

## Electronic Communications Act<sup>1</sup>

Passed 8 December 2004

(RT<sup>2</sup> I 2004, 87, 593),

entered into force 1 January 2005.

### Chapter 1

#### General Provisions

##### § 1. Purpose and scope of application of Act

(1) The purpose of this Act is to create the necessary conditions for the development of electronic communication to promote the development of electronic communications networks and communications services without giving preference to specific technologies and to ensure the protection of the interests of users of electronic communications services by promoting free competition and the purposeful and fair planning, assignment and use of radio frequencies and numbering.

(2) This Act provides requirements for the publicly available electronic communications networks and communications services, radiocommunication, management of radio frequencies and numbering, apparatus and state supervision over compliance with the requirements and liability for violation of the requirements.

(3) This Act does not apply to Information Society services within the meaning of the Information Society Services Act (RT I 2004, 29, 191; 54, 387).

(4) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

##### § 2. Definitions

In this Act, the following definitions are used:

- 1) “local sub-loop” is the physical circuit connecting the network termination point to an intermediate distribution point;
- 2) “apparatus” is any equipment that is either terminal equipment or radio equipment or both;
- 3) “putting an apparatus into service” is an activity which consists of the first intended use of the apparatus in a Contracting State to the European Economic Area;

- 4) “placing an apparatus on the market” is an activity by which the apparatus is made accessible in a Contracting State to the European Economic Area for the first time either for the purpose of distribution or putting it into service;
- 5) “electronic communications undertaking” (hereinafter communications undertaking) is a person who provides a publicly available electronic communications service to the end-user or to another provider of a publicly available electronic communications service;
- 6) “electronic communications service” is a service which consists wholly or mainly in the transmission or conveyance of signals on electronic communications networks under the agreed conditions. Network services are also electronic communications services;
- 7) “user of electronic communications service” (hereinafter user of communications service) is a person using a publicly available electronic communications service;
- 8) “electronic communications network” is a transmission system including switching equipment and other support systems which enable the transmission or conveyance of signals by way of a cable and by radio, optical or other electromagnetic means. Electronic communications networks include also the satellite network, telephone network, data communication network, mobile telephone network, broadcasting transmission network, cable television network and electric cable system, if used for the transmission or conveyance of signals, regardless of the nature of information broadcast through them;
- 9) “self-planned frequency band” is a radio frequency band the use of which is planned by the user of radio frequencies pursuant to the conditions established by a frequency authorisation;
- 10) “surveillance equipment” is a technical infrastructure used by a surveillance agency or a security authority to restrict the right to the confidentiality of messