on the telephone numbers of subscribers to public telephone services for the purposes of the universal service in accordance with Chapter Eleven, pending explicit consent of the subscribers;
6. the period of validity of the right of use, in accordance with the National Numbering Plan;
7. the conditions for secondary assignment of numbers;
8. the conditions of transfer of the right of use;
9. the fee for use of scarce resource - numbers from the National Numbering Plan;
10. the obligations taken by the undertaking in case of a contest procedure conducted;
11. the obligations arising from international agreements concerning the use of numbers, when applicable;
12. the date of starting the use of the individually assigned scarce resource and time-limit for achieving efficient use of the scarce resource;
13. the obligations to ensure possibility to use the scarce resource – numbers - in case of crises under the Law on Crisis Management, in the event of introducing a state of martial law or state of war, or state of emergency under the Law on Defence and Armed Forces of the Republic of Bulgaria;
14. the date of granting the right of use;
15. identification data.

**Art. 108.** In addition to the obligations under Art. 106 or Art. 107, the undertakings which have obtained rights of use for individually assigned scarce resource - radio frequency spectrum or numbers - shall be obliged to observe also the applicable requirements under Art. 73.

## **Section VII** **Temporary Rights of Use**

**Art. 109. (1)** The Commission shall grant temporary rights of use for individually assigned scarce resource - radio frequency spectrum - which shall have a term of validity not longer than 6 months in the following cases:

1. when the use of individually assigned scarce resource is necessary to test new technical methods and/or technologies for provision of electronic communications, or
2. when the use of individually assigned scarce resource is necessary for testing new technical facilities or newly constructed electronic communications networks prior to their operation, or
3. for advertising of electronic communications facilities and/or equipment, or
4. when the use of individually assigned scarce resource is required for short-term events.

(2) The temporary rights of use shall be granted without a contest or an auction.

(3) Temporary right of use may not be granted for individually assigned scarce resource which has already been assigned, or for scarce resource for which an application for granting right of use has been submitted and the procedure for granting a right of use has not finished yet.

(4) For granting of temporary right of use an application shall be submitted containing the data under Art. 83, paragraph 1 and data for the purposes of the requested scarce resource in the cases indicated in paragraph 1. The documents under Art. 83, paragraph 2, items 1 and 2 shall be enclosed to the application. The application shall be submitted not later than 31 days prior the date of starting the use of the scarce resource indicated in the application. If the application is incomplete, the rules under Art. 83, paragraph 4 shall apply.

(5) Where the requested scarce resource is subject to international co-ordination, the Commission shall offer to the applicant another scarce resource which is not subject to international co-ordination and is fit for use, in accordance with:

1. the data included in the application for the cases indicated in paragraph 1, and
2. the technical characteristics of the electronic communications network and facilities for which the scarce resource shall be used.

(6) The Commission shall grant the temporary right of use not later than 17 days prior to the starting date of use of the scarce resource, as indicated in the application under paragraph 4.

(7) The Commission shall notify the applicant for the granted temporary right of use within three days of granting, indicating also the amount of the fee due for temporary use of individually assigned scarce resource and a one-off fee for the granting the right of use. The applicant shall be obliged to pay the fees within 14 days of receipt of the notification.

(8) The Commission shall hand over the right of use to the applicant within three days of payment of the fees under paragraph 7.

**Art. 110. (1)** The temporary right of use shall contain the data, indicated in the application under Art. 109, paragraph 4.

(2) The individually assigned scarce resource can be used only for the purpose and in the manner explicitly specified in the temporary right of use.

**Art. 111. (1)** The rules for termination, withdrawal or suspension of the rights of use in force under this Law shall not be applied to the temporary rights of use.

(2) A temporary right of use in force shall be terminated immediately when it is found that the individually assigned scarce resource is not used according to the purpose and in the manner specified in the temporary right of use.

**Art. 112.** An undertaking whose temporary right of use has been terminated under Art. 111, paragraph 2 may not submit an application for a new temporary right of use for 6 months following the date of termination of the previous right of use.

## **Section VIII**

### **Granting of Supplementary Scarce Resource**

**Art. 113. (1)** An undertaking which has been granted a right of use for individually assigned scarce resource - radio frequency spectrum and/or numbers - may request the use of supplementary individually assigned scarce resource. The undertaking shall submit an application which, in addition to the data under Art. 83, shall also contain:

1. the number and date of granting the initial right of use;
2. the electronic communications networks and/or services for which the supplementary individually assigned scarce resource would be used;
3. indication of the supplementary individually assigned scarce resource requested the use of which would require supplement and amendment of the right of use;
4. period of use of the supplementary individually assigned scarce resource, which may not be longer than the period of use of the initial individually assigned scarce resource.

(2) The electronic communications networks and/or services under paragraph 1, item 2 may not be different from those for which the initial individually assigned scarce resource was granted.

(3) Documents and data justifying the necessity for supplementary individually assigned scarce resource as well as a document for a paid fee for administrative services shall be enclosed to the application.

(4) The Commission shall grant the requested supplementary individually assigned scarce resource, when:

1. the undertaking has justified necessity for such resource for expansion, modernisation and development of its own electronic communications network when providing public electronic communications through it, and



2. the undertaking has efficiently used the already granted individually assigned scarce resource, and

3. the electronic communications network of the undertaking allows expansion, modernisation and development.

(5) The supplementary individually assigned scarce resource shall be granted without a contest or an auction.

(6) Where the conditions under paragraph 4 are available, the Commission shall grant the requested supplementary individually assigned scarce resource – radio frequency spectrum - by amending and supplementing the right of use of the applicant for individually assigned scarce resource within 42 days of the date of submitting the application.

(7) Where the conditions under paragraph 4 are available, the Commission shall grant the requested supplementary individually assigned scarce resource – numbers - by amending and supplementing the right of use of the applicant for individually assigned scarce resource within 21 days of the date of submitting the application.

(8) Within 14 days of receipt of the notification under paragraph 7, the applicant shall deposit in the account of the Commission the payable fees for use of the granted supplementary individually assigned scarce resource, in proportion to the time of use during the current year.

## **Section IX**

### **Amendment, Supplement, Termination, Withdrawal, Suspension and Transfer of Rights of Use**

**Art. 114.** (1) An undertaking which has been granted a right of use may, prior to expiry of the period of validity, submit a motivated request for reducing the period of validity of the right of use. The Commission shall examine the grounds of the request and shall make a decision within one month of receipt of the request.

(2) An undertaking which has been granted a right of use may, at least three months prior to expiry of the period of validity, submit a motivated request for extending the term of validity of the right of use granted. The Commission shall examine the grounds of the request and make a decision within one month of receipt of the request. In the event of a positive decision the Commission shall enter the new term of validity.

(3) If an undertaking with a right of use granted fails to request extension of the period of validity within the time-limit under paragraph 2, it shall be assumed that the individually assigned scarce resource becomes available upon expiry of the period of validity of the right of use.

(4) The period of validity of a right of use for individually assigned scarce resource – radio frequency spectrum – for provision of electronic communications over existing and/or new electronic communications networks for terrestrial analogue broadcasting shall be extended after extension of the period of validity of the license according to the Law on Radio and Television, for the same period of time.

**Art. 115.** (1) Amendments and supplements to a right of use may be introduced by a motivated decision of the Commission, due to:

1. Force Majeure.
2. reasons related to the national security.
3. amendments to the national legislation and decisions of international organisations in force for the Republic of Bulgaria.
4. reasons related to the public interest, resulting from the efficient use of scarce resource, protection of the interests of the users and ensuring the universal service.

(2) The amendments and supplements referred to in paragraph 1 shall be introduced after notifying in writing the respective undertaking, which may express opinion within 14 days of receipt of the notification in case the amendments and supplements are made according to paragraph 1, item 4.

**Art. 116.** The undertaking with a right of use granted may submit a motivated request to the Commission for amendment and supplement of the right of use also in cases other than those referred to in Art. 115, paragraph 1. The Commission shall examine the grounds of the request, assess the necessity for amendment and supplement to the right of use and make a decision within 30 days of receipt of the request.

**Art. 117. (1)** The validity of a right of use granted for individually assigned scarce resource shall be terminated upon withdrawal by the Commission of the right of use granted, in the following cases:

1. when an undertaking with a right of use granted for individually assigned scarce resource - radio frequency spectrum or positions of the geo-stationary orbit - has failed to comply with some or all obligations under Art. 106, item 9;
2. upon established systematic violations of the one and the same condition of its right of use for individually assigned scarce resource;
3. in case of systematic non-payment of the fees due for the right of use granted;
4. where, in the course of an inspection, the Commission has established availability of any of the circumstances under Art. 84, paragraph 1, item 3, letters "a", "b" and "c".

(2) The validity of a right of use granted for individually assigned scarce resource may be terminated in the following cases:

1. at a motivated written request of a competent authority which has established actions of the undertaking that impose threat to the national security when using the individually assigned scarce resource granted with the right of use;
2. when the undertaking with right of use granted declares the availability of a circumstance under Art. 84, paragraph 1, item 3, letters "a", "b" and "c".
3. upon a motivated request of the undertaking with right of use granted.
4. in case of death of a natural person to whom right of use has been granted;
5. upon expiry of the period of validity of the right of use;
6. on the grounds of an obligation, arising from an international agreement party to which is the Republic of Bulgaria.
7. upon notification by the Council for Electronic Media of an enforced decision for terminating the relevant licence for radio and television activity of the undertaking providing public electronic communications over existing and/or new electronic communications networks for terrestrial analogue broadcasting;

(3) The decisions of the Commission made on the grounds of paragraph 2, item 1 shall be subject to immediate enforcement.

(4) In case the prerequisites under paragraph 1 are available, the validity of the right of use granted shall be terminated after advance written notification of the undertaking, with the Commission expressly indicating the specific grounds and reasoning.

(5) By the notification under paragraph 4 the Commission shall give the undertaking a time-limit not shorter than 30 days to state its views.

(6) The Commission may terminate the validity of a right of use only after examining the explanations and objections of the undertaking and finding sufficient evidence of availability of the circumstances referred to in paragraph 1.

**Art. 118. (1)** In the cases under Art. 117, paragraph 2, item 4 the scarce resource shall not be considered available if one or some of the inheritors declare in writing before the Commission the use of the individually assigned scarce resource for which the right of use was granted, within one month of the death of the natural person. In that case the Commission shall grant a new right of use for the same individually assigned scarce resource, without a contest or an auction, within 21 days of submitting the application. The Commission shall notify in writing the applicants within 3 days of granting the right of use.

(2) The applicant shall deposit all fees due to the account of the Commission within 14 days of receipt of the notification referred to in paragraph 1.

(3) The Commission shall hand over the right of use to the applicants when they have paid up all fees due under this Law.

**Art. 119.** An undertaking that had its right of use terminated on the grounds of Art. 117, paragraph 1, may apply to be granted a new right of use not earlier than 12 months from the date of the Commission's decision to terminate its right of use.

**Art. 120.** (1) The validity of a right of use granted for individually assigned scarce resource may be temporarily suspended by the Commission, in the following cases:

1. upon request of a competent authority in the event of crisis, declaring a state of martial law, or a state of war, or a state of emergency.

2. upon a motivated request of the competent authorities in the event of threat to the national security.

3. upon a motivated request of the undertaking with granted right of use.

(2) In the cases referred to in paragraph 1, items 1 and 2 the suspension shall last until the necessity for it falls off.

(3) Where a right of use is suspended on the grounds of paragraph 1, item 3, the undertaking with granted right of use shall owe instalments from the annual fees for the period of suspension.

(4) In the cases under paragraph 1, item 3 the Commission shall examine the grounds of the request made and shall make a decision on it within 21 days of receipt of the request. The suspension in such cases may not be for a period longer than 3 months. The Commission shall refuse suspension, when:

1. the request is made by an undertaking with significant market power and refers to the electronic communications networks and/or services for which it has been designated as such;

2. the undertaking has an obligation for universal service provision;

3. the undertakings provides public electronic communications and is granted right of use for individually assigned scarce resource of national coverage.

(5) The decisions for suspension and consequent renewal of the validity of a right of use granted shall be communicated to the affected persons within 3 days.

**Art. 121.** (1) An undertaking with right of use granted for individually assigned scarce resource may transfer the right of use or parts of the rights and the respective obligations under the right of use only after it has received the permission of the Commission.

(2) The Commission shall grant the permission under paragraph 1 when the following circumstances are available:

1. the transfer will not lead to distortion of competition in the electronic communications sector, in particular in the use of individually assigned scarce resource, and

2. the transfer will not lead to changes in the conditions of use of individually assigned scarce resource, or

3. the transfer under paragraph 1 for provision of electronic communications through usage of existing and/or new analogue electronic communications networks for terrestrial analogue broadcasting will not lead to change of the radio and television programmes of public operators governed by public law, whose programmes are distributed by undertakings licensed by the Council for Electronic Media.

(3) Paragraph 1 shall not apply in the case of universal succession through change of the legal form of the company.

**Art. 122.** The conditions and order of transferring rights of use for individually assigned scarce resource shall be laid down in a normative administrative act of the Commission, after public discussion under Art. 36. The act shall be promulgated in the State Gazette.

**Art. 123.** The Commission shall publish on its Internet page monthly information about the transferred rights under rights of use granted for individually assigned scarce resource - radio frequency spectrum.

## **CHAPTER SIX RADIO SPECTRUM AND GEOSTATIONARY ORBITAL POSITIONS**

**Art. 124.** (1) Management and efficient use of the radio spectrum, avoiding harmful interference, shall be carried out in accordance with the State Policy for Radio Frequency Spectrum Planning and Allocation, the National Radio Frequency Allocation Table, the Regulatory Policy on Radio Spectrum Management for Civil Needs, as well as in accordance with international agreements to which the Republic of Bulgaria is a party.

(2) The management and the efficient use of the radio spectrum shall take into consideration the public interest, health and safety of the citizens, freedom of speech, cultural, scientific, social and technical aspects of the policy of the European Union, as well as the interests of radio spectrum users.

**Art. 125.** (1) Where the usage of radio frequencies has been harmonised, access conditions and procedures have been agreed, and the undertaking to which the radio frequencies shall be assigned, have been selected in accordance with international agreements and Community rules, the Commission shall grant rights of use of those radio frequencies.

(2) Provided that all national conditions attached to the right of use of the radio frequencies concerned have been satisfied in the case of a common selection procedure, the Commission shall not impose any further conditions, additional criteria or procedures which would restrict, alter or delay the correct implementation of the common assignment of such radio frequencies.

**Art. 126.** The radio spectrum in the range from 9 kHz to 3000 GHz shall be allocated among radio frequencies and radio frequency bands, services and users.

**Art. 127.** The geo-stationary orbital positions for the Republic of Bulgaria shall be determined by international agreements.

**Art. 128.** Management of the radio spectrum and the geo-stationary orbital positions shall be carried out for the purpose of the efficient use of the radio spectrum, avoiding harmful interference, by observing the interests of the national security of the country, and by observing the principles of predictability, non-discrimination and objectivity.

**Art. 129.** (1) The Commission shall assign the positions of the geo-stationary orbit, the radio frequencies and radio frequency bands, allocated for civil use.

(2) The radio frequencies and radio frequency bands, allocated for civil needs in the radio frequency bands for shared use, shall be assigned by the Commission, after they have been coordinated and agreed nationally.

(3) Should the right of use of radio frequencies and radio frequency bands be withdrawn, due to changes in the legislation, arising from the implementation of an international obligation of the Republic of Bulgaria, compensation from the state budget shall be provided, its size being determined with a motivated decision of the Commission.

**Art. 130.** The right of use of radio frequencies and radio frequency bands shall not be related to restrictions with regards to the types of services provided or technologies used.

**Art. 131.** In order to ensure safety of aeronautical and maritime navigation and to safeguard national security and meet the needs of defence, assignment of radio frequencies and radio frequency bands shall be carried out by the Commission after national co-ordination with the interested departments and after international co-ordination, if necessary.

## **CHAPTER SEVEN NUMBERS ADDRESSES AND NAMES**

**Art. 132.** The National Numbering Plan shall represent allocation of the numbers used in electronic communication networks for identification, routing and billing by undertakings providing public electronic communication services.

**Art. 133.** (1) The National Numbering Plan shall be drafted by the Commission in accordance with the regulatory policy under Art. 30, item 7, in compliance with the principles of objectivity, proportionality, non-discrimination, transparency and timeliness, and taking into consideration the national and public interests.

(2) The National Numbering Plan shall be drafted taking into consideration the acts of international organisations and/or their competent bodies, related to numbers, addresses and names, in order to ensure efficient use of the numbering space.

(3) The National Numbering Plan shall be promulgated in the official section of the State Gazette.

(4) The Commission shall keep a public register of the numbers, addresses and names assigned to undertakings.

**Art. 134.** (1) The undertakings providing public telephony services shall ensure for their subscribers the possibility of keeping:

1. their geographic number, when changing their fixed telephony service provider and/or when changing their address within a region covered by the same geographic national destination code;
2. their non-geographic number, when changing the provider of the respective service;
3. their nationally significant number, when changing their mobile telephony service provider.

(2) The undertakings providing public telephony services shall determine the prices for end-users of the services under paragraph 1 in a manner that does not impede the use of those services.

(3) The functional specifications of number portability for the numbers under paragraph 1 shall be determined by the Commission after public discussion according to Art. 36 and shall be promulgated in the official section of the State Gazette.

(4) The functional specifications shall contain:

1. technical conditions for implementation of portability;
2. necessary actions to be taken by the undertakings with obligation to ensure portability, including time limits for completion of those actions;
3. portability implementation method;
4. requirements relating to the database ensuring rooting;
5. obligations of the undertakings ensuring portability and reasons to refuse provision of the service to end-users;
6. portability implementation procedure;
7. pricing principles and allocation of costs among the undertakings.

**Art. 135.** (1) The undertakings providing public telephony networks and/or services and having significant market power on retail markets shall ensure that their subscribers have access to the public telephony services of undertakings with interconnected networks:

1. on a call-by-call basis, using a selection (access) code (carrier selection); and/or
2. on a subscription basis (carrier pre-selection).

(2) The undertakings providing public telephony networks and/or services and having significant market power on retail markets shall determine the prices, if any, of the services referred to in paragraph 1 in a manner not impeding the use of those services.

(3) The conditions and order of provision of the services referred to in paragraph 1 shall be stipulated in a normative administrative act of the Commission which shall be promulgated in the State Gazette.

**Art. 136.** (1) The undertakings providing public telephony services shall determine among themselves an initial price for implementation of the services referred to in Art. 134, paragraph 1, and prices for interconnection associated with provision of those services observing the principle of cost orientation.

(2) The undertakings under Art. 135, paragraph 2 shall determine prices for access and interconnection associated with provision of services referred to in Art. 135, paragraph 1, items 1 and 2, observing the principle of cost orientation.

**Art. 137.** The rules of allocation and the procedures of primary and secondary assignment for use, reservation and withdrawal of numbers, addresses and names shall be stipulated in an ordinance of the Chairperson of the State Agency for Information Technology and Communications, at the proposal of the Commission. The ordinance shall be promulgated in the State Gazette.

**Art. 138.** The undertakings providing public telephony networks shall ensure direct or indirect connection to networks serving the European Telephone Numbering Space for calls with code "3883", in accordance with the standards of the European Telecommunications Standards Institute.

## **CHAPTER EIGHT FEES**

**Art. 139.** (1) The amount of the administrative fees to be collected from undertakings providing electronic communications in accordance with the requirements of this Law shall correspond to the administrative costs incurred by the Commission in its activities related to international coordination

and cooperation, harmonisation and standardisation, market analysis and market control, preparation and enforcement of secondary legislation, issuing administrative acts and exercising control over their implementation.

(2) The administrative fees under paragraph 1 shall be:

1. annual control fee;
2. one-off fee for granting right of use for an individually assigned scarce resource;
3. one-off fee for amendment and supplementation of right of use;
4. one-off fee for administrative services.

**Art. 140.** The fees for use of individually assigned scarce resource shall be:

1. annual fee for use of individually assigned scarce resource;
2. fee for temporary use of individually assigned scarce resource.

**Art. 141.** (1) The amount of the administrative annual control fee shall be up to 1.2 percent of the gross annual income from the provision of electronic communications networks and/or services, exclusive of V.A.T., after deduction of payment transfers to other undertakings for interconnection of networks and for access, transit, roaming, value added services, as well as costs associated with copyright and neighbouring rights for radio and television programmes.

(2) The fee under paragraph 1 shall be paid by the persons providing public electronic communications, in quarterly instalments, by the 15<sup>th</sup> day of the month following the respective quarter. The last quarter instalment shall be an equalisation one and shall be paid within 15 days of expiration of the annual financial report deadline, specified in the Law on Accounting. The equalisation shall be made on the basis of a copy of the annual financial report provided by the undertaking together with the annexes attached to it.

**Art. 142.** (1) The one-off fee for granting right of use for individually assigned scarce resource shall be equal to the administrative costs of preparation and granting of the right of use, and shall comprise the costs of:

1. labour and materials;
2. proportionally attributed research and consultancy activities, if such activities are needed in connection with granting of right of use;
3. frequency planning and national, and international coordination.

(2) Where the right of use for individually assigned scarce resource is granted after conducting an auction, the final bid price shall include the fee under paragraph 1.

**Art. 143.** (1) The persons using individually assigned scarce resource for provision of electronic communications shall pay annual fees for use of individually assigned scarce resource – radio frequency spectrum and/or positions of the geostationary orbit allocated to Bulgaria according to international agreements.

(2) Where undertakings are assigned supplementary individually assigned scarce resource – radio frequency spectrum or numbers, they shall pay an additional one-off fee.

(3) The amount of the fees under paragraphs 1 and 2 shall be determined according to one or more of the following criteria:

1. number of registered citizens who could be served by the electronic communications network for which right of use for individually assigned scarce resource is granted;
2. territorial coverage indicated in the right of use;
3. output power of the emitter;
4. frequency band used;
5. number of radio stations used;
6. number of radio frequency channels used;
7. type of the radio frequency channel (radio frequency band) – simplex/duplex;
8. type of the electronic communications network for which right of use for individually

assigned scarce resource is granted;

9. number of the electronic communications networks used;
10. purpose of the radio stations and electronic communications networks;
11. period of use of the radio frequency spectrum.

**Art. 144.** Where right of use is granted for individually assigned scarce resource – numbers from the National Numbering Plan, the undertakings shall pay an annual fee according to the Tariff of fees collected by the Commission.

**Art. 145. (1)** The fees under Art. 141, Art. 143, paragraph 1, and Art. 144 shall be paid in 4 equal instalments, by the end of the month preceding the quarter for which they are due.

(2) The undertakings may pay the fees under Art. 143 and Art. 144 by the end of the first quarter of the current year. In such a case the undertakings shall get a 5 per cent discount.

**Art. 146. (1)** Where a temporary right of use for individually assigned scarce resource, with the exception of positions from the geostationary orbit, is granted for a period not longer than 6 months, the persons providing electronic communications shall pay the following fees:

1. one-off fee for granting right of use;
2. fee for temporary use of individually assigned scarce resource.

(2) The fee under paragraph 1, item 2, shall be proportional to the period for which the right of use is granted.

**Art. 147. (1)** The amount of the fees under this section, the terms and order of payment shall be laid down in the Tariff of fees collected by the Commission, adopted by the Council of Ministers at the proposal of the Commission.

(2) The Tariff under paragraph 1 shall determine also the amount of the fees for administrative services provided by the Commission.

(3) The fees shall be determined according to the following principles:

1. non-discrimination;
2. proportionality;
3. stimulation of competition and provision of new services;
4. ensuring efficient use of the scarce resources;
5. satisfaction of users' demand for high quality electronic communications networks and/or services.

(4) Persons granted rights of use for one and the same individually assigned scarce resource shall pay one and the same annual fees.

**Art. 148. (1)** The fees collected by the Commission under the Tariff shall be distributed according to this Law.

(2) The fees for use of individually assigned scarce resource shall be distributed as follows:

1. fees for use of radio frequency spectrum and for temporary use of radio frequency spectrum:

- a) 35 per cent – to secure the funding under Art. 19;
- b) 40 per cent – to the budget of the Commission;
- c) 25 per cent – as revenues to the state budget.

2. one-off fees for use of supplementary radio frequency spectrum:

- a) 25 per cent - to secure the funding under Art. 19;
- b) 5 per cent - to the budget of the Commission;
- c) 70 percent – as revenues to the state budget.

3. fees for use of individually assigned scarce resource – numbers from the National Numbering Plan - to the budget of the Commission;

4. fees for use of positions of the geostationary orbit allocated to Bulgaria according to international agreements:

- a) 25 per cent - to secure the funding under Art. 19;
- b) 5 per cent - to the budget of the Commission;
- c) 70 per cent – as revenues to the state budget.

5. fees for use of individually assigned scarce resource granted after an auction:

- a) 25 per cent - to secure the funding under Art. 19;
- b) 5 per cent - to the budget of the Commission;
- c) 70 per cent – as revenues to the state budget.

(3) The one-off fee for granting a right of use, the fees for amendment and supplementation of a right of use, the annual control fee and the fees for administrative services shall be transferred to the budget of the Commission.

**Art. 149.** (1) All fees shall be received in the Commission budget and, up to the 15<sup>th</sup> day of the month following the month of entry in the Commission's budget, shall be transferred according to Art. 148, paragraph 2.

(2) Fees under this section shall not be charged to:

1. state authorities providing electronic communications for their own needs related to their responsibilities;

2. diplomatic representations and other organisations of a diplomatic mission statute, in case of provision of electronic communications for their own needs, on reciprocity basis.

## **CHAPTER NINE**

### **MARKETS FOR ELECTRONIC COMMUNICATIONS NETWORKS AND/OR SERVICES**

**Art. 150.** (1) The Commission shall identify, analyse and assess the relevant markets for electronic communications networks and/or services as to whether there is effective competition, in compliance with the general principles of the competition law and the specific national conditions, shall designate undertakings having significant market power and shall, where it deems necessary, impose, maintain, amend and/or withdraw specific obligations on the undertakings providing public electronic communications networks and/or services on the relevant markets, in order to meet the objectives of this Law.

(2) The conditions and order of identifying the markets, of carrying out analysis and assessment of the relevant markets, and the criteria to be applied in determining undertakings having significant market power shall be laid down in a Methodology.

(3) The Methodology under paragraph 2 shall be drafted by the Commission, in cooperation with the Commission for Protection of Competition, in compliance with the requirements of the *acquis communautaire*, and shall be adopted by a Decree of the Council of Ministers. The Methodology shall be adopted after public discussion according to Art. 36 and shall be promulgated in the State Gazette.

**Art. 151.** (1) The Commission shall, periodically, every two years, carry out analysis of and identify the markets of public electronic communications networks and/or services, and shall make conclusion on the existence or lack of effective competition.

(2) The draft decision of the Commission identifying the relevant market, the analysis and the assessment as to whether there is effective competition, including designation of undertakings having significant market power on the relevant market and the specific obligations to be imposed, maintained, amended and/or withdrawn shall be submitted, where necessary, to the Commission for Protection of Competition and shall be published on the Internet page of the Commission for public discussion for a period of at least 30 days.

(3) Within 30 days of the expiry of the period under paragraph 2, the Commission shall consider the opinions and proposals received, and shall publish on its Internet page those opinions and proposals, with the exception of the parts constituting commercial secret, the accepted proposals and the incorporation thereof in the draft, as well as the reasoning for the rejected proposals.



(4) The Commission shall, by decisions, adopt the analyses and the assessments of the relevant markets and the specific obligations to be imposed on the relevant undertakings having significant market power, and shall publish them on its Internet page.

(5) The Commission shall communicate the decisions under paragraph 4 to the European Commission.

**Art. 152.** (1) The markets of electronic communications networks and/or services, which are assessed as to effectiveness of competition, shall be product markets and geographic markets.

(2) The product market shall comprise all public electronic communications networks and/or services, which could be regarded by the users as substitutable in respect of their characteristics, purpose and prices.

(3) The geographic market shall comprise a given territory, in which the respective substitutable public electronic communications networks and/or services are being offered, and in which the conditions in regard of competition are equal and differ from those in the neighbouring regions.

(4) The Commission shall, by decision, identify the markets, in compliance with the requirements of the *acquis communautaire* and the national circumstances.

(5) In identifying the relevant product market the Commission shall follow the principles of the competition law and shall apply the following criteria:

1. high and not of temporary nature structural, legal or regulatory barriers to market entry, and
2. lack of possibility to stimulate and develop competition on the market for a period of up to one year ahead;
3. the competition law is not effective enough to overcome the barriers under item 1 and to restore competition on the relevant market.

**Art. 153.** (1) The undertakings providing public electronic communications networks and/or services shall provide to the Commission documents and information necessary for carrying out the analysis under Art. 151, paragraph 1. Commercial secret may not be a reason to refuse provision of documents and information.

(2) The documents and information under paragraph 1 shall be determined in the Methodology under Art. 150, paragraph 2.

(3) The members of the Commission and its administration must not disclose the information received under paragraph 1, in case it constitutes commercial secret. To this end they shall sign declarations in a form approved by decision of the Commission.

**Art. 154.** (1) The Commission shall carry out analysis of the effectiveness of competition on a relevant market according to the methods and principles of the competition law.

(2) A relevant market shall be considered effectively competitive when there is no undertaking providing electronic communications networks and/or services, which individually or jointly with other undertakings has significant market power on that market.

**Art. 155.** (1) Where on the basis of analysis of a relevant market the Commission finds that there exists effective competition, it shall not impose specific obligations on the undertakings providing public electronic communications networks and/or services in that relevant market.

(2) Where specific obligations had been imposed, the Commission shall withdraw those obligations of undertakings providing public electronic communications networks and/or services on the relevant market.

**Art. 156** (1) Where on the basis of analysis of a relevant market the Commission finds that the competition is not effective, it shall designate an undertaking or undertakings having significant market power and shall impose on that undertaking or those undertakings specific obligations.

(2) Where specific obligations had been imposed on the undertaking or undertakings having significant market power, the Commission shall maintain those obligations or amend them.

(3) Where designating a given undertaking as having significant market power, the Commission shall take into consideration, besides its market share on the relevant market, other criteria, such as:

1. overall size of the undertaking;
2. control of infrastructure not easily duplicated;
3. technological advantages or superiority and/or achieved level of technological development of the network;
4. insufficient or low buying power of the competitive undertakings;
5. easy or privileged access to capital markets and/or financial resources;
6. product/services diversification (e.g. bundled products and/or services);
7. economies of scale;
8. economies of scope;
9. vertical integration;
10. a highly developed distribution and sales network;
11. absence of potential competition;
12. barriers to entry and expansion of the relevant market.

(4) Where designating undertakings as having jointly significant market power, the Commission shall take into account, besides their market share on the relevant market, other criteria, such as:

1. mature market;
2. relatively stable growth on the demand side;
3. low elasticity of demand;
4. provision of homogeneous electronic communications networks and/or services;
5. similar cost structures of provision of electronic communications networks and/or services;
6. similar market shares of the undertakings designates as having a dominant position;
7. lack of technical development and innovation due to mature technological level of the network;
8. absence of excess capacity;
9. high barriers to entry in the relevant market;
10. insufficient or low buying power;
11. lack of potential competition;
12. existing formal or informal interrelations and/or links between the respective undertakings designated as having joint dominant position;
13. absent or small scope for price competition;
14. existing mechanisms of influence.

**Art. 157.** When the Commission determines the specific obligations to be imposed, maintained, amended or withdrawn it shall respect the following principles:

1. proportionality of the obligation imposed in the light of the reason found for ineffective competition and the result sought;
2. justification;
3. refraining from regulatory intervention on emerging markets even in existence of a market player or players with large market shares.

## CHAPTER TEN ACCESS AND INTERCONNECTION

### Section I General Provisions

**Art. 158.** Any undertaking providing public electronic communications networks shall have a right and, when requested by other undertakings, an obligation to negotiate interconnection of its networks for the purpose of providing public electronic communications services and ensuring interoperability of services.

**Art. 159.** (1) The undertakings providing public electronic communications networks shall freely negotiate access and/or interconnection and shall conclude contracts in writing.

(2) The undertakings shall submit to the Commission for information a copy of the contract or of the amendments thereof, within one month of concluding the contracts.

**Art. 160.** (1) Should undertakings fail to reach an agreement, the Commission may by decision impose an obligation for provision of network interconnection, in order to ensure end-to-end connectivity between users.

(2) The Commission may, on its own judgment, by decision impose on an undertaking providing public electronic communications networks an obligation to provide access to application programme interfaces or access to electronic programme guides, in order to ensure access for the end-users to specified digital radio and television broadcasting services.

(3) The Commission shall impose the obligations under paragraphs 1 and 2 in compliance with the principles of objectivity, transparency, proportionality and non-discrimination, and observing the procedures under Art. 37 and Art. 42.

**Art. 161.** (1) The undertakings providing public electronic communications networks for distribution of digital television services shall ensure that their networks are capable of distributing wide-screen television services and programmes.

(2) The undertakings providing public electronic communications networks that receive and redistribute wide-screen television services shall maintain the same wide-screen television format.

**Art. 162.** (1) The undertakings providing public electronic communications network and/or services and their staff shall respect the requirements for confidentiality with regard to the information received in the process of or in connection with negotiations for interconnection, and shall use that information solely for the purpose for which it was intended.

(2) The information under paragraph 1 shall not be made available to parties, for whom it could provide a competitive advantage.

(3) The undertakings providing public electronic communications network and/or services shall be obliged to provide the information under paragraph 1 relating to access and/or interconnection to the Commission for the purpose of exercising its powers under this chapter.

**Art. 163.** With regard to access and interconnection, the Commission may intervene at its own initiative, where necessary or on request of one of the parties, if they failed to reach an agreement, and when such an intervention is justified in view of securing the objectives under Art. 4 while observing the principles referred to in Art. 5.

**Art. 164.** The conditions and order of accomplishing access and/or interconnection shall be laid down in an Ordinance adopted by the Commission, which shall be promulgated in the State Gazette.

**Art. 165.** The undertakings providing public electronic communications networks and/or services on the territory of another Member State of the European Union may request access and/or interconnection in accordance with this Chapter.

### Section II Conditions for Access and Interconnection

**Art. 166.** (1) The Commission may impose, maintain, amend or withdraw specific obligations on undertakings with significant market power on a relevant market to provide efficient access and/or

interconnection, and interoperability of services, to the benefit of end-users and to encourage effective competition.

(2) The obligations under paragraph 1 which the Commission may impose in order to secure the objectives under Art. 4 shall be as follows:

1. transparency;
2. non-discrimination;
3. accounting separation;
4. access to and use of necessary network facilities and equipment;
5. price controls, including obligations for cost orientation.

(3) In accomplishing its functions under paragraph 1, the Commission shall respect the principles of objectivity, transparency, proportionality, and non-discrimination.

**Art. 167.** (1) The obligation of ensuring transparency involves publication of specified information, such as: accounting information, technical specifications, network characteristics, conditions and order of providing access and/or interconnection, terms of use, including prices.

(2) The Commission may specify the content of the information to be published, the level of detail required and the manner of publication, taking into consideration the need of protecting commercial secret.

(3) Where besides the obligation under paragraph 1 the undertaking under Art. 166, paragraph 1 has also an obligation for non-discrimination, the Commission may require that undertaking to publish a reference offer. The reference offer may include:

1. conditions for interconnection and access:
  - a) description of the services related to interconnection or access for each network, conditions and terms for provision thereof;
  - b) locations of the points of interconnection or access, conditions and terms for opening and/or closing;
  - c) network elements to which access is offered, including full access or shared access to the local loop;
  - d) standards and quality requirements;
  - e) other relevant information necessary for using the service.
2. co-location services:
  - a) information about the locations where co-location is offered. Availability of this information could be restricted to interested parties only, to ensure network security;
  - b) opportunities for co-location, including physical co-location and, if possible, distant co-location and virtual co-location;
  - c) conditions for access to computer support systems as well as information systems or databases for preliminary orders, provisioning, ordering, maintenance, repair requests and billing;
  - d) characteristics of and technical restrictions on the facilities, which could be co-located;
  - e) security measures;
  - f) access conditions for staff of competitive undertakings;
  - g) safety standards;
  - h) rules for the allocation of space, where co-location space is limited;
  - i) conditions for examination, on the part of competitive undertakings, of sites, where co-location is possible or sites where co-location was refused on grounds of lack of capacity.
3. conditions to be included in the contracts for access and interconnection:
  - a) time limits for responding to requests for provision of services, procedures for fault elimination, procedures for return to normal provision of service and service quality;

b) standard contract conditions, including, where appropriate, compensation for failure to meet time limits for provision of services;

c) conditions for providing carrier selection and carrier pre-selection;

d) conditions for number portability;

e) prices and pricing mechanism;

f) other relevant information necessary for using the service.

(4) The conditions referred to in paragraph 3, item 3, letter “c” shall apply to undertakings having significant market power on the relevant retail market.

(5) The prices referred to in paragraph 3, item 3, letter “e” shall have unbundled structure allowing charging only for the service required by the undertaking providing public electronic communications networks, when that service can be provided independently.

(6) Where an undertaking providing public electronic communications networks has an obligation for provision of unbundled access to the local loop, the Commission shall impose on that undertaking an obligation for publication of a reference offer.

(7) The Commission shall, by decision made in accordance with Art. 37, observing the principles under Art. 5 and in view of securing the objectives under Art. 4, approve the reference offers without comment or oblige the undertakings to amend their reference offers.

(8) The individual contracts concluded between the undertakings may not contradict the reference offer.

(9) The reference offer may be amended on the initiative of the undertaking having that obligation, or on the initiative of the Commission according to paragraph 7.

**Art. 168.** The obligation of ensuring non-discrimination shall cover offering of equal conditions in similar circumstances to other undertakings providing equivalent electronic communications services, as well as offering services and information under the same conditions and of the same quality as the services offered by that undertaking to its subsidiaries or partners, and to the undertakings with which a contract had already been concluded.

**Art. 169. (1)** The obligation of ensuring accounting separation may be imposed in relation to provision of access and/or interconnection.

(2) Where an obligation for non-discrimination under Art. 168 has been imposed, the Commission may oblige a vertically integrated undertaking to ensure transparency of the wholesale prices of the services and of the internal transfer prices.

(3) The Commission may also impose the obligation under paragraph 2 when it considers that there exists a possibility for violation of the ban on cross-subsidy.

(4) The Commission may, after consultation with the undertaking in question, specify the format and the accounting methodology to be used for determination of prices.

(5) To ensure implementation of the obligations under paragraphs 2 and 4, the Commission may require from the undertakings providing public electronic communications networks accounting data and information, including data on revenues received by third parties.

(6) The Commission may publish the information received when it would contribute to creating conditions for effective competition, while respecting the requirements concerning commercial secret.

**Art. 170. (1)** The obligation for price controls and cost orientation for specified types of access and/or interconnection shall include determination of prices on the basis of costs and application of a cost accounting system, with the aim to ensure effective and sustainable competition and maximal benefit for the users.

(2) The obligation under paragraph 1 shall be imposed when the Commission finds, on the grounds of the analysis under Art. 151, that the competition on the market is not effective due to the presence of an undertaking with significant market power which is able to keep prices excessively high or apply a price squeeze to the detriment of end-users.

(3) Where imposing the obligation under paragraph 1, the Commission shall take into account the investment made by the undertaking providing public electronic communications networks and allow a reasonable rate of return on adequate capital employed, taking into account the risk involved.

(4) Where imposing the obligation the Commission may take into account the level of prices in comparable effectively competitive markets.

**Art. 171.** (1) Where the obligation referred to in Art. 170, paragraph 1 is imposed on an undertaking providing public electronic communications networks that is designated as having significant market power on a relevant market, the burden of proof that the prices are cost-oriented shall lie with that undertaking.

(2) The Commission may use an independent method of cost accounting in order to calculate the costs on the basis of effectiveness of service provision.

(3) The Commission may require the undertaking under paragraph 1 to provide full justification for its prices and may, where necessary, require prices to be changed.

**Art. 172.** (1) Where an obligation for application of a cost accounting system is imposed, the description of the relevant system shall be made publicly available. That description shall contain at least the main categories under which the costs are grouped, and the rules for the allocation of costs.

(2) The Commission shall order verification of the application of the cost accounting system by an independent auditor. The results of the verification shall be published annually.

### Section III

#### Access to and use of necessary network facilities and equipment

**Art. 173.** The obligation for provision of access to and use of necessary network elements and/or facilities may be imposed on an undertaking having significant market power when the Commission deems it appropriate, including when the denial of provision, or the setting of terms and conditions equivalent to denial, would hinder the development of a sustainable competitive market of retail services or would be detrimental to end-users.

**Art. 174.** (1) The Commission may impose the obligation under Art. 173 and require:

1. third parties to be given access to specified network elements and/or facilities, provision of unbundled access to the local loop;
2. negotiating in good faith with undertakings requesting access;
3. maintaining access already granted;
4. provision of specified services on a wholesale basis for resale by third parties;
5. granting open access to technical interfaces, protocols or other key technologies, that are necessary to ensure interoperability of services or to provide services over virtual networks;
6. provision of co-location and other forms of shared use, including sharing of ducts, towers, buildings and other equipment and technical facilities;
7. provision of specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks;
8. provision of access to operational support systems or similar software systems to ensure effective competition in the provision of services;
9. interconnection of networks or network facilities.

(2) When imposing the requirements under paragraph 1, the Commission may attach to them conditions for fairness, reasonableness and timeliness.

**Art. 175.** When imposing the obligation under Art. 173 the Commission shall observe the principle of proportionality by taking into consideration:

1. the technical and economic viability of using or installing facilities of competing undertakings providing public electronic communications networks and/or services, in the light of market development and the nature and type of interconnection and access involved;
2. the possibility to provide access, in relation to the capacity available;
3. the initial investment made and the risk involved;
4. the need to safeguard competition in the long term;
5. the relevant intellectual property rights, where applicable;

6. the provision of pan-European services;
7. specific obligations imposed on the same undertaking concerning adjacent linked markets.

**Art. 176. (1)** Where imposing an obligation under Art. 173 involving a requirement to provide unbundled access to the local loop, the Commission shall also oblige the undertaking providing public electronic communications networks to publish a reference offer.

(2) The reference offer shall contain at least:

1. conditions for unbundled access to the local loop:
  - a) the network elements, to which access to the local loop and/or access to the non-voice frequency band of the local loop is offered, the latter in the case of shared access;
  - b) information concerning the locations of physical access to the network (in view of ensuring network security this information could be provided to the interested parties only); availability of local loops in specific parts of the access network;
  - c) technical conditions related to the access to and use of the local loop, including technical characteristics of the twisted metallic pair in the local loop;
  - d) terms and conditions for placing orders and for use, and restrictions.
2. co-location services:
  - a) information about the sites of co-location. In view of ensuring network security this information could be provided only to the interested parties;
  - b) options for co-location, including physical sharing and, where possible, distant and virtual co-location;
  - c) characteristics and technical restrictions for the equipment that can be co-located;
  - d) security measures;
  - e) access conditions for staff of competing undertakings;
  - f) safety standards;
  - g) rules for allocation of space, where the space is limited;
  - h) conditions under which competing undertakings can examine possible sites for co-location, or sites where co-location has been refused on grounds of lack of capacity.
3. conditions for access to operational support systems, as well as to information systems or databases for pre-ordering, provisioning, ordering, maintenance, repair requests, and billing.
4. conditions for provision of unbundled access:
  - a) time limit for provision of services and facilities;
  - b) agreements concerning the quality level of services and servicing, fault detection, procedures to return to a normal level of service and quality of service parameters;
  - c) standard contract conditions, including, where necessary, compensations due for failing to meet services provision time limits;
  - d) prices and pricing mechanism.

**Art. 177. (1)** For reasons associated with environment protection, public health and public security, the Commission may by decision impose an obligation for co-location and other forms of shared use, including shared use of ducts, towers, buildings and other equipment and technical facilities.

(2) Before taking the decision under paragraph 1, the Commission shall carry out public discussion according to the procedure under Art. 36.

#### **Section IV** **Protected services and conditional access**

**Art. 178. (1)** Protected services shall be the following services, provided on the basis of conditional access and against remuneration:

1. radio broadcasting;
2. television broadcasting;
3. information society services;
4. provision of conditional access to the services under items 1, 2 and 3.

(2) Access to a protected service shall be allowed by means of a conditional access device provided by the protected service provider.

**Art. 179. (1)** The systems for conditional access to digital radio and television programmes, regardless of the means of transmission, shall have the technical capability for cost-effective control on the part of the undertakings providing electronic communications networks over the protected services provided on the basis of conditional access.

(2) The undertakings under paragraph 1 that control conditional access systems shall offer to the radio and television broadcasting operators and protected service providers technical means enabling their digitally transmitted services to be received by listeners and viewers authorized by means of decoders.

(3) The decoders shall be administered by the undertakings providing conditional access services.

(4) The technical means under paragraph 2 shall be provided to the radio and television broadcasting operators and protected service providers on fair, reasonable and non-discriminatory conditions.

(5) The undertakings providing conditional access shall keep separate accounting for the service under paragraph 2.

**Art. 180. (1)** The rights for manufacturing of conditional access products and systems, that are subjects of industrial property right, shall be granted on fair, reasonable and non-discriminating conditions.

(2) The granting of rights under paragraph 1 shall not be subject to conditions prohibiting, deterring or discouraging inclusion in the same product of:

1. a common interface allowing connection of one or more access systems;
2. means specific for other access systems, provided that reasonable conditions are respected ensuring security of information exchange with the operators of conditional access systems.

**Art. 181.** The Commission may impose on the undertakings under this section obligations to provide access to electronic programme guides and access to application programme interfaces.

## **CHAPTER ELEVEN UNIVERSAL SERVICE**

### **Section 1 Characteristics and Scope of the Universal Service**

**Art. 182. (1)** Universal service shall mean a set of services, of specified quality, available to all end-users regardless of their geographical location on the territory of the country, at an affordable price.

(2) The universal service shall include:

1. connection at a fixed location to the public telephone network and access to public telephone services, regardless of the technology used;
2. provision of public pay telephones, of specified quality, which ensure, inter alia, the possibility to make emergency calls, free of charge, to national numbers and to the single European emergency call number „112“;
3. provision of a telephone directory of the numbers of all subscribers to public telephone services;
4. provision of telephone inquiry services available to all end-users, including users of public pay telephones;



5. provision of emergency calls, free of charge, to national numbers and to the single European emergency call number „112“;

6. provision of access to public telephone services, including the emergency call services, telephone directory and inquiry services for disabled people, similar to those enjoyed by other end-users.

(3) The quality of the service under paragraph 1 shall be determined by requirements and parameters, laid down in an ordinance of the Chairperson of the State Agency for Information Technology and Communications.

## **Section II**

### **Provision of universal service**

**Art. 183.** (1) The undertakings obliged to provide the service under Art. 182, paragraph 2, item 1, shall meet any justified request for connection at a fixed location to the public telephone network and access to public telephone services.

(2) The connection under paragraph 1 shall provide a possibility to make local, national and international calls, facsimile communications and data transfer at an appropriate rate to allow functional access to the Internet.

**Art. 184.** (1) The undertakings obliged to provide the service under Art. 182, paragraph 2, item 2, shall ensure:

1. a definite number of public pay telephones according to their geographical coverage in order to meet the needs of end-users;

2. access to the public pay telephones for disabled people;

3. quality of services.

(2) The undertakings under paragraph 1 shall provide access to emergency call services, including access to telephone number „112“, through public pay telephones without using coins, tokens, cards or other means of payment.

**Art. 185.** (1) The undertakings obliged to provide the universal service under Art. 182, paragraph 2, item 3 shall publish a telephone directory according to the requirements of this law, in a form approved by the Commission, in printed and/or electronic version. The electronic version of the directory shall be updated annually and the written version – at least every three years.

(2) The directory under paragraph 1 shall be generally accessible.

**Art. 186.** The undertakings obliged to provide the universal service under Art. 182, paragraph 2, items 3 and 4 shall abide by the principle of non-discrimination and reciprocity when processing the information provided by other undertakings.

**Art. 187.** (1) The undertakings obliged to provide universal service shall take special measures to ensure access for disabled people to public telephone services, including the emergency call services, telephone directory and enquiry services, similar to those enjoyed by other end-users.

(2) The undertakings under paragraph 1 shall offer to end-users with visual or hearing impairments a telephone directory, enquiry services, contracts and itemized bills in the appropriate form.

(3) The undertakings under paragraph 1 shall create conditions to ensure access for disabled people to public pay telephones.

(4) The conditions, the order and the means of providing the universal service to disabled people shall be laid down in the ordinance under Art. 182, paragraph 3.

**Art. 188.** (1) The undertakings obliged to provide universal service shall publish on their Internet page and provide to the Commission up-to-date information on compliance with the universal service obligation, in accordance with the requirements and service quality parameters and the methods for evaluation of coverage, retail prices, revenues and costs related to service provision, number of requests and refusals, including the reasons thereof.

(2) The Commission shall specify the form, manner and time-limits for provision of the information under paragraph 1.

(3) When continuous non-compliance with the obligations under paragraph 1 is established, the Commission may assign inspection by an independent auditor at the expense of the undertaking.

**Art. 189.** The Commission shall prepare a consolidated annual report on the degree of provision of the universal service to the public and shall publish it on its Internet page. This report shall be an integral part of the Commission's report under Art. 38.

### **Section III Designation of undertakings with universal service obligation**

**Art. 190.** (1) The Commission shall assign to one or more undertakings, providing public electronic communications networks and/or services, the provision of all or some of the services under Art. 182, paragraph 2 for the purpose of ensuring universal service provision on the whole territory of the country.

**Art. 191.** (1) The Commission shall assign, including after a contest procedure, the provision of universal service in compliance with the corresponding rules laid down in Chapter Five, in compliance with the principles of objectivity, transparency and non-discrimination, and in the interest of the end-users, without excluding a priori any undertaking from the opportunity of being assigned the provision of universal services or a part thereof.

(2) When designating the undertakings under Art. 190, the Commission shall consider the most expedient economic manner for provision of the universal service, which may be used for calculating the net costs of the universal service obligation.

**Art. 192.** The Commission may decide not to assign the obligations under Art. 184, paragraph 1, on the whole territory of the country or part thereof, if, after consultation with the interested parties, it finds that such devices, facilities or similar services are satisfactory and widely available.

**Art. 193.** The order of selection of undertakings providing public electronic communications networks and/or services, and of assigning an obligation for universal service provision shall be laid down in the ordinance under Art. 182, paragraph 3.

**Art. 194.** The Commission shall notify the European Commission of the undertakings designated under this section and the obligations imposed.

### **Section IV Affordability of the universal service**

**Art. 195.** (1) The manner of determining the universal service prices and price packages shall be laid down in a methodology drafted by the Commission and adopted by the Council of Ministers.

(2) The draft methodology under paragraph 1 shall be published for public discussion according to Art. 36.

**Art. 196.** (1) The undertakings, providing public electronic communications networks and/or services, shall determine the universal service prices and price packages on the basis of the methodology referred to in Art. 195.

(2) The undertakings under paragraph 1 shall submit for approval by the Commission the prices and price packages under paragraph 1, together with the pricing documents, at least 60 days prior to their entry into force.

(3) The Commission shall consider the prices and price packages under paragraph 1 within 30 days of their submission and may oblige the undertakings under paragraph 1 to adjust the prices and price packages in accordance with the requirements of this Law and the methodology under Art. 195.

(4) The undertakings under paragraph 1 shall publish the universal service prices and price packages, approved by the Commission, at least 14 days prior to their entry into force.

**Art. 197.** (1) The Commission may oblige the undertakings providing universal service to apply geographically averaged retail prices for the whole territory of the country or to comply with price caps in accordance with the methodology under Art. 195.

(2) The undertakings, providing universal service under Art. 182, paragraph 2, item 1, shall offer price packages, different from those offered under normal commercial conditions, to disabled people, people with special social needs and people with low income.

**Art. 198.** (1) The undertakings obliged to provide the service under Art. 182, paragraph 2, item 1, shall ensure possibilities for the end-users to monitor and control their expenditure by themselves, by:

1. free of charge provision of itemized bills;
2. free of charge selective call barring for outgoing calls;
3. provision of means for pre-paid access to public telephone networks and use of public telephone services;
4. payment in instalments of the fees for connection to public telephone networks;
5. advance notice on service suspension in case of default payment of bills, while maintaining the possibilities for emergency calls, within one month after services suspension;

(2) The manner of using the possibilities under paragraph 1 shall be laid down in the General Conditions for the relations between the undertaking and end-users.

(3) The Commission may decide not to impose the obligations under paragraph 1, on the whole territory of the country or a part thereof, if it finds out that there are sufficient possibilities for monitoring and control of expenditure by the end-users.

**Art. 199.** No charges shall be due by end users for facilities and services, offered by the undertakings providing universal service, which facilities or services are not necessary or inherent for the service provision.

## **Section V**

### **Compensation of net costs of universal service provision**

**Art. 200.** (1) The undertakings obliged to provide universal service may request a compensation for proven net costs when the provision of the universal service represents an unfair burden to them.

(2) The existence of unfair burden shall be established on the basis of the net costs, taking account also of the intangible benefits to the undertaking under paragraph 1, associated with provision of the universal service or a part thereof, provided that:

1. the said provision leads to losses or is offered on prices below normal commercial profit;
2. the undertaking's share of the revenues of the public telephone services retail market is not above 80 percent.

**Art. 201.** (1) The Commission shall draft and adopt rules for calculation of the net costs of universal service provision.

(2) The undertakings obliged to provide universal service under Art. 182, paragraph 2, item 1, shall determine the amount of the net costs of universal service provision according to the rules under paragraph 1.

(3) The documents related to the calculation of the net costs of universal service provision shall be submitted to the Commission and audited by an independent auditor appointed by the Commission.

(4) The results of the net cost calculation and the audit on compliance with the rules for price determination according to the methodology under Art. 195, as well as the costs of service provision shall be publicly available.

**Art. 202.** (1) The resources for compensation of the net costs of universal services provision shall be collected in a Universal Service Compensation Fund, hereinafter referred to as "the Fund". The recourses for compensation of the net costs of universal service provision may be collected also from other sources, budget resources or public funds.

(2) The Fund shall be a legal entity with a seat in Sofia.

(3) The Audit Office shall exercise control over the activity of the Fund.

(4) The Fund shall be exempt from state and local taxes and fees only for the operations related to compensation of the net costs of the universal service. The resources of the Fund shall be kept in the Bulgarian National Bank.

(5) The Fund shall be transformed, terminated and liquidated by a law.

**Art. 203.** (1) The Fund shall be managed by a management board consisting of seven members, including a Chairperson and a Deputy Chairperson, who shall be appointed as follows:

1. the Chairperson – by the Communications Regulation Commission;
2. the Deputy Chairperson – by the Chairperson of the State Agency for Information Technology and Communications;
3. one member – by the Governor of the Bulgarian National Bank;
4. one member – by the Minister of Labour and Social Policy;
5. one member – by the Minister of Finance;
6. one member – by the Commission for Protection of Competition;
7. one member – by the Consumer Protection Commission.

(2) Annually, not later than 31 May, the management board of the Fund shall prepare a report for the previous year and submit it to the Chairperson of the State Agency for Information Technology and Communications, the Minister of Finance, the Minister of Labour and Social Policy, the Governor of the Bulgarian National Bank, the Communications Regulation Commission, the Commission for Protection of Competition and the Consumer Protection Commission. The report shall include:

1. the amount of the net costs incurred by the provision of universal service;
2. evaluation of the intangible benefits to undertakings providing universal service;
3. the amount of the contributions of the undertakings to the Fund;
4. the amount of the funds spent;

(3) The report under paragraph 2 shall be published on the Internet page of the Communications Regulation Commission.

**Art 204.** (1) The decisions of the management board shall be taken by simple majority. The decisions shall be publicly available.

(2) The management board shall draft and adopt rules for the activity of the Fund.

(3) The administrative support of the Fund shall be provided by the administration of the Commission.

**Art. 205.** The resources of the Fund shall be spent only for compensation of net costs incurred by universal service provision, according to this section.

**Art. 206.** (1) The undertakings providing public telephone services shall pay contributions to the Fund in accordance with this section.

(2) The amount of the contributions referred to in paragraph 1 for the respective year may not exceed 0.8 per cent of the gross revenue from provision of public telephone service, exclusive of VAT, after deduction of the transfer payments to other undertakings for interconnection of networks and for access, transit, roaming, value added services.

(3) The undertakings under paragraph 1 shall pay the contributions within one year of the effect of the decision under Art. 208, paragraph 2. Failure to meet the deadline for payment of the contributions shall be considered a material violation of the Law. In case of delay of payment a legal interest shall be imposed over the contributions.

(4) The contributions of the undertakings under paragraph 1 shall be considered inherent costs of their activity.

**Art. 207.** (1) Applications for compensation of net costs of universal service provision for the previous calendar year, accompanied by the required evidence, shall be submitted to the Commission by the undertakings under Art. 206 by 30 June of the current year.

(2) The Commission shall, within 45 days of the end of the public discussion procedure under Art 36, deliver opinion on:

1. the existence of unfair burden, including the importance of the intangible benefits from the universal service provision to the relevant undertaking under Art. 206;
2. the amount of the compensation requested by the respective applicant.

(3) Within the time-limit under paragraph 2 the Commission may require from the applicants to provide, within 7-days, additional information and/or evidence.

(4) The Commission shall present to the management board the opinion under paragraph 2 and the related documents as well as data on the gross revenues of the undertakings referred to in Art. 206, paragraph 1.

**Art. 208.** (1) Within 7-days of receipt of the opinion under Art. 207, paragraph 4, the management board shall make a decision on the total amount of the compensation due to all applicants for the previous year, as well as on the actual amount payable to each of them.

(2) By the decision the management board shall determine the percentage of the gross revenue and forecasted nominal amount of the contribution to the Fund for each undertaking under Art. 206.

(3) Within 13 months of the effect of the decision under paragraph 2 the Fund shall pay the compensations due to the applicants. For taxation purposes the compensation amount shall be deducted from the financial result of the undertakings under Art. 206 providing universal service.

(4) The compensations under paragraph 3 shall be payable in equal quarterly instalments.

(5) In case the total amount of the compensation due to all applicants exceeds the amount of the resources of the Fund, designated for compensation of net costs for the preceding year, the compensations shall be paid up in proportion to the ratio of the total amount of compensation due to all applicants to the total amount of the Fund resources for the relevant year. The remaining portion of the compensation that has not been paid up shall be due in the following year.

## **CHAPTER TWELVE LEASED LINES**

**Art. 209.** The undertakings providing public electronic communications networks and/or services shall provide leased lines on a commercial basis.

**Art. 210.** (1) The undertakings that on the grounds of analysis of the retail market have been designated by the Commission as a having significant market power on the market for provision of part or all of the leased lines from the minimum set shall provide the relevant lines in compliance with the principles of non-discrimination, cost orientation and transparency.

(2) The Commission may impose on the undertakings referred to in paragraph 1 an obligation to provide the relevant leased lines from the minimum set on the territory of the country or on parts thereof.

(3) The leased lines included in the minimum set shall be specified by the European Commission and shall be published in the Official Journal of the European Union.

**Art. 211.** In order to comply with the principle of non-discrimination the undertakings referred to in Art. 210, paragraph 1 shall offer equal conditions to other undertakings, providing equivalent type of services, and shall provide the relevant leased lines from the minimum set to other undertakings under the same conditions and of the same quality as they provide for their own needs or to persons related to them.

**Art. 212.** (1) In order to comply with the principle of cost orientation the undertakings referred to in Art. 210, paragraph 1 shall apply a cost accounting system as referred to in Art. 170, paragraph 1 to determine the prices of the relevant leased lines from the minimum set.

(2) On Commission's request the undertakings referred to in paragraph 1 shall provide evidence concerning the cost orientation of prices.

**Art. 213.** (1) In order to comply with the principle of transparency the undertakings referred to in Art. 210, paragraph 1 shall publish General Conditions of provision of the relevant leased lines from the minimum set, which shall include:

1. technical characteristics, including the physical and electrical characteristics as well as the detailed technical and performance specifications which apply at the electronic communications network termination point;

2. prices, including prices for initial connection and for maintenance;

3. supply conditions, such as:

a) ordering procedure;

b) delivery period, which is the period counted from the date when the user has placed an order for a leased line up to the moment when 95 percent of the ordered leased lines of the same type have been provided to the user; this period shall be calculated on the basis of the actual delivery periods of leased lines during the last 6 months. The calculation shall not include cases where late delivery periods are requested by users.

c) contractual period for use of the line;

d) repair time, which is the period, counted from the date when a failure message has been given, up to the moment when 80 percent of all leased lines of the same type have been re-established and the user has been informed of the latter; where different classes of quality of repair are offered for the same type of leased lines, the different repair times shall be specified.

e) liability in case of non-compliance with the contract.

(2) The General Conditions shall be subject to approval by the Commission after public discussion in accordance with Art. 36.

(3) In case of a specific request of a user and subject to approval by the Commission, the undertakings referred to in Art. 210, paragraph 1 may provide the relevant leased lines from the minimum set on conditions that differ from those referred to in paragraph 1.

**Art. 214.** The Commission may withdraw the obligations imposed on the undertakings with significant market power on the retail market of leased lines from the minimum set when the market is effectively competitive.

**Art. 215.** The Commission may impose on undertakings with significant market power on the relevant wholesale leased lines markets the obligations referred to in Art. 166, paragraph 2.

## **CHAPTER THIRTEEN PRICES**

**Art. 216. (1).** The undertakings providing public electronic communications networks and/or services shall determine prices according to demand and supply, ensuring non-discrimination of the users, the categories of end-users, traffic volume and other conditions related to freedom of negotiation.

(2) The undertakings providing public electronic communications networks and/or services may offer price packages for services, ensuring, however, the right of the user to use services not bound in a package at prices that are not included in the price package.

(3) The undertakings providing public electronic communications networks and/or services may offer discounts for the services used under publicly known conditions, if available to anyone who meets the preliminary announced conditions of provision.

(4) The undertakings providing public electronic communications networks and/or services shall submit their retail prices to the Commission for information 3 days prior to their coming into effect.

(5) The undertakings providing public electronic communications networks and/or services shall publish the prices on their Internet pages or at a place accessible to users.

**Art. 217.** The Commission may regulate prices of electronic communications services in the event that:

1. an obligation of price controls and/or cost orientation has been imposed on an undertaking with significant market power on a relevant market by decision adopted according to this Law;

2. this Law provides for cost orientation of the prices set by the undertakings.

**Art. 218.** The undertakings providing public electronic communications networks and/or services, on which a specific obligation for cost orientation and application of a cost accounting system has been imposed, shall submit to the Commission, annually, within 4 months of settling the financial year accounts, detailed information on the costs by services.

**Art. 219. (1)** The undertakings under Art. 218 providing public electronic communications networks and/or services shall submit to the Commission, one month prior to their publication, the prices of the regulated electronic communications services together with the pricing documents.

(2) Where the prices do not comply with the specific obligations imposed, or with the requirements set in the law the Commission shall send them back to the undertakings referred to in paragraph 1 for adjustment within one month.

(3) Once in 6 months the Commission may require from the undertakings referred to in Art. 218 to present within one month evidence for cost orientation of prices.

(4) If the undertakings under paragraph 1 fail to revise the prices or prove their cost orientation within the one month period under paragraph 3, the Commission may determine price caps in accordance with the specific obligations imposed or with the provisions of the law, for a period of up to 6 months.

(5) The undertakings referred to in Art. 217, item 1 shall determine the prices of their services so as to comply with the following conditions:

1. not to contain pricing elements based solely on the significant power of the undertaking on the relevant market;

2. not to contain discounts which hamper the opportunities for competition of other undertakings providing the relevant electronic communications service;

3. not to create advantages for definite users of the same or similar electronic communications service;

4. not to be below the level of the costs for their provision.

(6) On retail markets, the undertakings under Art. 217, item 1 shall comply, besides the conditions referred to in paragraph 5, with the obligation not to apply price squeeze.

**Art. 220.** (1) The Commission may impose price controls and requirements for cost orientation in respect of prices for access and interconnection of undertakings with significant market power on the relevant wholesale market.

(2) In case of imposing price controls under paragraph 1, the Commission may use one of the following methods:

1. limiting by a pre-determined price cap the increase of prices of services;

2. comparative analysis of the prices set by the undertaking and the prices charged for the same services on comparable competitive markets in other Member States of the European Union;

3. setting a time-schedule for gradual decrease of prices for a definite period of time, after which the level of prices has to reach a pre-determined level.

(3) The cost oriented prices shall be determined by the undertakings in compliance with the cost accounting system, where this is foreseen in this law and is imposed by decision of the Commission.

**Art. 221.** (1) The Commission may regulate retail prices for electronic communications services provided by undertakings with significant market power on a relevant retail market, in accordance with the conditions and order of this Law, when it considers that imposing of specific obligations under Chapter Ten and under Art. 135 would not lead to achieving the objectives referred to in Art. 4.

(2) The Commission may impose on undertakings with significant market power on a relevant retail market the specific obligations under Art. 166, paragraph 2, items 1, 2 and 5.

(3) In view of end-users protection and promotion of competition the Commission may, within the scope of the obligations under paragraph 2, impose on the undertakings referred to in paragraph 1 one or more of the following obligations:

1. limiting by a pre-determined price cap the increase of retail prices;

2. control over the prices for end-users;

3. setting of cost-oriented retail prices;

4. setting of prices oriented towards prices for one and the same or similar services on comparable relevant markets in other Member States of the European Union;

(4) The obligations under paragraph 3 may be imposed when the undertakings under paragraph 1:

1. apply unjustified high prices, or
  2. apply prices that impede competition or entry of other undertakings in the relevant market,
- or
3. treat preferably certain end-users, or
  4. apply unjustified binding of services.

(5) The Commission shall provide to the European Commission on request information about the price controls imposed on retail markets as well as about the applicable cost accounting system, where such an obligation is imposed.

(6) The undertakings on which obligations have been imposed under paragraph 3 shall apply a cost accounting system according to Art. 222.

**Art. 222.** (1) The Commission may require the undertakings referred to in Art. 217, item 1 to design and apply a cost accounting system where this is necessary in order to achieve the objectives under Art. 4, in compliance with the principles referred to in Art. 5.

(2) The undertakings under paragraph 1 shall, within 6 months of imposition of the obligation under paragraph 1, submit to the Commission a draft of the cost accounting system. After consultation with the undertakings, the Commission may request information on the principles and main categories under which costs are grouped, and the basic rules of cost accounting.

(3) After consultation with the undertakings under paragraph 1, the Commission may require amendments and supplements to the cost accounting system, which shall not threaten the financial viability of the undertaking under paragraph 1.

(4) The Commission may open public consultation according to Art. 36 on key elements of the submitted cost accounting system.

(5) The Commission may issue binding directions to the undertakings under paragraph 1 to amend the cost accounting system.

(6) The Commission shall approve the cost accounting system within two months of submission under paragraph 2.

(7) The undertakings under paragraph 1 shall ensure that the principles and main categories under which costs are grouped, and the basic cost accounting rules are up-to-date and publicly available, and shall provide the information on request, free of charge.

(8) The undertakings under paragraph 1 shall publish an annual report containing analysis on fulfilment of the obligation for cost orientation of the public electronic communications networks and/or services.

(9) The undertakings under paragraph 1 and/or the Commission may initiate motivated changes in the cost accounting system, in accordance with this article.

(10) The Commission may order an audit of the application of the cost accounting system which shall be carried out by an independent auditor.

**Art. 223.** (1) The undertakings providing public electronic communications networks and/or services shall publish clear and accurate information about the prices on the retail markets which must not mislead the end-users as to the conditions and prices for the relevant services provided.

(2) The information under paragraph 1 must contain also details on the manner of charging, the initial or one-off price and the usage price, including the starting and ending of its charging time according to the manner of pricing chosen.

**Art. 224.** The prices of the electronic communications services referred to in Chapter Eleven shall be determined by the undertakings obliged to provide universal service, in compliance with the Methodology under Art. 195, paragraph 1.

## **CHAPTER FOURTEEN PROTECTION OF END-USERS INTERESTS**

**Art. 225.** The undertakings providing electronic communications services shall offer those services to end-users respecting the principles of transparency, proportionality and non-discrimination in accordance with the type of technology used, the categories of subscribers, the traffic volume and



the way of payment, and shall not offer advantages to individual end-users or a group of end-users for one and the same services.

**Art. 226.** (1) The undertakings providing public telephone services shall prepare General Conditions of the contract with end-users when it is practically not possible to conclude individual contracts only.

(2) The General Conditions shall enter into force with respect to the end-user when he/she signs an individual contract in writing or when he/she starts using the service.

(3) The General Conditions shall be an integral part of the individual contract between the undertaking and the end-user.

**Art. 227.** (1) The General Conditions of the contract with end-users must include:

1. identification data of the undertaking providing electronic communications services;
2. telephone number (fax, electronic address), address for contact;
3. types of services, description and quality of services;
4. conditions and deadlines for payment for the services offered;
5. maintenance of the services offered;
6. special measures for people with disabilities;
7. rights and obligations of the undertaking and of the end-users;
8. provision of information concerning prices and price packages, new services, etc. under this contract;
9. procedures for handling and resolution of complaints, requests and proposals of end-users, as well as procedures of resolution of contract related disputes;
10. liabilities for non-compliance with the contract;
11. conditions and order of suspending service(s) provision in case of non-payment of due charges or in case of violation of contractual conditions on the part of the end-users, or on the part of the undertaking related with usage of the service(s);

(2) The General Conditions shall include obligations of the undertaking to:

1. send an advance notice of interruptions or lower quality of services in the event of preventive maintenance, repair works or works associated with development of the electronic communications network, as well as of the duration of interruption or lower quality of service;
2. notify the end-users of amendments in the General Conditions at least one month prior to entry into force of the amendments;
3. notify the end-user in advance and in writing when requiring access to his/her premises;
4. make publicly available a contact address and/or telephone number in case of faults and for provision of information;
5. ensure access free of charge to the emergency call services, in case of provision of public telephone services, until termination of the contract according to the order envisaged in the General Conditions;
6. provide information about the availability of "calling line identification" and "connected line identification" functions of the electronic communications network where public telephone services are being offered;
7. retain, for a definite period, data necessary for billing purposes.

(3) The undertakings shall prepare and publish a price list of the services which shall include prices for the services offered, price packages or tariffs, and usage conditions.

**Art. 228.** The individual contract under General Conditions between the undertaking providing public telephone services and the end-user shall specify, at least:

1. identity of the end-user;
2. telephone number (fax, electronic address) and address of the end-user;

3. type and description of services;
4. period of use of services;
5. prices, price packages or tariffs, payment conditions and deadlines;
6. conditions for extension and termination of the individual contract.

**Art. 229.** Where undertakings provide electronic communications services only on the basis of an individual contract with the end-users, the contract shall include, in addition to the information under Art. 228, the following information:

1. quality of service parameters and liabilities, including payment of compensations or damages, in case of failing to meet those parameters;
2. maintenance conditions for the services offered;
3. manner of provision of up-to-date information about all prices;
4. procedures of resolution of disputes related to the contract.

**Art. 230. (1)** The undertakings shall publish their General Conditions or amendments thereof on their Internet page and shall make them easily seen at their business sites, or make them otherwise available, not less than 30 days prior to entry into force.

(2) In the event of amendment of the General Conditions, every end-user shall have the right to terminate the individual contract without sanctions within one month of entry into force of the said amendments.

(3) Paragraph 2 shall not apply, where:

1. the amendments to the General Conditions result from applicable legislation or from an act of the Commission;
2. the individual contract includes discounts in favour of the respective end-user.

**Art. 231. (1)** The undertakings providing public electronic communications services shall ensure free access at least to:

1. the General Conditions of the contract with end-users, if applicable;
2. up-to-date information about prices and price packages;
3. up-to-date information about the quality of services offered.

(2) The undertakings providing public telephone services shall maintain available on their Internet page up-to-date information about:

1. name, address, telephone number for contact with the undertaking;
2. telephone services offered:
  - a) access prices, all kinds of usage prices, including information concerning discounts and special price packages;
  - b) compensations and reimbursement of costs, including detailed information on the compensation schemes applied;
  - c) types of maintenance services;
  - d) contract conditions, including minimal duration of contract, where applicable.
3. procedure for resolution of disputes between the undertaking and end-users;
4. information about rights related to the possibilities under Art. 198, paragraph 1.

(3) The undertakings providing universal service shall maintain on their Internet page up-to-date information about the public telephone services offered, including amount of the monthly rental and prices of operator services, directory inquiry services, selective call barring, maintenance, and others.

**Art. 232. (1)** The undertakings providing a universal service shall, one month before starting provision of the service, submit to the Commission for approval General Conditions of the contract with end-users of the said service.

(2) In case of non-compliance of the General Conditions with the requirements under Art. 227, the Commission shall, within 14 days of submission, inform the undertakings under paragraph 1, giving them directions and a time-limit to remove non-compliant conditions.

(3) After removing the non-compliant conditions, the undertakings under paragraph 1 shall submit the General Conditions to the Commission.

(4) The Commission shall approve the General Conditions of undertakings providing a universal service within 14 days of the initial submission or from the adjustments in accordance with the directions referred to in paragraph 2.

(5) The undertakings under paragraph 1 shall publish on their Internet page and make available at their business sites the General Conditions of the contract with end-users within 7 days of approval by the Commission, throughout their period of activity.

(6) The undertakings providing public telephone services shall submit to the Commission for information the General Conditions of the contract with end-users.

**Art. 233.** (1) Amendments or supplements to the General Conditions may be introduced on the initiative of the undertaking or of the Commission.

(2) Amendments or supplements of the General Conditions on the initiative of the undertaking shall be introduced according to Art. 232, paragraph 2.

(3) Amendments or supplements of the General Conditions may be introduced on the initiative of the Commission for the purpose of protecting end-users interests. In such cases the Commission shall give the undertaking binding directions for the relevant amendments.

**Art. 234.** (1) The Commission may draft standard General Conditions of the contracts between undertakings and end-users which shall be published on its Internet page.

(2) The undertakings under Art. 226, paragraph 1 may draft their General Conditions in accordance with the standard General Conditions under paragraph 1.

**Art. 235.** The undertakings under Art. 226, paragraph 1 shall submit their General Conditions to the Consumer Protection Commission for information.

**Art. 236.** The Commission shall specify, after consulting the Consumer Protection Commission, the quality of service parameters for the public telephone services, as well as the content, the format, and the manner of publication of information in order to secure availability for the end-users of comparable, adequate and up-to-date information about the quality of services offered.

**Art. 237.** (1) The undertakings providing public telephone networks at a fixed location shall take all appropriate measures to secure the integrity of the public telephone network and the provision of public telephone services over that network in cases of force majeure.

(2) The undertakings providing public telephone services at a fixed location shall take all appropriate measures to secure uninterrupted access to emergency call services.

**Art. 238.** (1) Where an undertaking providing public electronic communications services fails to meet an obligation under this Chapter, the affected end-users may, within two months, file a complaint in writing to the Commission to consider and resolve the case.

(2) Persons with permanent residence in another European Union Member State, who use the services of an undertaking referred to in paragraph 1 established on the territory of the Republic of Bulgaria, shall be considered end-users as well.

(3) The complaint under paragraph 1 shall contain clear description of all circumstances relevant to the complaint and a personal signature.

**Art. 239.** (1) The Commission shall, within 7 days of receipt of the complaint, order examination of the circumstances described therein.

(2) The Commission must require a written opinion of the undertaking under Art. 238, paragraph 1 regarding the circumstances described in the complaint.

(3) The Commission may require the complainant to provide additional evidence.

(4) The Commission may refer the complaint and related correspondence to independent experts for expert opinion.

**Art. 240.** The Commission shall make a decision on the complaint within two months of receipt thereof.

**Art. 241. (1)** By its decision referred to in Art. 240 the Commission shall give the undertaking binding instructions for redress within a time-limit specified by the Commission.

(2) The decision of the Commission shall be communicated to the undertaking under Art. 238, paragraph 1 and to the complainant.

**Art. 242. (1)** The Commission shall prepare annual analysis of the complaints under this Chapter, and shall establish in that analysis the causes for the complaints.

(2) The analysis shall be included in the annual report of the Commission.

## **CHAPTER FIFTEEN**

### **SECURITY OF ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES, CONFIDENTIALITY OF COMMUNICATIONS AND PROTECTION OF USERS' DATA**

#### **Section I**

##### **Security of electronic communications networks and services**

**Art. 243. (1)** The undertakings providing public electronic communications services shall take the necessary technical and organisational measures, if necessary in conjunction with the undertakings providing public electronic communications networks, to safeguard security of the electronic communications networks and/or services.

(2) The measures under paragraph 1 shall be taken in order to protect the fundamental rights and freedoms of the citizens, including the right to privacy with respect to the processing of personal data, and to ensure the free movement of such data and of services within the European Union.

**Art. 244.** In case of danger of breach of the security of the electronic communications networks, the undertaking providing public electronic communications services shall inform its subscribers about such danger, the necessary means of its elimination, including the costs associated with the latter.

#### **Section II**

##### **Confidentiality of communications**

**Art. 245. (1)** The undertakings providing public electronic communications networks and/or services shall not disclose or distribute the communications and related traffic data, location data as well as data needed to identify the user, that has become known to them in the course of provision of electronic communications networks and/or services.

(2) The obligations under paragraph 1 shall also apply to the employees of the undertakings under paragraph 1, who have or could obtain access to the communications and the data referred to in paragraph 1.

**Art. 246. (1)** For the purpose of safeguarding the confidentiality of communications and the related traffic data it shall be prohibited for persons other than the sender and the recipient of the communication and without the explicit consent of the sender and the recipient, to listen to, record, store or otherwise intercept or track down communications, except in the cases provided for in a law.

(2) The prohibition under paragraph 1 shall not apply to undertakings providing electronic communications networks and/or services, when:

1. storage is required for technical reasons or is an essential part of the provision of the service;

2. examination of the technical parameters of the services is being carried out by persons authorised under this Law;

(3) In the cases under paragraph 2, the undertakings providing public electronic communications networks and/or services shall erase the communications stored as soon as the reason for storage is no longer valid.

**Art. 247. (1)** In addition to the exceptions under Art. 246, paragraph 2, the restrictions shall not apply to recording of communications and related traffic data, when:

1. the recording is necessary and provided for in a law for the purpose of providing evidence of a commercial transaction, and

2. the sender and the recipient of the communication have been informed in advance of the recording, of its purposes and of the duration of storage, as well as of their right to refuse such actions.

(2) The recorded communications and related traffic data shall be stored for a period not longer than the period, within which they may be used according to paragraph 1, item 1.

### **Section III** **Protection of users' data**

**Art. 248.** (1) The undertakings providing public electronic communications networks and/or services may collect, process and use users' data where such data are directly designated for the provision of the electronic communications services.

(2) The users' data shall include:

1. traffic data – data necessary for provision of electronic communications services, for billing, for the preparation of the subscriber bills, as well as for proving their reliability:

a) the number of the calling end-user and the number of the called end-user, the card number where electronic pre-paid cards are used;

b) beginning and end of the call, specified by date and hour, with accuracy up to the second, if technically possible, and/or - in case of data transfer – volume of the transferred data for billing purposes;

c) the type of the service provided;

d) the interconnection points related to the call, beginning and end of their use, specified by date and hour, with accuracy up to the second, if technically possible;

e) data regarding the type of connection or zones - time and geographical, necessary to determine the charge for the service;

f) location of the user of a service provided over mobile network, including roaming service;

2. data, necessary for preparing subscriber bills, as well as for proving their reliability, including the following data:

a) subscriber's data: for natural persons – full name, uniform citizen's number and address, for foreign persons - personal number, for legal persons and natural persons-sole traders – name of the firm, seat, address of management and relevant ID code;

b) type of electronic communications services used;

c) total number of measurement units, charged for the period of drawing the bill for a regular account;

d) price of the services used for the respective period;

e) information on the option of payment chosen by the subscriber and the payments made and payments due;

f) information regarding changes in the use of the service – restriction of use, restoration after the restriction.

3. location data – data processed in electronic communications networks, indicating the geographic position of the electronic communications terminal equipment of the user.

**Art. 249.** (1) The undertakings, providing public electronic communications services may not request from a user further data than the data under Art. 248, paragraph 2, item 2, letter "a" for provision of services. The data of the uniform citizen's number of the end-users may be used only for the purpose of collecting due payments by court procedure, and may be processed only if the natural person to whom that data relates has given his/her explicit consent.

(2) The undertakings providing public electronic communications services may not place conditions for provision of their services depending on the user's consent to use his/her data for other purposes.

**Art. 250.** (1) The undertakings providing public electronic communications services which collect, process and use traffic data for the purpose of a given call or setting up a connection, shall, after termination of the call or connection, erase that data or make it anonymous, unless it is directly necessary for making a new call or connection, or in the cases, provided for in this Law.

(2) The undertakings under paragraph 1 must provide the users with accurate and complete information about the types of traffic data that is processed for the purposes of billing and for interconnection payments, and about the duration of such processing.

(3) The undertakings under paragraph 1 shall store data and process traffic data for the purposes of billing and for interconnection payment until the payment is done, except in the cases of challenging the payments due or pursuing payment according to this Law.

(4) The undertakings under paragraph 1 shall provide information about traffic data to the Commission, on its request in connection with settling access, interconnection and billing disputes.

(5) The undertakings under paragraph 1 may use the data under paragraph 1 for the purpose of market surveys, including the extent to which the provided electronic communications services satisfy users requirements, or for the provision of value added services requiring additional processing of traffic data or location data different from the traffic data necessary for conveying the communication or for billing, only if they have obtained the users' prior consent. The personal data of the end-users, obtained in connection with the survey, shall be de-personified.

(6) The undertakings under paragraph 1 may process the information about the types of traffic data for the purpose of market surveys after obtaining the prior consent of the users.

(7) The undertakings under paragraph 1 shall provide to the users accurate and full information about the types of traffic data processed, as well as about the duration of such processing.

(8) After obtaining users' consent, the undertakings under paragraph 1 shall have the right to provide traffic data related to the users for the purpose of provision of value added services requiring additional processing of traffic data or location data different from the traffic data necessary for conveying the communication or for billing.

(9) The undertakings under paragraph 1 shall, in their relations with the users, introduce a mechanism providing an option for the users to withdraw at any time their consent given under paragraph 5.

**Art. 251.** (1) For the needs of the national security as well as for detection of crimes, the undertakings providing public electronic communications networks and/or services shall retain for a period of 12 months specific categories of data. Data disclosing the content of the communications may not be retained according to this provision.

(2) The categories of data referred to in paragraph 1 as well as the order according to which they shall be retained and provided shall be determined in an ordinance of the Minister of the Interior and the Chairperson of the State Agency for Information Technology and Communications.

**Art. 252.** (1) Processing of traffic data shall be carried out by officials appointed by the undertakings providing electronic communications services who are in charge of:

1. administration of traffic data and data under Art. 248, paragraph 2, item 2;
2. end-users inquiries,
3. establishment of misuse;
4. surveys of the market for electronic communications services;
5. provision of value added services requiring additional processing of traffic data or location data different from the traffic data necessary for conveying the communication or for billing.

(2) The officials shall have access only to the data necessary for the respective activity.

**Art. 253.** (1) **The undertakings providing public electronic communications services may, after a prior written consent, process location data of users and subscribers, on condition that:**

1. the data is de-personified; or

2. is necessary for the purposes and duration of provision of value added services requiring additional processing of traffic data or location data different from the traffic data necessary for conveying the communication or for billing.

(2) The undertakings under paragraph 1 shall inform in advance their end-users of the type of location data under paragraph 1 that they are processing, of the purposes and duration of such processing, and of the possibility data to be transferred to a third party in connection with the provision of value added services requiring additional processing of traffic data or location data different from the traffic data necessary for conveying the communication or for billing.

(3) The undertakings under paragraph 1 shall ensure free of charge opportunities for the end-users to:

1. withdraw at any time their a priori given consent for processing of location data;

2. refuse temporarily the processing of their location data for each connection to the electronic communications network or for each transmission of a communication.

**Art. 254.** Processing of location data shall be carried out by officials appointed by the undertakings under Art. 252, paragraph 1 or by persons authorised by a third party providing value added services, and shall be restricted to what is necessary for the purpose of providing value added services.

**Art. 255. (1)** The undertakings under Art. 252, paragraph 1 shall process and provide location data of end-users in case of emergency calls, including when a prior consent for such processing has not been obtained or when a refusal under Art. 253, paragraph 3 has been received. The data shall be provided only to the relevant services.

(2) The undertakings under Art. 252, paragraph 1 shall ensure, at their expense, the necessary technical and software facilities for call routing to the emergency call centres.

(3) The order and conditions according to which the undertakings providing public telephone services shall transfer end-users location data and subscribers' data to the emergency call centres in case of emergency calls shall be determined by rules adopted by the Commission, in compliance with the applicable *acquis communautaire*.

**Art. 256. (1)** The undertakings providing public electronic communications services may also collect, process and use the data under Art. 248, paragraph 2 for:

1. detecting, locating and eliminating failures and software errors in the electronic communications networks;

2. detecting and terminating unlawful use of electronic communications networks and facilities, where there are reasons to believe that such actions are being performed and this has been claimed in writing by the affected party or a competent authority;

3. detecting and tracking of disturbing calls, upon a request on the part of the affected subscriber demanding that the undertaking providing the service take measures.

(2) Where taking actions under paragraph 1, the undertakings providing public electronic communications services shall inform the persons concerned as soon as possible, unless this will impede the achievement of the objectives of this provision.

(3) The data collected according to this article shall be used only for the purposes referred to in paragraph 1.

**Art. 257.** The undertakings providing public telephone services shall, when technically possible, ensure the "tone dialling", "calling line identification" and "connected line identification" functions of the electronic communications network.

(2) The undertakings under paragraph 1 which maintain the "calling line identification" function of the electronic communications network shall provide the "presentation of calling line identification" service free of charge, giving the end-users the possibility, using affordable means, to activate or deactivate the service "preventing calling line identification" for each call or permanently for the line.

(3) The undertakings under paragraph 1 which maintain the "connected line identification" function of the electronic communications network shall provide, free of charge, the service "presentation of connected line identification", giving the end-users the possibility, using affordable means, to activate or deactivate the service "preventing connected line identification" for each call or permanently for the line.

(4) The undertakings under paragraph 1 which maintain the “calling line identification” function of the electronic communications network shall offer the called end user the possibility, free of charge, using accessible means, to reject incoming calls if the “preventing calling line identification” service has been activated by the calling end user.

(5) Where providing emergency call services, as well as in case of calls to the security services, defence services and internal affairs services, the undertakings under paragraph 1 shall guarantee that the service “preventing calling line identification” cannot be activated.

(6) The undertakings under paragraph 1 which maintain the “calling line identification” function of the electronic communications network shall provide to their end-users, free of charge, the service “stop reception of calls forwarded to my terminal equipment”.

(7) Where the technical capacity under paragraph 1 is not available, the Commission, jointly with the undertakings under paragraph 1 and in accordance with their investment policy, shall specify the order and deadline for introduction of these functions of the electronic communications network.

(8) The Commission shall notify the European Commission of all cases of non-availability of the technical capacity under paragraph 1 and paragraph 6.

(9) The undertakings under paragraph 1 shall make their networks available for making calls, transmission of communications, or electronic mail for direct marketing only after the explicit written consent of their subscribers has been given.

(10) The conditions and terms of provision and usage of the services referred to in paragraphs 1, 4 and 6 shall be determined in rules adopted by decision of the Commission and promulgated in the official section of the State Gazette.

**Art. 258.** (1) The undertakings providing public electronic communications services which prepare and publish telephone directories in printed or electronic form shall include, free of charge, in the directories the subscriber’s name or company name, address and telephone number. The telephone directory may also include additional data insofar as the subscriber has so requested.

(2) The undertakings under paragraph 1 which prepare telephone directories shall inform their subscribers, in advance and free of charge, of the purpose of the directory in which their data is to be included as well as of any possibility of using that data based on search functions in the case of directories in an electronic form enabling users of the directory to find out the name and address of the subscribers only by a telephone number.

(3) The undertakings under paragraph 1 publishing telephone directories in an electronic form used also over Internet or another electronic communications network shall provide access to the respective telephone number only if a minimum set of data has been provided fully and accurately. The undertakings under paragraph 1 shall take appropriate technical and organisational measures to prevent the possibility of copying text from directories in an electronic form.

(4) The subscriber shall have, free of charge, the right to:

1. request that his/her data be included fully or partially in the telephone directory;
2. request full or partial verification, correction or deletion of his/her data in the telephone directory. The data shall be deleted or corrected when a new or an updated telephone directory is issued.

(5) The subscriber may request that additional information concerning other persons using jointly the line is included in the telephone directory, provided that they have given in advance their written consent.

(6) The subscriber shall be informed of any search facilities for electronic versions of the directory enabling users to obtain information of the name and address of the subscriber on the basis of the telephone number only.

(7) The conditions and the order of issuing telephone directories, including working with the databases, their transfer and usage, shall be laid down in an ordinance of the Chairperson of the State Agency for Information Technology and Communications which shall be promulgated in the State Gazette.

**Art. 259.** The undertakings providing public electronic communications services shall provide telephone enquiry services in accordance with the data published in a telephone directory in a printed or electronic form.



(2) The undertakings under paragraph 1 shall provide information about the respective telephone number only when a minimum set of data has been provided accurately.

(3) The conditions and the terms of providing telephone enquiry services shall be laid down in the ordinance referred to in Art. 258, paragraph 7.

**Art. 260.** (1) The subscribers shall have the right to receive non-itemized bills if they have so explicitly requested.

(2) The undertakings offering public telephone services shall provide to the subscribers, free of charge, an itemized bill for the services used, with a tax invoice attached to it.

(3) The itemized bill shall contain at least the following information:

1. all types of services used by the subscriber during the payment period;
2. number of the services used;
3. total price per type of services used;
4. total amount of the bill;
5. amount of taxes calculated on the bill, given both as a percentage of the amount of the bill and as an absolute value;
6. amount of discounts, if any, according to the usage scheme agreed between the subscriber and the undertaking providing the services;
7. total amount to be paid;
8. deadline for payment;
9. possible means for remote payment, with necessary data for that;
10. identification data of the undertaking providing the services;
11. addresses, telephone numbers, and other contact details of the undertaking providing the services.

(4) The undertakings under paragraph 2 may provide, on request, itemised information about the telephone services used, which shall include at least:

1. the type of service used for each call made, including free of charge calls;
2. the charge for each call made;
4. date, time and duration of each call made.

(5) The undertakings providing the services shall ensure for the subscribers a possibility to receive bills in electronic or printed form.

**Art. 261.** (1) Calls, messages or electronic mail for the purpose of direct marketing shall be allowed only if a prior consent of the user has been obtained. The consent may be withdrawn at any time.

(2) Prior consent of the users shall not be required when:

1. the sender has obtained the contact details in the context of a commercial transaction or provision of service to his customers;
2. the message is sent for the purpose of direct marketing of the undertaking's own services.

(3) In the cases under paragraph 2, as well as in any case when the prior consent has not been obtained, any person who sends messages for marketing purposes shall be obliged to offer each user the possibility to express its dissent with further receipt of such messages.

(4) The person under paragraph 3 shall respect any refusal to receive messages for marketing purposes.

(5) Sending of messages for marketing purposes shall be prohibited even when the requirements under paragraphs 1-3 are fulfilled, if the identity of the sender cannot be established, or the message has no valid address to which the recipient may send refusal to receive messages.

**Art. 259.** For all matters concerning natural persons which are not regulated in this chapter the provisions of the Law on Personal Data Protection shall apply.

**CHAPTER SIXTEEN**  
**RADIO EQUIPMENT AND ELECTRONIC COMMUNICATION TERMINAL EQUIPMENT,**  
**EQUIPMENT FOR DIGITAL INTERACTIVE TELEVISION SERVICES AND STANDARDS IN THE**  
**FIELD OF ELECTRONIC COMMUNICATION NETWORKS AND/OR SERVICES**

**Section I**  
**Radio Equipment and Electronic Communication Terminal Equipment and Equipment for**  
**Digital Interactive Television Services**

**Art. 263.** (1) Placing on the market and putting into service of electronic communications terminal equipment and equipment for digital interactive television services with conformity assessed under the Law on Technical Requirements for Products shall be free.

(2) Placing on the market of radio equipment with conformity assessed under the Law on Technical Requirements for Products shall be free.

**Art. 264.** Putting into service of radio equipment with conformity assessed under the Law on Technical Requirements for Products and using harmonised frequency bands within the European Union shall be free.

**Art. 265.** (1) The Commission, in agreement with the National Radio Frequency Spectrum Council shall make and update at least once a year a list of radio equipment under Art. 264 and terminal electronic communication equipment.

(2) The list shall be adopted with a decision of the Commission and published in the State Gazette.

(3) The list under paragraph 2 shall contain the required technical parameters of radio equipment, as well as requirements related to avoidance of harmful interference when using the radio spectrum.

**Art. 266.** Putting into service of the radio equipment may only be restricted for the following reasons:

1. effective use of the radio spectrum allocated in accordance with the National Plan for Allocation of Radio Spectrum, avoiding harmful interference;
2. protection of human life and health;
3. protection of the national security and defence.

**Art. 267.** Putting into service on the territory of the Republic of Bulgaria shall not be allowed for radio equipment:

1. using radio frequency bands allocated for the needs of the national security in the National Plan for Radio Spectrum Allocation;
2. using radio frequency bands that, according to the National Plan for Radio Spectrum Allocation, are not allocated for the relevant service;
3. whose technical characteristics do not meet the requirements of the rules under Art. 65, paragraph 2.

**Art. 268.** (1) Radio equipment, using radio frequency bands that are not harmonised within the European Union, and/or cannot be put into service across the territory of the Republic of Bulgaria, or can be put into service after granting rights of use for using individually assigned scarce resource, shall bear specific marking for identification.

(2) The terms and method of affixing the specific marking under paragraph 1 shall be determined in an ordinance of the Council of Ministers at the proposal of the Chairperson of the State Agency for Information Technology and Communications.

**Art. 269.** (1) A person placing on the market radio equipment under Art. 268, paragraph 1, shall notify the Commission at least 30 days before placing it on the market.

(2) The notification under paragraph 1 shall be in a form endorsed by the Commission and shall include:

1. the person's name and address;
2. name of radio equipment and its technical characteristics;

3. identification number of the person that has assessed the radio equipment conformity with the essential requirements under the Law on Technical Requirements to the Products;

4. date of submission of the notification.

**Art. 270.** (1) The Commission shall be entitled to ban with a motivated decision placing on the market of radio equipment under Art. 268, paragraph 1, that can cause harmful radio interference and shall inform the State Agency of Metrological and Technical Surveillance about the decision taken.

(2) In the cases under paragraph 1, the Commission shall take a decision within 30 days of submission of the notification under Art. 269.

(3) The Commission can, with a motivated decision, require from the State Agency of Metrological and Technical Surveillance to withdraw radio equipment placed on the market causing harmful interference.

**Art. 271.** (1) Undertakings providing electronic communication services by public electronic communication networks may not refuse connection of the electronic communication terminal equipment to appropriate interfaces on technical grounds, where that equipment has been assessed for conformity with the essential requirements.

(2) When electronic communication terminal equipment, which has been assessed for conformity, causes serious damage to an electronic communications network or harmful radio interference, or harm to the network or its functioning, or is not used for its intended purpose, the undertakings under paragraph 1 shall have the right to refuse connection, to disconnect that equipment or to withdraw it from service, after performing all the necessary technical tests. In those cases the undertakings shall immediately notify the Commission and the State Agency for Metrological and Technical Surveillance.

(3) In cases of emergency the undertakings under paragraph 1 can disconnect electronic communication terminal equipment, if the protection of the network requires its immediate disconnection, and if an alternative solution for connection to the network can be offered to the user, without delay and without costs for him.

(4) In the cases under paragraph 3 the undertakings shall immediately notify the Commission.

**Art. 272.** (1) Undertakings, providing public electronic communication networks and/or services, prior to making their services available, shall publish technical specifications of the interfaces for the connection of electronic communication terminal equipment to their networks on their Internet pages, shall periodically update them and shall send to the commission information on the technical specifications of the interfaces.

(2) The technical specifications under paragraph 1 shall include all the information necessary to allow manufacturers to carry out, by their choice, the relevant tests for the essential requirements applicable to the electronic communication terminal equipment and design it in such a way as to be able to provide all services through the respective interface.

**Art. 273.** The Commission, after the undertakings have performed their obligations under Art. 272, shall inform the European Commission on the types of interfaces for connection of electronic communication terminal equipment applied in public electronic communication networks.

**Art. 274.** (1) Radio equipment or electronic communication terminal equipment, including hardware accessories to the radio equipment or terminal equipment for encryption of electronic communications and using cryptographic keys more than 56 bits long, shall be manufactured or imported after registration in the specialised directorate under Art. 113 of the Law for the Ministry of the Interior.

(2) Cryptographic devices for bank transactions protection, smart cards, scramblers for scrambling television signals, mobile phones without a built-in additional cryptographic module and cryptographic devices used by representations or other organisations having a status of diplomatic missions shall not be subject to registration under paragraph 1.

(3) Radio equipment and electronic communication terminal equipment under paragraph 1 shall be entered in a public register. The register shall be published on the Internet page of the Ministry of the Interior.

(4) The register under paragraph 3 shall contain the following information:

1. identification data about the manufacturer or importer:

- a) for natural persons – full name and permanent address;
- b) for legal persons and natural persons-sole traders – name (company), headquarters, registered address.

2. name and type of the terminal equipment under paragraph 1.

**Art. 275. (1)** To register radio equipment or electronic communication equipment terminal under Art. 274, the manufacturer or importer shall file an application at the specialised directorate under Art. 113 of the Law for the Ministry of the Interior.

(2) The application under paragraph 1 shall contain:

1. identification data of the manufacturer, importer, respectively (the importer shall also supply data on the manufacturer):

a) for natural persons – full name, unified citizen number and permanent address, and for foreign entities – personal number;

b) for legal persons and natural persons-sole traders – name (company), headquarters, registered address, and unified identification code under BULSTAT, and for foreign persons – relevant identification code.

2. full name of radio equipment or electronic communication terminal equipment;

3. short description of the radio equipment or the electronic communication terminal equipment, including type of cryptographic algorithms used and the length of the cryptographic keys.

(3) Attached to the application under paragraph 1 shall be:

1. a copy of the technical documentation of the radio equipment or electronic communication terminal equipment;

2. description of the cryptographic algorithms, if they are not publicly known, the methods of their initialisation, operating modes and formats of incoming and outgoing data.

(4) The application and the documents attached to it shall be in Bulgarian.

(5) In case of an incomplete application or incomplete or missing attachments to it, the manufacturer or the importer, respectively, shall be notified in writing to supply the missing materials. If the said materials are not delivered within 30 days of the notification date, the procedure shall be aborted.

(6) The specialised directorate under Art. 113 of the Law for the Ministry of the Interior shall enter the radio equipment or device in the register under Art. 274, paragraph 3, within 30 days of the date of receiving the application with the attachments or of receiving the missing materials under paragraph 5.

**Art. 276. (1)** The specialised directorate shall issue a certificate of entry in the register under Art. 274, paragraph 3, to the person under Art. 274, paragraph 1.

(2) For the issuance of the certificate under paragraph 1, a fee shall be paid to the amount specified in the Tariff of Fees, collected by the Ministry of the Interior under the Law for the Ministry of the Interior.

**Art. 277.** Persons performing deals with radio equipment and/or electronic communication terminal equipment under Art. 274, paragraph 1, shall supply written information to the relevant regional unit for fighting organised crime at the Ministry of the Interior on any deal with such equipment or device – name, type, serial number and identification data under Art. 274, paragraph 4, item 1, on the person that is a party to the deal, at least every three months.

**Art. 278.** Persons placing on the market digital television equipment deployed for the reception of digital interactive television services on digital interactive television platforms, shall ensure that this television equipment has open application programme interfaces (API) in accordance with the minimum requirements of the relevant standards or specifications.

**Art. 279.** The requirements of this section shall not be applied to electronic communication equipment that is permanently installed on vessels and aircraft and/or serve to coordinate traffic and ensure safety and/or search and rescue, as well as those facilities installed and used on shore, serving the same purpose and recognised as such by the Minister of Transport.

## **Section II**

### **Standards in the Field of Electronic Communication Networks and/or Services**

**Art. 280.** (1) Undertakings, providing public electronic communication networks and/or services shall implement Bulgarian standards transposing harmonised European standards published in the Official Journal of the Bulgarian Institute of Standardisation for the provision of electronic communication services, technical interfaces and network functions in order to ensure interoperability of services and to improve freedom of choice for users of electronic communication services.

(2) Where there are no Bulgarian standards published under paragraph 1, Bulgarian standards transposing European standards shall be implemented.

(3) Where there are no published Bulgarian standards under paragraph 1 and 2, Bulgarian standards transposing the international standards shall be implemented.

(4) The application of Bulgarian standards is in accordance with the Law on National Standardisation.

(5) The Commission shall impose mandatory application of standards and/or specifications only if they are determined as mandatory in the Official Journal of the European Union.

## **CHAPTER SEVENTEEN**

### **CONSTRUCTION AND MAINTENANCE OF ELECTRONIC COMMUNICATIONS INFRASTRUCTURE**

#### **Section I**

##### **Construction of electronic communications infrastructure**

**Art. 281.** (1) The construction of electronic communications networks, facilities and related infrastructure shall be carried out under this Law and the Law on Spatial Planning.

(2) The undertakings providing public electronic communications networks and/or services shall have the right to build electronic communications networks, facilities and related infrastructure on, over or under real estates.

1. public or private state property;
2. public or private municipal property;
3. private property of natural or legal persons.

(3) The undertakings providing private electronic communications shall have the right to build electronic communications networks, facilities and related infrastructure on, over and under real estates:

1. public state property;
2. public municipal property;
3. private property of natural or legal persons.

(4) The rules and norms of designing, construction, putting into operation and maintenance of electronic communications networks and facilities, including safety requirements, shall be stipulated in joint ordinances of the Chairperson of the State Agency for Information Technology and Communications and the Minister of Regional Development and Public Works, depending on the types of networks.

(5) The control over designing, construction, putting into operation and maintenance shall be carried out in accordance with the Law on Spatial Planning.

**Art. 282.** (1) The undertakings providing electronic communications networks shall draw and maintain special maps, registers and, if possible, information data bases in the sense of the Law on Cadastre and Property Register, for the electronic communications networks, facilities and related infrastructure they have constructed.

(2) The content of the special maps and registers and the terms and conditions of their creation and maintenance shall be stipulated in a joint ordinance of the Chairperson of the State Agency for Information Technology and Communications and the Minister of Regional Development and Public Works.

**Art. 283.** (1) The undertakings providing public electronic communications networks and/or services shall be owners of the electronic networks, facilities and related infrastructure they have constructed as well as of those which serve as a main asset and/or have been acquired by the law or any other legal transaction.

(2) The transactions for disposition of existing electronic communications networks, facilities and related infrastructure shall be done in writing together with notary certification of the signatures and shall not be subject to registry entry. The existing electronic communications networks, facilities and related infrastructure may be the subject of a special pledge under the Law on Special Pledges.

(3) The undertakings under paragraph 1 shall be commissioners of the construction of electronic communications networks and facilities in the sense of Art. 161, paragraph 1 of the Law on Spatial Planning, as well as interested parties in the sense of Art. 124, paragraph 3 of the Law on Spatial Planning.

(4) During the construction, the construction company and the person conducting construction supervision shall undertake measures to protect the environment, to prevent or restrict damage.

(5) Within a month of completion of the construction and installation works, the construction company and the person conducting construction supervision shall compensate the damage inflicted and undertake measures for recovery of the real estate's condition prior to the start of construction works, for their account.

**Art. 284.** (1) Relocation of electronic communications networks and facilities in view of upcoming construction works shall be carried out under the Law on Spatial Planning on the basis of agreement between the interested parties.

(2) The relocation under paragraph 1 shall be at the expense of the person requesting the construction works, unless the parties have agreed otherwise.

(3) If need of additional protection of the electronic communications network and facilities arises, the expenses shall be for the account of their owner, unless the parties have agreed otherwise.

**Art. 285.** The central bodies of the executive power and local self-government, exercising the rights of the state or the municipality in undertakings that provide electronic communications, shall ensure structural separation of their powers of management and control over these undertakings from their powers of granting right of use.

**Art. 286.** (1) Cable electronic communications networks shall be constructed underground.

(2) Cable electronic communications networks may be constructed aerially only beyond urbanised territories and in urbanised territories with population of up to 10,000 inhabitants and/or with low residential buildings.

(3) Aerial construction of cable electronic communications networks shall not be allowed in resort settlements and settlement-like communities, as well as in settlements or parts thereof, declared reserves of historical, archaeological, ethnographic or architectural importance.

## **Section II Servitudes**

**Art. 287.** (1) In case of construction of new and/or expansion of existing aerial and underground electronic communications networks and facilities for the purpose of fulfilling the objectives set in Art. 4, and to the public benefit, servitudes shall arise to the benefit of undertakings providing public electronic networks and/or services. The servitudes under this Law shall be entered into the Cadastre and the entries shall comply with the terms and conditions stipulated in the Law on Cadastre and Property Register.

(2) The servitudes under paragraph 1 shall arise with regard to all real estates, whether public or private, with the exception of those referred to in section III of this chapter.

(3) Servitudes under paragraph 1 shall arise where:

1. a detailed development plan, determining the location of the respective real estates, has entered into force, and

2. a one-time compensatory damage has been paid by the servitude holder to the owner of the property where the servitude has arisen.

(4) The amount of compensatory damages under this chapter shall be determined by mutual consent of the parties and on the basis of an appraisal performed by a licensed assessor.

(5) The method of payment of the compensatory damage under paragraph 3, item 2 shall be negotiated between the parties.

**Art. 288.** The servitudes in accordance with this law shall be as follows:

1. right of way and right to install networks to the benefit of undertakings providing public electronic communications networks and/or services, including extensions from these networks to buildings and other land plots;

2. a restriction of the use of land plots where the right of way and/or the right to install have been exercised.

**Art. 289.** (1) The servitudes under this Law shall be inalienable rights and may be exercised fully to benefit every part of the dominant land and burden every part of the servient land, also in the cases where the land is the subject of disposition in any lawful manner after the servitude has arisen.

(2) The transfer of ownership of the servient land shall not cancel and/or alter the action of servitudes as regards neither the dominant land, nor the servient one.

(3) The servitude shall be used only for the needs of the dominant land.

(4) The owner of the servient land shall have no right to relocate the servitude, unless the parties have agreed otherwise.

**Art. 290.** (1) Upon the exercise of servitudes:

1. the undertaking providing public electronic communications networks and/or services shall acquire the right for his representatives to enter and pass through the servient lands, and perform activities in them, related to the construction, development, maintenance and exploitation of the electronic communications network, facilities and related infrastructure, including right of way for equipment through the servient land plots with regard to the construction and servicing of the network;

2. the following shall not be permitted on the territory of the servient lands:

a) construction activities or the planting of perennial crops on the servient strip of land, defined in the ordinance referred to in Art. 292, unless the owner and the undertaking agree otherwise;

b) the installation of cables of other networks of the technical infrastructure, except of the cases where this has been permitted by a legislative act, in keeping with the respective technical specifications and after written assent has been given by the undertaking providing public electronic communications networks and/or services.

(2) the exercise of rights under paragraph 1, item 1, shall be done in accordance with Art. 299, in abidance by public order rules.

(3) The servitude holder shall be obligated to provide for shared use of the servitude strip when a substantiated request has been filed by another undertaking providing electronic communications networks and/or services, where a technical and physical possibility is available and in exchange for remuneration.

(4) The remuneration under paragraph 3 shall not exceed the total value of the compensatory damage under Art. 287, paragraph 3, item 2.

**Art. 291.** (1) The servitude shall be exercised by the undertaking providing electronic communications in accordance with this Law and the technical specifications, referred to in the ordinance under Art. 292.

(2) In case the servitude strip of land falls into the borders of a real estate, which is subject to the right to build, the servitude over the said estate shall be included in the document granting the right to build.

**Art. 292.** The size, location and special regime of exercising the servitudes are specific of each of the various types of electronic communications networks and facilities, and shall be determined by rules and procedures stipulated in an ordinance of the Minister of Regional Development and Public Works, the Minister of Agriculture and Forestry, and the Chairperson of the State Agency for Information Technology and Communications.

**Art. 293. (1):** The amount of the compensatory damage under Art. 287, paragraph 3 shall be determined by application of the following criteria:

1. area of the servient land plot, enclosed within the servitude borders;
2. types of restrictions on the use of the servient land;
3. duration of the restriction;
4. market evaluation of the land or parts thereof, which fall into the borders of the servitude.

(2) Irrespective of the compensatory damage under Art. 1, the undertaking providing electronic communications shall owe the owner of the land plot, in line with an agreement, recovery of all damages inflicted upon the land or a monetary compensation, respectively.

**Art. 294.** When the owner, user or tenant of the servient land performs illegal construction works, fencing, planting or another breach of the servitude regime, the undertaking providing electronic communications shall have the right to refer the case to the competent authorities with a claim for demolition of illegal buildings for the account of the owner, user or tenant, if he/she shall not remove them by the deadline specified by the undertaking providing electronic communications.

### **Section III Right of Use**

**Art. 295. (1)** The undertakings providing public electronic communications shall have the right to special use as stipulated in the Law on Roads and/or right to use the line transportation engineering networks, water supply and sewerage, power supply, gas supply, and hydro-meliorations in accordance with paragraph 5, item 31 of the Law on Spatial Planning, including their servitude zones, water supply and irrigation, and natural water basins – public property.

(2) The right of special use and/or the right to use under paragraph 1 shall be granted for construction, extension, maintenance and operation of electronic communications networks and facilities on the condition that the requirements for safety and environmental protection are met in accordance with the detailed development plans.

(3) Where the real estate – public property under paragraph 1, has been placed at the disposal of a state undertaking under Art. 62, paragraph 3 of the Law on Trade, the right to special use and/or the right to use under paragraph 1 shall be established against payment by the head of the state undertaking after a decision has been made by the collective management body and a permission has been granted by the respective minister or head of the institution, exercising the right to ownership of the state in the undertaking, the compensatory damage being payable only once.

(4) In the cases under paragraph 3 the proceeds from the granted right to use and/or the right to special use under paragraph 1, together with the overheads, shall be paid to the settlement account of the state undertaking.

(5) Upon transfer of the ownership over electronic communications networks, facilities and related infrastructure, the right to use and/or the right to special use under paragraph 1 and 2 shall be automatically ceded to the benefit of the new owner.

(6) The right under paragraph 1 shall be exercised against payment on the basis of a permission by the bodies or persons, who run the related technical infrastructure or real estates, the compensatory damage being payable only once. Upon transfer of the right to use and/or the right to special use in line with paragraph 3, the new owner of electronic communications networks, facilities and related infrastructure shall not pay another remuneration or fee.

**Art. 296.** Upon submission of an application by an undertaking providing public electronic communications networks and/or services, the bodies or persons, running the technical infrastructure, shall, within 14 days of the application receipt, state their intention to grant right of use of the technical infrastructure on their Internet page, in a national or local daily newspaper, or elsewhere, specifying a 30-day term for submission of applications from interested parties.

**Art. 297.** The permissions under Art. 295, paragraph 6 shall be granted in order of submission of the applications, unless the possibilities of using the technical infrastructure are limited.

**Art. 298. (1)** Where the possibilities of using the technical infrastructure are limited and the applicants for right of use are more than one, the permissions under Art. 295, paragraph 6, shall be granted as follows:



1. to an undertaking providing nationwide public electronic communications networks and/or services;
2. to an undertaking providing regional public electronic communications networks and/or services;
3. to an undertaking providing public electronic communications networks and/or services within one settlement;
4. to an undertaking providing private electronic communications.

(2) Where the applicants under paragraph 1 are of the same order and the opportunities for exercising the right to use are limited, the permission under Art. 295, paragraph 6 shall be granted after an auction has been held, to the exception of the cases when the applicants have reached an agreement on shared use of facilities.

**Art. 299.** (1) The undertakings providing public electronic communications networks and/or services, or officers authorised to represent them, shall have the right of access to and right of way through real estates for the purpose of construction and maintenance of the electronic communications networks and facilities.

(2) The undertaking or the persons performing the activities under paragraph 1 shall be obligated to notify the owners or users of the real estates at least 7 days before the activities related to construction and maintenance of electronic communications networks and facilities start.

(3) In case of interruption of the operation of the electronic communications networks or the facilities thereof, caused by unpredictable and insurmountable events, where urgent action is needed and the term under paragraph 2 cannot be met, the notification shall be made within the shortest time possible before or immediately after remedying the failure or interruption.

(4) The undertaking under paragraph 1 shall pay a compensatory damage to the owner or user of a real estate or shall recover the estate's initial condition after the activities under paragraph 1 have been completed.

## **CHAPTER EIGHTEEN**

### **PROVISION OF ELECTRONIC COMMUNICATIONS SERVICES DURING CRISIS, STATE OF MARTIAL LAW, STATE OF WAR OR STATE OF EMERGENCY**

**Art. 300.** (1) The terms and conditions of provision of electronic communications services during crises in the sense of the Law on Crisis Management shall be determined by the Council of Ministers.

(2) The terms and conditions of provision of electronic communications services during a state of martial law, state of war, or a state of emergency in the sense of the Law on Defence and Armed Forces of the Republic of Bulgaria shall be defined by the Council of Ministers at the proposal of the Chairperson of the State Agency for Information Technology and Communications in agreement with the relevant competent authorities.

**Art. 301.** (1) The undertakings providing public electronic communications networks and/or services shall ensure possibilities for the provision of electronic communications services during crises in the sense of the Law on Crisis Management, or during a state of martial law, state of war, or a state of emergency in the sense of the Law on Defence and Armed Forces of the Republic of Bulgaria.

(2) To guarantee the national security, the undertakings providing public electronic communications networks and/or services shall, if necessary, provide the competent bodies with access to the network and/or the services provided, as well as a possibility to use free of charge electronic communications over the network in the case of an imminent threat to the national security.

(3) For the purpose of performing the activities under Art. 91, paragraph 1, and Art. 111, paragraph 1, item 5 of the Law on the Ministry of Interior, as well as in the case of an imminent threat to the national security, the competent bodies of the Ministry of Interior may block, by technical means, the provision of electronic communications.

**Art. 302.** (1) In the event of declaring a state of martial law, or a state of war, the Commission, at the decision of a competent body, shall suspend the validity of the granted rights of use for individually assigned scarce resource.

(2) The Commission shall prohibit the use of radio equipment and radio spectrum for civil needs at the decision of the competent body under paragraph 1.

**Art. 303.** (1) While exercising his/her powers under Art. 16, the Chairperson of the State Agency for Information Technology and Communications shall operate, modernise and maintain the special facilities with defence functions and installed war-time capacities, which are part of the national security and defence, in readiness to provide electronic communications in the event of crises in the sense of the Law on Crisis Management, state of martial law, state of war, or state of emergency in the sense of the Law on Defence and Armed Forces of the Republic of Bulgaria.

(2) The undertakings providing public electronic communications networks and/or services, with assigned war-time tasks, shall operate, modernise and maintain the public electronic communications networks in readiness to provide electronic communications in the event of crises in the sense of the Law on Crisis Management, state of martial law, state of war, or state of emergency in the sense of the Law on Defence and Armed Forces of the Republic of Bulgaria.

(3) The special facilities under paragraph 1, as well as the land on which they were built, may be subject to expropriation, lease or rights *in rem* by a decision of the Council of Ministers.

(4) The special facilities and the installed war-time capacities under paragraph 1 may be used for the needs of the central executive bodies and self-government under terms and conditions defined by the Council of Ministers.

(5) The funds for construction, maintenance, reconstruction and modernisation of the special facilities and capacities under paragraph 1 shall be provided from the state budget and from other sources under terms and conditions defined by the Council of Ministers.

## **CHAPTER NINETEEN**

### **PROVIDING CONDITIONS FOR INTERCEPTION OF ELECTRONIC SERVICES RELATED TO PROTECTING NATIONAL SECURITY AND ENSURING PUBLIC ORDER**

**Art. 304.** The undertakings providing public electronic communications networks and/or services shall ensure a capacity to intercept real time electronic communications, to secure twenty-four-hour surveillance, as well as real time access to data related to a specific call. When these data cannot be provided in real time, they shall be given to a specialized directorate under Art. 111 of the Law on the Ministry of Interior as soon as possible after termination of the call. The capacity for interception, twenty-four-hour surveillance and access to data, related to a call in real time, shall be used only in accordance with the Special Surveillance Means Law.

**Art. 305.** (1) The undertakings providing public electronic communications networks and/or services shall provide, for their own account, interception interfaces, from which the intercepted electronic communications can be transmitted to the facilities of the specialized directorate under Art. 111 of the Law on the Ministry of Interior.

(2) The intercepting interfaces, secured by the undertakings providing public electronic communications networks and/or services, shall have to comply with the standards and specifications of the technical facilities and interfaces, listed in an ordinance for the requirements for intercepting interfaces when providing electronic communications, issued by the Minister of Interior, after consultations with the undertakings have been held.

**Art. 306.** The undertakings providing public electronic communications and/or services shall provide data related to a specific call and its content in a manner allowing for the exact matching of the data about the call and the content of the call.

**Art. 307.** In case the undertakings providing electronic communications networks and/or services undertake coding, compressing or encrypting of the intercepted electronic communications, they shall deliver these to a specialized directorate under Art. 113 of the Law on the Ministry of Interior in their original form.

**Art. 308.** The undertakings providing public electronic communications and/or services shall be obligated to ensure the capacity for transmission of intercepted electronic services to the facilities of the specialized directorate under Art. 111 of the Law on the Ministry of Interior over fixed or switched lines.

**Art. 309.** Interception shall be carried out in a manner that excludes any option for illegal interference and secures protection of the information related to the interception. The intercepted electronic communications shall be available only to the specialized directorate under Art. 111 of the Law on the Ministry of Interior in accordance with the Special Surveillance Means Law.

**Art. 310.** Before an interception based on legal grounds takes place, the specialized directorate under Art. 111 of the Law on the Ministry of Interior shall require from the undertakings providing public electronic communications and/or services, as follows:

1. data to determine the identity of the subscriber, number or another identification feature of the electronic communications service;
2. information about the service and the characteristics of the electronic communications system, used by the object of interception and delivered by the undertakings providing public electronic communications networks and/or services;
3. information about the technical parameters of the transmission to the facilities of the specialized directorate under Art. 111 of the Law on the Ministry of Interior.

## **CHAPTER TWENTY CONTROL**

**Art. 311. (1)** The control over the provision of electronic communications shall be exercised by the Commission.

(2) The control over putting into service of radio equipment under Art. 267 and Art. 268 shall be exercised by the Commission.

(3) The State Agency for Metrological and Technical Surveillance, together with the Commission, shall monitor the electronic communications terminal equipment and radio equipment that are released onto the market in accordance with Art. 263 and Art. 269.

(4) In exercising control under paragraphs 1, 2, and 3 the Commission shall interact with the Ministry of Transport, Ministry of Interior, Ministry of Defence, Ministry of Economy and Energy – State Agency for Metrological and Technical Surveillance, and the Ministry of Regional Development and Public Works – Directorate on the National Construction Supervision, in compliance with a jointly issued instruction, proposed by the Commission.

**Art. 312. (1)** For the purposes of exercising control over the electronic communications the Chairperson of the Commission shall authorise by an order employees of the administration.

(2). The Commission shall mandatorily insure the employees under paragraph 1 against accidents occurring during or on the occasion of fulfilment of their official duties, using resources from the budget of the Commission.

**Art. 313. (1)** In carrying out their functions the employees of the Commission authorised under Art. 312, paragraph 1, shall have the right to:

1. carry out inspections and draw up statements in accordance with the Administrative Violations and Sanctions Law in the case of establishing a violation;
2. free access to the controlled sites where the electronic communications networks, equipment and technical facilities are located;
3. establish availability of documents issued by the Commission, proving the legal capacity of the persons on the sites controlled;
4. request original documents, data, information, enquiries, and other information carriers related to the exercise of control, from the persons inspected, as well as seize certified copies of documents related to the provision of electronic communications and/or the establishment of administrative violations under this Law;
5. inspect accountancy, trade or other books or documents, and information carriers, as well as other documents related to the provision of electronic communications and/or establishment of administrative violations under this Law;
6. require from third persons information, excerpts and other documents necessary for carrying out cross examinations related to the control under this Law and/or establishment of administrative violations under this Law;
7. control the quality parameters of the electronic communications services by carrying out documentary and technical inspections;

8. inspect, in compliance with the rules and procedures stipulated in the Penal Procedure Code, premises used by the persons for the purpose of providing electronic communications, as well as premises containing proof of committing administrative violations.

9. issue a direction for the undertakings to eliminate, within the period set by the Commission, the lack of conformity with this Law as regards deviations of the technical parameters of the electronic communications networks and equipment from certain assigned values related to their functioning. The failure to comply with the directions within that period shall be considered an administrative violation under the Administrative Violations and Sanctions Law.

(2) In the cases of inspection of premises under paragraph 1, item 8, used for residential purposes, the inspections shall be carried out by the employees authorised under Art. 312, paragraph 1, together with the bodies of the Ministry of Interior.

**Art. 314.** (1) Upon establishing violations, the authorised employees under Art. 312, paragraph 1 shall seize and retain material evidence, related to establishment of the violation under Art. 41 of the Administrative Violations and Sanctions Law.

(2) The material evidence seized shall be subject to confiscation in favour of the state by a penal decree under Art. 20 and 21 of the Administrative Violations and Sanctions Law for present *corpus delicti* under the said law.

(3) The possessions seized in favour of the state shall be stored in premises specially designated for that purpose until the expiration of one year from the enactment of the resolution, the penal decree or court decision confirming it.

(4) In case the legal grounds for the seizure of the material evidence under paragraph 2 stop to exist, the said evidence shall be returned to its owners, after a request addressed to the Chairperson of the Commission.

**Art. 315.** (1) Upon the expiration of the term under Art. 314, paragraph 3, the possessions seized shall be subject to:

1. granting them without payment, in whole, or in parts thereof that can be used, without violating the laws and working standards in the country, to bodies of the state administration and local self-government, educational establishments – for educational purposes, hospitals and other organisations with social functions;

2. destruction.

(2) The procedure for granting and destruction of the possessions seized in favour of the state shall be stipulated in an ordinance of the Council of Ministers, proposed by the Commission.

**Art. 316.** In fulfilment of their official duties the employees authorised under Art. 312, paragraph 1, shall be obligated:

1. to identify themselves by means of an official card;

2. to maintain the confidentiality of the circumstances and facts which have become known to them during or on occasion of the fulfilment of their official duties.

**Art. 317.** (1) The procedure and the way of using and storing the documents and materials seized under Art. 314, as well as the organisation of the control over the electronic communications activities shall be determined by a decision of the Commission.

(2) The Chairperson of the Commission shall appoint the employees of the administration who will be in charge of the storage and use of the documents and materials seized.

(3) The employees under paragraph 2 and under Art. 316 shall sign a declaration form related to their duties, explicitly stating their liability in case of failure to fulfil these duties.

**Art. 318.** (1) The Commission may issue decisions suspending the provision of electronic communications, carried out in violation of the Law, or the rights of use for individually assigned scarce resource until the violations are remedied.

(2) The decision under paragraph 1 may impose a compulsory administrative measure, until the violations are remedied, for closing of sites and/or facilities, having served for the provision of electronic communications, carried out in violation of the Law, the secondary legislation, the applicable requirements under Art. 73 and/or specific obligations, or rights of use for an individually assigned scarce resource.

**Art. 319.** (1) The Commission shall annually prepare a plan for control over the undertakings providing public electronic communications networks and/or services for compliance with the applicable requirements under Art. 73 and/or specific obligations or rights of use for an individually assigned scarce resource.

(2) The Commission shall undertake inspections on written signals for violations of the Law, the secondary legislation, the applicable requirements under Art. 73 and/or specific obligations or rights of use for an individually assigned scarce resource.

**Art. 320.** The Commission, in its annual report under Art. 38, paragraph 1, shall prepare an analysis of the results from the control exercised and shall propose, in compliance with the best European practices, measures to improve control efficiency and also preventive measures to reduce potential violations in the provision of electronic communications.

**Art. 321.** The control under Art. 274, paragraph 1, shall be exercised by the specialized directorate under Art. 113 of the Law on the Ministry of Interior.

**Art. 322.** The employees under Art. 321 shall have the right to:

1. carry out inspections and, in case of an established violation, draw up a statement under the Administrative Violations and Sanctions Law;

2. free access to the sites which accommodate radio equipment or devices under Art. 274, paragraph 1;

3. require from the inspected persons original documents, data, enquiries and other information carriers, related to the exercise of control;

4. require from third persons, information, excerpts and other documents necessary for exercising control.

**Art. 323.** (1) In case of a violation established under Art. 335, the employees under Art. 321 shall be authorised to seize and retain material evidence, related to establishment of the violation.

(2) The material evidence seized shall be confiscated in favour of the state under Art. 20 and 21 of the Administrative Violations and Sanctions Law.

(3) The possessions confiscated in favour of the state shall be stored in premises specially designated for that purpose until the act that decrees the confiscation or the court decision confirming it, has become effective.

(4) Where the penal decree, on the grounds of which the material evidence has been seized, is withdrawn, the said evidence shall be returned to its owners.

(5) After the act or court decision under paragraph 3 has come into force, the confiscated possessions:

1. shall be used gratuitously by the bodies of the Ministry of Interior and the Ministry of Defence, upon their request;

2. shall be destroyed on the basis of an order by the Minister of Interior.

## **CHAPTER TWENTY ONE ADMINISTRATIVE PENAL PROVISIONS**

**Art. 324.** (1) Whoever provides public electronic communications networks and/or services, for the provision of which a right of use must be granted for an individually assigned scarce resource, without having this right of use, or whoever continues to provide electronic communications after expiry or termination or withdrawal of the right of use granted, in case the act does not constitute a crime, shall be liable to a fine of not less than BGN 30,000 and not more than BGN 300,000.

(2) Whoever provides private electronic communications, for the provision of which a right of use must be granted for an individually assigned scarce resource, without having this right of use, or whoever continues to provide electronic communications after expiry or termination or withdrawal of the right of use granted, in case the act does not constitute a crime, shall be liable to a fine of not less than BGN 5,000 and not more than BGN 50,000.

(3) Whoever provides public electronic communications networks and/or services, for the provision of which a temporary right of use must be granted for an individually assigned scarce resource, without having this right of use, or whoever continues to provide electronic communications

after expiry or termination or withdrawal of the temporary right of use granted, in case the act does not constitute a crime, shall be liable to a fine of not less than BGN 30,000 and not more than BGN 300,000.

(4) Whoever provides private electronic communications, for the provision of which a temporary right of use must be granted for an individually assigned scarce resource, without having this right of use, or whoever continues to provide electronic communications after expiry or termination or withdrawal of the temporary right of use granted, in case the act does not constitute a crime, shall be liable to a fine of not less than BGN 5,000 and not more than BGN 50,000.

(5) Whoever provides public electronic communications networks and/or services, included on the list under Art. 72, determined by the Commission, without having submitted a notification under Art. 66 to the Commission, shall be liable to a fine of not less than BGN 3,000 and not more than BGN 15,000.

(6) Whoever provides interconnection with or access to the network of an undertaking providing public electronic communications services in violation of the law, aiming to provide electronic communications for commercial purposes, shall be liable to a fine of not less than BGN 3,000 and not more than BGN 15,000.

(7) For repeated violations under paragraphs 1 to 5 the administrative penal body shall be able, by a penal decree, to deprive the violator from the right to provide the relevant electronic communications, for which it has been sanctioned, for a period of up to one year.

**Art. 325.** (1) Whoever provides public electronic communications networks and/or services, for the provision of which a right of use for an individually assigned scarce resource has been granted, and violates the conditions of the right of use, shall be liable to a fine of not less than BGN 10,000 and not more than BGN 100,000.

(2) Whoever provides private electronic communications, for the provision of which a right of use for an individually assigned scarce resource has been granted, and violates the conditions of the right of use, shall be liable to a fine of not less than BGN 1000 and not more than BGN 10,000.

**Art. 326.** An undertaking providing public electronic communications networks and/or services subject to a notification under Art. 66, which has violated any of the general requirements under Art. 73 and/or a specific obligation, shall be liable to a fine of not less than BGN 3,000 and not more than BGN 15,000.

**Art. 327.** (1) Whoever violates the rules of confidentiality of communications and related traffic data, sent over public electronic communications networks, in case the act does not constitute a crime, shall be liable to a fine of not less than BGN 1,000 and not more than BGN 10,000.

(2) An undertaking providing public electronic communications and/or services, which fails to fulfil the obligation for provision of conditions for interception of electronic communications, related to protecting national security and safeguarding public order, shall be liable to a property sanction of not less than BGN 10,000 and not more than BGN 100,000.

(3) An undertaking providing public electronic communications and/or services, which fails to fulfil the obligation for securing protection of personal data in the field of electronic communications, shall be liable to a property sanction of not less than BGN 1,000 and not more than BGN 10,000.

**Art. 328.** (1) Whoever interferes with or changes the content of communications of third persons in a public electronic communications network through the use of electronic communications equipment, in case the act does not constitute a crime, shall be liable to a fine of not less than BGN 200 and not more than BGN 2,000.

(2) Whoever, aiming to benefit themselves or others, use an electronic communications network on no legal grounds, as a result inflicting damage to the undertaking that runs the electronic communications network, or to a third person, in case the act does not constitute a crime, shall be liable to a fine of not less than BGN 1,000 and not more than BGN 10,000, the damages being subject to recovery by general claims procedure.

**Art. 329.** Whoever transmits false calls or misleading signs and/or signals for help, disaster, crash, accident or alert over a public electronic communications network, shall be liable to a fine of not less than BGN 2,000 and not more than BGN 20,000.

**Art. 330.** Whoever puts into service radio equipment, for which a restriction has been introduced under Art. 267, in case the act does not constitute a crime, shall be liable to a fine of not less than BGN 5,000 and not more than BGN 15,000.

**Art. 331. (1)** Whoever, upon request of the Commission, does not provide information related to the enforcement of this Law or provides false, incomplete, incorrect information, or fails to provide it within the term specified in the request, shall be liable to a fine of not less than BGN 500 and not more than BGN 2,500.

(2) Whoever impedes the exercise of control under Art. 311 by the Commission shall be liable to a fine of not less than BGN 1,000 and not more than BGN 5,000.

(3) Whoever fails to comply with a decision of the Commission, which has come into force, shall be liable to a fine of not less than BGN 1,000 and not more than BGN 10,000.

(4) Whoever fails to comply with a decision of the Commission under Art. 61, which has come into force, shall be liable to a fine of not less than BGN 5,000 and not more than BGN 50,000.

(5) Whoever fails to comply with a decision of the Commission under Art. 240, which has come into force, shall be liable to a fine of not less than BGN 2,000 and not more than BGN 20,000.

(6) An undertaking providing public electronic communications and/or services, which does not provide the Commission with documents or provides false, incomplete, incorrect information, or fails to provide it within the term specified, when these documents and information are necessary for designation of an undertaking with significant market power, shall be liable to a fine of not less than BGN 5,000 and not more than BGN 50,000.

(7) An undertaking with significant market power that fails to comply with a decision of the Commission which has come into force and refers to its specific obligations as an undertaking with significant market power shall be liable to a property sanction of not less than BGN 100,000 and not more than BGN 1,000,000.

**Art. 332. (1)** Whoever fails to fulfil an obligation under Chapter Seventeen during the construction and expansion of public electronic communications networks shall be liable to a fine of not less than BGN 5,000 and not more than BGN 50,000.

(2) Whoever fails to fulfil an obligation under Chapter Seventeen during the construction and expansion of private electronic communications networks shall be liable to a fine of not less than BGN 1,000 and not more than BGN 10,000.

**Art. 333.** The persons under Art. 312, paragraph 1, who disclose, submit, publish, use or circulate in any other way, data and circumstances representing official secret, shall be liable to a fine of not less than BGN 500 and not more than BGN 5,000 and shall be divested of the right to occupy the respective position for a period of 6 months to one year.

**Art. 334.** A property sanction of not less than BGN 10,000 and more than BGN 100,000 shall be imposed for violation of Art. 301, paragraph 1.

**Art. 335.** A fine of not less than BGN 500 and not more than BGN 5,000 shall be imposed for violation of this Law and of the acts issued pursuant to it, where no other penalty is stipulated.

**Art. 336.** For the violations under Art. 324, paragraph 1-6, Art. 325, Art. 327, paragraph 1, Art. 328, Art. 330, Art. 331, paragraph 1 to 5, and Art. 335, committed by legal persons or sole traders, property sanctions of the sizes of the stipulated fines shall apply.

**Art. 337. (1)** Upon establishing the violations under Art. 324 – Art. 335, the employees authorised under Art. 312, paragraph 1, shall draw up statements in accordance with the Administrative Violations and Sanctions Law.

(2) On the grounds of the statements of establishment under paragraph 1 the Chairperson of the Commission, or a person explicitly authorised by him/her – a member of the Commission, shall issue penal decrees or motivated resolutions for termination of the administrative penal proceedings.

(3) The establishment of the violations, the issuance, the appeal and the fulfilment of the penal decrees shall be carried out in accordance with the Administrative Violations and Sanctions Law.

**Art. 338.** Whoever provides public electronic communications and does not notify the Commission of changes in any of the circumstances, referred to in the documents under Art. 83, paragraph 2, items 1 and 3, within 30 days of the change, shall be liable to a fine of not less than BGN 2,000 and not more than BGN 6,000.

**Art. 339.** (1) A member of the expert committee under Art. 99, paragraph 1 who does not declare in writing before the Commission, the existence of a significant commercial, financial or other business interest, which he/she and/or other persons economically related to either him/her or members of his/her family, hold in the selection of a given candidate to be granted a right of use for an individually assigned scarce resource, shall be liable to a fine of not less than BGN 1,000 and not more than BGN 5,000.

(2) A member of the expert committee under Art. 99, paragraph 1, appointed at managing bodies of a candidate, who has won in a contest or auction a right of use for an individually assigned scarce resource, up to one year as of the date of granting the right of use, shall be liable to a fine of not less than BGN 3,000 and not more than BGN 8,000.

(3) A member of the expert committee under Art. 99, paragraph 1 who is revealed to have provided false data in his/her declaration under Art. 99, paragraph 4, in case the act does not constitute a crime, shall be liable to a fine of not less than BGN 500 not more than BGN 2,000.

**Art. 340.** A fine of not less than BGN 5,000 and not more than BGN 10,000 shall be imposed for violations under Art. 261, paragraph 5.

**Art. 341.** Property sanctions of not less than BGN 500 and not more than BGN 5,000 shall be imposed for violations under Art. 282, paragraph 1, committed by undertakings providing public electronic communications networks, registered under this Law.

**Art. 342.** (1) Whoever produces or imports radio equipment or electronic communications terminal equipment under Art. 274, paragraph 1, without having registered it with the specialized directorate under Art. 113 of the Law on the Ministry of Interior, shall be liable to a fine of not less than BGN 2,000 not more than BGN 5,000.

(2) When the violation under paragraph 1 is committed by a legal person or a sole trader, a property sanction shall be imposed of not less than BGN 5,000 and not more than BGN 10,000.

(3) When the violation under paragraph 1 is repeated, a doubled fine or property sanction shall be imposed in addition to the first one.

**Art. 343.** Whoever does not provide information under Art. 272 shall be liable to a fine of not less than BGN 500 and not more than BGN 1,000.

**Art. 344.** (1) Upon the establishment of violations under Art. 342, the employees under Art. 321 shall draw up statements in accordance with the Administrative Violations and Sanctions Law.

(2) On the basis of the statements of establishment under paragraph 1, the Minister of Interior, or a person explicitly authorised by him/her, shall issue penal decrees or motivated resolutions for termination of the administrative penal proceedings.

(3) The establishment of violations, the issuance, appeal and fulfilment of penal decrees shall be carried out in accordance with the Administrative Violations and Sanctions Law.

## **ADDITIONAL PROVISIONS**

**§ 1.** For the purposes of this Law:

1. 'Subscriber' shall mean a natural or legal person, party to a contract with an undertaking providing public electronic communications services.
2. 'Local loop' shall mean the physical circuit - a twisted metallic pair which connects a termination point of a public fixed telephone network at the subscriber's premises to the main distribution frame.
3. 'Address' shall mean a sequence of digits and/or symbols, used for the identifying of a given element or termination point of an electronic communications network during routing, excluding an Internet address.
4. 'Interconnection' shall mean physical and/or logical linking of public electronic communications networks, used by the same or a different undertaking in order to allow the users of one undertaking to communicate with the users of the same or another undertaking, or to have access to services provided by another undertaking. Services may be provided by the parties involved or by other parties who have access to the network. Interconnection is a specific type of access, implemented between enterprises providing electronic communications through public electronic communications networks.
5. 'Harmful interference' shall mean any electromagnetic phenomenon, which can degrade the technical parameters of a radio facility and/or the quality of services, provided over



radiocommunications networks, or can endanger the functioning of radionavigation service, whose work is related to people's safety or to national security. The phenomenon can be electromagnetic noise, an unsolicited signal or a change in the parameters or characteristics of the transmission medium.

6. 'Geographic number' shall mean a number from the National Numbering Plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point of the electronic communications network.

7. 'Location data' shall mean various sorts of data, processed in an electronic communications network, which show the geographic location of the electronic communications terminal equipment of a user of a public electronic communications service.

8. 'Access' shall mean the provision of accessibility to facilities and/or services to another undertaking, under defined conditions for the provision of electronic communications services. This shall include access to electronic communications network elements and associated facilities, which may involve the connection of equipment, by fixed or non-fixed means (in particular, this includes access to the local loop and to facilities necessary to provide services over the local loop), access to physical infrastructure, including buildings, ducts, shafts, towers, masts and poles; access to the relevant software systems, including operational support systems; access to fixed and mobile networks, including for the purpose of roaming; access to conditional access systems for digital television services; access to virtual network services.

9. 'Member-State' shall mean any member-state of the European Union, as well as other states which are parties to the European Economic Area Agreement, and Switzerland.

10. 'Electromagnetic compatibility' shall mean the capacity of the equipment to perform satisfactorily in its working electromagnetic environment without causing harmful interference with any piece of equipment in the same electromagnetic environment.

11. 'Electronic mail' shall mean a means for communication which uses text, voice, audio information or graphics, that is transmitted over a public electronic communications network and can be stored in it or has been received at the terminal equipment of the recipient.

12. 'Electronic programme guide' shall mean a technical means or a technical solution which makes possible the selection of programmes, transmitted through digital television systems, by providing additional information about each channel and programme content.

13. 'Electronic communications infrastructure' shall mean a totality of all or some of the following elements: means for electronic communications, including lines, cable systems, poles, towers, masts, cables, wires and equipment, which are used to provide electronic communications, except for the electronic communications terminal equipment.

14. 'Electronic communications facilities' shall mean various electronic communications equipment and related technical means, including antennas.

15. 'Electronic communications network' shall mean a totality of transmission facilities and, where necessary, switching and routing equipment, and other resources, which serve to transmit signals over wires, radio, optic or other electromagnetic means, including satellite networks, fixed (with channel or package switching, including Internet) and mobile land networks, electricity distribution networks, when they are used to transmit signals, networks used for radio and television broadcasting, and cable electronic communications networks for broadcasting of radio and television programmes, irrespective of the type of transmitted information.

16. 'Private electronic communications' shall mean the provision of electronic communications in a non-commercial manner. Private use is present when the network is not used as a means to provide electronic communications services.

17. 'Electronic communications service' shall mean a service, usually provided against remuneration, which consists wholly or mainly in conveyance of signals over electronic communications networks, including transmission services, provided through broadcasting networks, excluding services, related to content and/or the control over it. It does not include information society services, which do not consist wholly or mainly in the conveyance of signals over electronic communications networks.

18. 'Public interest protection' shall mean the protection of the citizens' dignity, justice and civil rights, and freedoms, as recognised by legislation, as well as the guarantee of security, defence and public order of the country, and the provision of conditions for the successful use of scarce resources and for encouraging effective competition

19. 'Calling line identification' shall mean a function of the network where a called terminal is notified of the address from which the call has originated before exchange of information takes place.
20. 'Connected line identification' shall mean a function of the network where a calling terminal is notified of the address to which the call has been connected upon establishment of the connection.
21. 'Name' shall mean a sequence of letters, digits and/or symbols which identifies a definite element of a network and allows access to services, except for an Internet name.
22. 'Internet' shall mean a system of interconnected networks using Internet Protocol which allows them to function as an independent virtual network.
23. 'Interface' shall mean an electric, electronic, electromagnetic or optic system, including or not software and enabling interconnectivity or exchange of signals among devices, connected through it, while observing the respective technical specifications.
24. 'Application programme interface (API) shall mean the software interface between programme applications, provided by the producer and/or distributor of radio and television programmes, as well as the opportunities for the enhanced equipment to provide digital radio and television services.
25. 'Intelligent network services' shall mean services, provided through electronic communications networks of architecture which offers flexibility for the introduction of new options and services, including those managed by the user.
26. 'End-user' shall mean a user who does not provide public communications networks or public electronic communications services.
27. 'Network termination point' (NTP) shall mean the physical point at which the subscriber is provided with access to a public electronic communications network. In the case of networks involving switching or routing, NTP is identified by means of a specific network address, which may be linked to a subscriber number or name.
28. 'Electronic communications terminal equipment' shall mean products or parts thereof, used to connect to the interfaces of the public electronic communications networks.
29. 'Cryptographic key' shall mean a series of symbols that is used in an algorithm to generate cipher text (encryption) from plain text or vice versa – from cipher text into plain text (decryption).
30. 'Leased lines' shall mean electronic communications equipment through which a transparent transmission capacity between termination points of the electronic communications network is ensured, and which do not include switching on demand – commutation functions, controlled by the user as part of the provision of leased lines.
31. 'Routing' shall mean a process of determination of an alternative route or method for providing electronic communications between two points of one or more electronic communications networks.
32. 'Terrestrial analogue broadcasting' shall mean broadcasting from terrestrial radio transmitters of analogue radio and/or television signals to be received by the public.
33. 'Non-geographic number' shall mean a number from the National Numbering Plan whose digit structure does not contain geographic significance, for example numbers for mobile services, freephone, value-added services, etc.
34. 'Unbundled access to the local loop' shall mean provision of full unbundled access to the local loop and shared access to the local loop; it does not entail a change in ownership of the local loop;
35. 'Net costs' shall mean the difference between the costs of an undertaking, obligated to provide universal service, and the costs without obligation to provide universal service, plus the revenues from the provision of universal service and an account of the advantages resulting from the obligation to provide universal service.
36. 'Number' shall mean a sequence of decimal digits, which uniquely identifies a termination point in an electronic communications network. The number contains the information needed to route and/or charge a call to that termination point.
37. 'Numbering space' shall mean the full set of numbers, used in electronic communications.
38. 'Public pay telephone' shall mean a telephone available to the general public (a special apparatus), for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-paid cards, including cards for use with dialling codes;

39. 'Public electronic communications network' shall mean an electronic communications network, used wholly or partially for the provision of public electronic communications services and/or for the provision of electronic communications to an unlimited number of users for commercial purposes.
40. 'Public electronic communications services' shall mean electronic communications services available to the public.
41. 'Public telephone service' shall mean a public electronic communications service for real time transmission of voice and sound for originating and receiving national and international calls and access to emergency services through a number or numbers in a national or international numbering plan; in addition it may, include one or more of the following services: the provision of operator assistance, directory enquiry services, directories, provision of public pay telephones, provision of service under special terms, provision of special facilities for end-users with disabilities or with special social needs and/or the provision of non-geographic services;
42. "Interoperability of services" shall mean the capacity of electronic communications networks to interoperate effectively in order to ensure access for users to the services provided over these networks.
43. 'Scarce resource' shall mean a resource, limited due to natural phenomena or to technical reasons, such as the numbers from the National Numbering Plan, the radio-frequency spectrum in accordance with the National Frequency Spectrum Allocation Plan, and positions from the geostationary orbit, allocated to the Republic of Bulgaria by international agreements.
44. 'Provision of an electronic communications network' shall mean the construction, exploitation and provision of access to this network.
45. 'Retail market of services' shall mean a market for the provision of services to the end-users.
46. 'Wholesale market of services' shall mean a market where services are provided for third parties, which provide or intend to provide services to end-users.
47. 'Call' shall mean a connection, set up by means of a public telephone service, allowing for bi-directional communications in real time.
48. 'Repeated violation' shall mean a violation, committed within one year from entry into force of the penal decree which has imposed a sanction for the same type of violation.
49. 'User' shall mean a legal or natural person, using or having declared intent to use a public electronic communications service.
50. 'Undertaking providing public electronic communications networks and/or services' shall mean any natural person – sole trader, or any legal person, who provides electronic communications for commercial purposes in accordance with the provisions laid down in this Law.
51. 'Undertaking with significant market power' shall mean an undertaking that independently or together with other undertakings, enjoys a dominant position, i.e. a position of economic power which allows it to behave to a considerable extent independently from competitors, users, and end-users.
52. 'Interception' shall mean an activity of obtaining access to and provision of the electronic communications of a given subscriber, as well as the data related to his calls, to the competent authorities under Art. 20, paragraph 1 of the Special Surveillance Means Law, performed on the basis of legal permission.
53. 'Interception interface' shall mean an input-output software and technical means of an undertaking providing electronic communications, where access to the intercepted electronic communications or to data, related to the call, is provided. The intercepting interface can be in more than one fixed point.
54. 'Broadcasting' shall mean the emission by radiotransmitters of radio and/or television signals, intended for reception by an unlimited number of users.
55. 'Radio service' shall mean a combination of technical and organisational rules during the transmission, emission and/or reception of communications through radio waves for different specific cases of providing electronic communications.
56. 'Radio equipment' shall mean a device or part thereof for the provision of electronic communications by means of the emission or emission and reception of radio waves, using the spectrum allocated for terrestrial or satellite radiocommunications.

57. 'Radio spectrum' shall mean a spectrum of frequencies within the radio-frequency range of 9 kHz to 3000 GHz; radio waves are electromagnetic self-propagating waves in space.
58. 'Frequency band' shall mean a part of the radio-frequency spectrum, between two frequencies.
59. 'Cost-oriented prices' shall mean service prices which include the costs incurred for their provision, taking into account investments and investment risk, as well as an acceptable level of return on the capital invested.
60. 'Region' shall mean two or more adjacent settlements.
61. 'Roaming' shall mean a service in a mobile network, which allows for a subscriber of an undertaking providing public electronic communications services, over public mobile electronic networks, to use the main services provided by the undertaking, as well as, depending on the technical capacity, all of or some of the additional services and calling regimes, in the networks of another undertaking providing public electronic services, over public mobile electronic networks, without being a subscriber of the latter.
62. 'Full unbundled access to the local loop' shall mean provision of access to the local loop or local sub-loop by an undertaking obligated to provide the service, to another undertaking, by allowing the use of the full frequency spectrum of the twisted metallic pair.
63. 'Network security' shall mean the protection of electronic communications networks from unauthorised modification, destruction, or disclosure. This protection ensures that the network performs its functions correctly and without any harmful side-effects, related to the timely and reliable transmission of communications.
64. 'Systematic violation' shall be present when, within two years, three or more administrative violations of this Law or of the secondary legislation for its implementation, are committed.
65. 'Structural barriers to entry' shall mean barriers resulting from the factors such as necessary initial capital or demand and creating inequality among undertakings with significant market power and those now entering the market, thus preventing or deterring the entry of the latter.
66. 'Shared access to the local loop' shall mean the provision of access to the local loop or local sub-loop, by an undertaking, obligated to provide the service, to another undertaking by allowing the use of the non-voice band frequency spectrum of the twisted metallic pair. An undertaking, obligated to provide the service, continues to use the local loop to provide the public telephone service.
67. 'Collocation' shall mean the provision of physical space and technical means required for placing and connecting the relevant equipment by an undertaking obligated to provide the service to another undertaking.
68. 'Communication' shall mean any information, exchanged or transferred among a limited number of persons, through a public electronic communications service. This does not include information transferred as a part of broadcasting for the public over an electronic communications network, except when the information is related to a recipient - subscriber or user, who can be identified.
69. 'Substantial violation' shall mean a violation which prevents the achievement of the goals set in Art. 4 of this Law, as the result of which may occur or have occurred unfavourable consequences for the normal functioning of the electronic communications market.
70. 'Directory enquiry services' shall mean electronic communications services, enabling the calling end-user to obtain information about the telephone number of a subscriber through submitted data for individualisation of the subscriber – name, and if necessary, address.
71. 'Traffic data' shall mean data, processed for the purposes of transmitting a communication over an electronic communications network or needed for its billing.
72. 'Conditional access' shall mean a technical and/or organisational measure, whereby access to a protected service in an intelligible form is provided on the condition of prior individual permission.
73. 'Value added service' shall mean any service for which the user pays an additional price to the price for using the respective electronic communications service.
74. 'Emergency call services' shall mean free of charge electronic communications services for all end-users, enabling their access to the 'Emergency Medical Assistance', 'Police' and 'Fire and Accident Safety' services, also to the single European emergency call number "112".

75. 'Conditional access devices' and 'Information Society services' shall have the meaning applied in the European Convention on the legal protection of services, based on, or consisting of, conditional access (promulg. SG issue 62/2003).

76. 'Enhanced digital television equipment' shall mean set top boxes intended for connection to television sets or integrated digital television sets, able to receive digital interactive television services.

77. 'Fixed voice telephone service' shall mean a voice telephone service of definite quality, provided over a fixed telephone network, between fixed termination points of that network.

78. "Price squeeze" shall mean a situation of reducing competition, where a service provider cannot offer its users profitable services, which are already offered on the relevant market by the undertaking that has provided its network for this purpose at a very small margin between the wholesale and retail prices.

79. 'Price package' shall mean a package of two or more services, whose prices are different from the prices of each of the services in case they are offered outside the package.

80. 'Wide-screen television service' shall mean a television service that consists wholly or partially of programmes produced and cut to be displayed in a 16:9 format.

81. 'Legal or regulatory barriers to market entry' shall mean these barriers which are not based on economic conditions, but are the result of legislative, administrative or other state measures that partially restrict the potential competitors' access to the market or their likely future conduct.

### **TRANSITIONAL AND FINAL PROVISIONS**

**§ 2.** The Law on Telecommunications (promulg. SG, issue 88/2003, amend. issues 19, 77, 88, 95, 99, and 105/2005, amend. issues 17, 29, 34, 51, 59, and 82/2006) is hereby superseded.

**§ 3. (1)** The undertakings which provide the service of radio and television broadcasting over cable electronic communications networks, shall distribute free of charge in real time the national and regional programmes of the Bulgarian National Television and the Bulgarian National Radio.

**(2)** The distribution of the programmes of the Bulgarian National Television and the Bulgarian National Radio over terrestrial digital broadcasting networks shall be carried out by the undertakings in accordance with a decision of the Electronic Media Council on the basis of a contract at prices, covering the costs related to this activity at normal profit as defined by the Corporate Income Tax Law.

**(3)** The Bulgarian Telecommunications Company AD shall be obligated to provide high-quality terrestrial analogue broadcasting and transmission of the programmes of the Bulgarian National Television and the Bulgarian National Radio on the basis of a contract at prices covering the costs related to this activity at normal profit as defined by the Corporate Income Tax Law.

**§ 4. (1)** The Law on Radio and Television shall be brought into compliance with this Law within 6 months of its entry into force.

**(2)** The Bulgarian Telecommunications Company shall be able to provide television programmes, licensed and/or registered under the procedures, stipulated in the Law on Radio and Television at the time of this law's adoption, as well as foreign programmes of foreign natural persons and legal persons, registered as traders in compliance with the legislation of a Member State of the European Union, or of another state – party to the European Economic Area Agreement, through its licence/permission granted for the provision of telecommunications over a telecommunications network for terrestrial digital broadcasting of television signals for a period and within a geographic area, specified in it.

**(3)** The Electronic Media Council shall, within 6 months of the entry into force of the amendments under paragraph 1, determine with a decision, two Bulgarian programmes, one of them being Channel One of the Bulgarian National Television, which shall be broadcasted over the network under paragraph 2 for the period and geographic area specified in the licence under paragraph 2.

**§ 5.** Rights of use for an individually assigned scarce resource – radio frequency spectrum for analogue terrestrial television broadcasting, shall be granted until December 31, 2008 for a maximum period of validity until December 31, 2012.

**§ 6. (1)** The obligation under Art. 134, paragraph 1, items 1 and 2 for fixed networks shall apply as of January 2009, and under Art. 134, paragraph 1, item 3 for mobile networks – as of January 1, 2007.

(2) The provision under Art. 135, paragraph 1, item 2, shall not apply with regard to analogue telephones.

**§ 7.** The obligations of the operators with significant market power, imposed according to the Telecommunications Law, superseded by this Law, related to access and interconnection, collocation and shared use of premises and facilities, special access, access to the local loops, carrier selection, the provision of leased lines and the universal telecommunications service, shall apply until the entry into force of the Commission's decisions, imposing specific obligations on undertakings, designated as having significant power on the relevant market under this Law.

**§ 8.** The Members of the Communications Regulation Commission in office on the date of entry into force of this Law shall complete their mandates.

**§ 9. (1)** The operators, who on the date of this Law's entry into force, are involved in telecommunications activity on the basis of an individual licence or a registration under a general licence, and this Law stipulates that the provision of electronic communications is subject to submission of a notification, shall be registered automatically under Art. 33, paragraph 1, item 1 by the Commission, within six months of this Law's entry into force.

(2) The persons under paragraph 1 shall provide electronic communications until their entry into the register on the basis of their individual licence or in line with the conditions of the general licence, under which they have been registered.

(3) The operators who to the date of this Law's entry into force are involved in telecommunications activity on the basis of an individual licence, and this Law stipulates that the activity of providing electronic communications is related to granting of a right of use, the Commission shall grant automatically the relevant right of use within six months from this Law's entry into force. Until the granting of the right of use, the electronic communications shall be provided on the basis of the previously granted individual licences.

(4) In the case of a request submitted to the Commission within the period of six months under paragraphs 1 and 3 for the granting of supplementary scarce resource or for the amendment of the individual licence as regards the individually assigned scarce resource that has been granted, the Commission shall state its decision on the request, in compliance with the rules and within the term, stipulated in this Law, except when a competitive procedure is required.

(5) Annual licence fees owed by the operators for the individual licences under paragraphs 1 and 3 shall be paid at the amount and within the term, settled in the respective individual licences, until their expiry, in accordance with the period during which the licence-based activity has been performed.

(6) An administrative annual control fee under Art. 139, paragraph 2, item 1, shall be payable as of the entry into the register under Art. 33, paragraph 1, item 1, and the annual fee for use of an individually assigned scarce resource under Art. 140, paragraph 1 shall be payable in proportion to the term of use as stipulated in the right of use granted.

**§ 10.** The operators who freely carried out telecommunications activities under the conditions stipulated in the Telecommunications Law as superseded, and from whom this Law requires the submission of a notification, shall be obligated to submit a notification under Art. 66, to the Commission, within three months of this Law's entry into force.

**§ 11. (1)** The ongoing procedures for the granting of an individual licence, when the resource is scarce, and this Law stipulates that the provision of electronic communications requires the granting of a right of use, shall be completed in accordance with the provisions of this Law, while the applications submitted for granting of individual licences shall be considered applications as defined in Art. 83.

(2) Within 30 days of this Law's entry into force the applicants shall be obligated to bring their applications into compliance with the requirements under Art. 83.

(3) In the cases under paragraph 1, a fee under Art. 139, paragraph 2, item 4 shall not be charged.

**§ 12. (1)** The applications submitted to register under a general licence when this Law stipulates that the provision of electronic communications involves the submission of a notification, shall be considered notifications as defined in Art. 66.

(2) Within 30 days of this Law's entry into force the applicants shall be obligated to bring their notifications in compliance with the requirements under Art. 66.

**§ 13.** The provisions of Chapter Seventeen shall apply also to the electronic communications infrastructure, constructed before this Law's entry into force.

**§ 14.** In the Law on the State Social Security Budget for 2007 (SG, issue 105/2006), Annex No. 1, line 59, the column, entitled “Name of economic activity”, and in Annex No. 2, the word “telecommunications” shall be replaced with “electronic communications.”

§ 15. In the Civil Aviation Law (promulg. SG issue 94/1972; amend. issue 30/1990; issue 16/1997;. No. 85 /1998; issue 12/2000; issues 34 and 111/2001; issues 52 and 70/2004, issues 88 and 102/2005, issues 30, 36, 37, 105 и 108/2006, issue 10/2007) Art. 16f shall be added as follows:

**"Art. 16f.** The Minister of Transport or an official authorised by him/her:

1. shall grant qualification certificates to the radio operators from the aeronautical mobile radio service and the aeronautical mobile-satellite radio service, shall grant permissions for the use of aircraft radio stations and keep public registers of the certificates and permissions granted.
2. shall carry out international coordination of radio frequencies and radio frequency bands, as well as of the technical characteristics of the radio equipment, which uses them for the radio service – aeronautical mobile, aeronautical mobile-satellite, aeronautical radionavigation and aeronautical radionavigation - satellite.
3. shall assign for use the allocated radio call signs for identification of the aircraft radio stations and shall keep a register in accordance with a procedure, laid down in an ordinance of the Minister of Transport, for the allocation of radio call signs in compliance with the requirements of the International Telecommunications Union.

**§ 16.** In the Value Added Tax Law (promulg. SG issue 63/2006, amend. issues 86, 105, and 108/2006) the following amendments shall be made:

1. In Art. 3, paragraph 5, item 1, letter “a”, the word “telecommunications” shall be replaced with “electronic communications”;

2. In Art. 21:

a) in paragraph 3, item 2, letter “h”, the word “telecommunications” shall be replaced with “electronic communications”;

b) in Art. 4 the words “provision of telecommunications” shall be replaced with “provision of electronic communications”.

3. In § 1 of the additional provision item 13 shall be amended as follows:

"13. “Electronic communications services” shall be electronic communications services as defined in the Law on Electronic Communications. The electronic communications services shall also include transfer or cession of the right to use the capacity for conveyance, emission, transmission or reception or the provision of access to global information networks.”

§ 17. In the Law on Access to and Disclosure of Documents, and Revealing Affiliation of Bulgarian citizens with the State Security and Intelligence Services of the Bulgarian People’s Army (SG, issue 102/2006), in Art. 3, paragraph 2, item 11, the phrase “telecommunications operators” shall be replaced throughout the text with “undertakings providing electronic communications.”

**§ 18.** In the Law on State Property (promulg., SG, issue 44/1996; amend. issue 104/1996, issue 55, 61, and 117/1997, issues 93 and 124/1998, issue 67/1999, issue 9, 12, 26, and 57/2000, issue 1 /2001, issue 38/2001 – Decision No. 7 of the Constitutional Court, dated 2001, amend. issue 45/2002, issue 63/2003, issues 24 and 93/2004, issue 32/2005, issue 17, 30, 36, 64, and 105/2006), in § 1 of the additional provisions the word “telecommunications” shall be replaced with “electronic communications”.

**§ 19.** In the Law on Electronic Commerce (promulg. SG, issue 51/2006; amend. issue 105/2006) the following amendments shall be made:

1. In Art. 1, paragraph 4, item 2, the word “telecommunications” shall be replaced with “electronic communications”.

2. In Art. 13 the words “telecommunications” and “the telecommunications” shall be replaced throughout the text with “electronic communications”.

3. In Art. 15 the words “telecommunications” shall be replaced with “electronic communications”.

**§ 20.** In the Law on Consumer Protection (promulg. SG, issue 99/2005; amend. issue 30, 51, 53, 59, 105, and 108/2006, issue 31/2007) the following amendments shall be made:

1. In Art. 50, paragraph 1, item 2 shall be amended as follows:

“2. concluded with undertakings providing public electronic services over public pay telephones;”.

2. In Art. 169, paragraph 1, item 3, the word “telecommunications” shall be replaced with “electronic communications”.

**§ 21.** In the Law on Disaster Relief (SG, issue 102/2006), in Art. 30, paragraph 2, the words “Telecommunications operators” shall be replaced with “The undertakings providing electronic communications”.

**§ 22.** In the Law on Concessions (promulg. SG, issue 36/2006; amend. issues 53, 65, and 105/2006), in § 1, item 13 of the additional provision the word “the telecommunications” shall be replaced with “the electronic communications”.

**§ 23.** In the Law on the Ministry of the Interior (promulg. SG, issue 17/2006; amend., issue 30, 102, and 105/2006, issues 11 and 31/2007), in Art. 112, item 6 the words “the licensed telecommunications operators” shall be replaced with “the undertakings providing public electronic communications networks and/or services”.

**§ 24.** In the Law on Maritime Space, Inland Waterways and Ports of the Republic of Bulgaria (promulg. SG, issue 12/ 2000, amend. issue 111/ 2001, amend. issues 24 and 70/2004, amend. issue 11/2005, issue 45/2005 – Decision No. 5 of the Constitutional Court, dated 2005, amend. issues 87, 88, 94, 102, 104/2005, issues 30, 36, 43, 65, 99 and 108/2006) the following amendments and supplements shall be made:

1. In Art. 15:

a) in paragraph 1 the words “authorised telecommunications operator” shall be replaced with “authorised undertaking providing electronic communications”;

b) in paragraph 2 the word “telecommunications” shall be replaced with “electronic communications”.

2. Art. 60b shall be added:

**"Art. 60b.** The Minister of Transport or an official authorised by him/her:

1. shall grant qualification certificates to the radio operators from the Global Maritime Distress and Safety System of the maritime mobile radio service and the maritime mobile-satellite radio service, and to operators of radio stations on ships navigating in inland waterways, shall grant permissions for the use of ship radio stations and radio location stations and shall keep public registers of the certificates and permissions granted.

2. shall carry out international coordination of radio frequencies and radio frequency bands, as well as of the technical characteristics of the radio equipment, which uses them for the radio service – maritime mobile, maritime mobile-satellite, maritime radionavigation and maritime radionavigation satellite.

3. shall assign for use the allocated radio call signs for identification of the ship radio stations and shall keep a register in accordance with a procedure, laid down in an ordinance of the Minister of Transport, for the allocation of radio call signs in compliance with the requirements of the International Telecommunications Union."

**§ 25.** In the Law on Restriction of the Administrative Regulation and Administrative Control over Economic Activity (promulg. SG, issue 55/2003; corrigendum, issue 59/2003; amend. issue 107/2003, issues 39 and 52/2004, issues 31 and 87/2005, issues 24, 38, and 59/2006, issue 11/2007), item 39 in the annex, “Telecommunications Activities”, shall be deleted.

**§ 26.** In the Environment Protection Law (promulg. SG, issue 91/2002; corrigendum, issue 98/2002; amend. issue 86/2003, issue 70/2004, issues 74, 77, 88, 95, and 105/2005, issues 30, 65, 82, 99, 102, and 105/2006, issue 31/2007), in Art. 85, paragraph 1, the word “telecommunications” shall be replaced with “electronic communications”.

**§ 27.** In the Law on Defence and Armed Forces of the Republic of Bulgaria (promulg. SG, issue 112/1995; amend. issue 67/1996, issue 122/1997, issues 70, 93, 152, and 153/1998, issues 12, 67, and 69/1999, issues 49 and 64/2000, issue 25/2001, issues 1, 40, 45, and 119/2002, issues 50, 86, 95, and 112/2003, issues 93 and 111/2004, issues 27, 38, 76, 88, 102, and 105/2005, issues 30, 36, 56, 82, 91, and 102/2006, issue 11/2007), in Art. 49a the following amendments and supplements shall be made:



1. In item 1 the words “postal and telecommunications” shall be replaced with “postal and electronic communications”, while after the word “forces” an “and” shall be added.
2. In item 2 the word “telecommunications” shall be replaced with “electronic communications”.
3. In item 3 the words “special sites for military use and installed wartime capacities in the National State Security and Defence Network for defence purposes” shall be added after “the maintenance of”, and the text thereafter shall be deleted.

**§ 28.** In the Law on Postal Services (promulg. SG, issue 64/2000; amend. issue 112/2001, issues 45 and 76/2002, issue 26/2003, issues 19, 88, 99, and 105/2005, issues 17, 34, 37, and 86/2006) the following amendments shall be made:

1. In Art. 3, item 2, the word “telecommunications” shall be replaced with “electronic communications”.
2. In Art. 64, paragraph 2 the words “exercise of its authority under Art. 15, item 4 of the Law on Telecommunications” shall be replaced with “projects under Art. 20, paragraph 1, items 1, 6, 9, and 11 of the Law on Electronic Communications”.

**§ 29.** In the Law on Radio and Television (promulg. SG issue 138/1998, amend. issue 60/1999 – Decision No. 10 of the Constitutional Court, dated 1999, amend. issue 81/1999 and issue 79/2000, issue 96/2001, issue 77 and 120/2002, issues 99 and 114/2003, issues 99 and 115/2004, issues 88, 93 and 105/2005, issues 21, 34, 70, 105, and 108/2006, issue 10/2007) paragraphs 3, 4, and 5 shall be added to Art. 44:

"(3) The Bulgarian National Television and the Bulgarian National Radio shall ensure the broadcasting of their national programmes through satellite/satellites, over the coverage of the territories of Europe and other continents, where citizens of Bulgarian origin live, according to sources of the Agency for Bulgarians Abroad and the media's own surveys.

(4) The funds to cover the activities under paragraph 1 shall be provided by the state budget.

(5) The Bulgarian National Television and the Bulgarian National Radio shall provide free of charge their national and regional programmes to undertakings providing electronic communications over cable electronic communications networks for the distribution of radio and television programmes, as well as for satellite and terrestrial digital broadcasting."

**§ 30.** In the Law on Technical Requirements for Products (promulg. SG, issue 86/1999; amend. issue 63 and 93/2002, issues 18 and 107/2003, issues 45, 77, 88, 95, and 105/2005, issues 30, 62, and 76/2006), paragraph 5 shall be added to Art. 27:

"(5) The control of the market for the electronic communications terminal equipment and radio equipment shall be exercised by the Communications Regulation Commission in cooperation with the Chairperson of the State Agency for Metrological and Technical Surveillance."

**§ 31.** In the Law on Spatial Planning and Development of the Sofia Municipality (SG, issue 106/2006) the following amendments shall be made:

1. In Art. 13, paragraph 1, item 9, the word “telecommunications” shall be replaced with “electronic communications”.
2. In the annex, line 28, column one, the word “telecommunications” shall be replaced with “electronic communications”.

**§ 32.** In the Law on Spatial Planning (promulg. SG, issue 1/2001, amend. issues 41 and 111/2001, amend. issue 43/2002, amend. issue 20, issue 65 and 107/2003, issue 36 and 65/2004, issues 28, 76, 77, 88, 94, 95, 103, 105/2005, issues 29, 30, 34, 37, 65, 76, 79, 82, 106 and 108/2006) the following amendments and supplements shall be made:

1. In Art. 70, paragraph 4, the word “telecommunications” shall be replaced with “electronic communications”.
2. In Part One, Chapter Four, in the name of Section VI, the word “Telecommunications” shall be replaced with “Electronic communications”.
3. In Art. 93:
  - a) in paragraphs 1 and 2 the word “telecommunications” shall be replaced with “electronic communications”;
  - b) in Art. 3 the word “telecommunications” shall be replaced with “electronic communications”.

4. B In Art. 94 the word “telecommunications” shall be replaced with “electronic communications”.

5. In Art. 108, paragraph 2, the word “telecommunications” shall be replaced with “electronic communications”.

6. In Art. 137, paragraph 1:

a) in item 1, letter “b”, the word “telecommunications” shall be deleted;

b) in item 2, letter “b”, the word “telecommunications” shall be deleted;

c) in item 3:

aa) in letter “b” the word “cable” shall be deleted;

bb) a letter “h” shall be added:

“h) Electronic communications networks and facilities – constructed of the highway type on a national level.”

d) in item 4 a letter “g” shall be added:

“g) electronic communications networks and facilities – constructed in urban territories of high and medium built-up”;

e) in item 5 a letter “e” shall be added:

“e) “electronic communications networks and facilities – constructed in urban territories of low built-up;”.

7. In Art. 205, item 2, the word “telecommunications” shall be replaced with “electronic communications”.

8. In Art. 5 of the additional provisions, in item 31, the word “telecommunications” shall be replaced with “electronic communications”.

**§ 33.** In the Law on Crisis Management (promulg. SG, issue 19/2005; amend. issue 17, 30, and 102/2006, issue 11/2007) the following amendments shall be made:

1. In Art. 27:

a) in paragraph 2 the words “telecommunications operators” shall be replaced with “the undertakings providing electronic communications”, and the words “non-public information networks” shall be replaced with “private information networks”;

b) in paragraph 3 the words “The telecommunications operators” shall be replaced with “The undertakings providing electronic communications”, and the words “telecommunications services” shall be replaced with “electronic communications services”;

c) in paragraph 5 the word “telecommunications” shall be replaced with “electronic communications”.

2. In Art. 64, paragraph 1, the words “the telecommunications networks for the provision of the necessary communication connections” shall be replaced with “the undertakings providing public electronic communications networks and/or services for action to be taken”.

**§ 34. (1)** The legislative acts related to the implementation of this Law shall be adopted within six months of its entry into force.

(2) The secondary legislation, created on the grounds of the Telecommunications Law as superseded shall continue to apply as long as they do not contradict with this Law.

(3) The secondary legislation, adopted on the grounds of Art. 14, paragraph 1, item 2, Art. 27, item 15, and Art. 28, paragraph 1, item 11; Art. 140, paragraph 1 and Art. 209, paragraph 2 of the Telecommunications Law as superseded, shall be revoked by the Council of Ministers within six months of this Law’s entry into force.

(4) The Methodology under Art. 150, paragraph 2, shall be adopted by the Council of Ministers within three months of the promulgation of this Law in the State Gazette.

(5) The documents and information under Art. 153 shall be provided to the Commission within one month of the adoption of the Methodology under paragraph 4.

(6) The draft decisions, containing analyses of the relevant markets according to the methodology under paragraph 4, shall be published for public consultation within three months of the expiry of the term under paragraph 3.

(7) The instruction under Art. 311, paragraph 4 shall be issued within one month after the promulgation of this Law in the State Gazette.

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This Law has been adopted by XXXX National Assembly on May 10, 2007 and the Official Seal of the National Assembly has been affixed thereto.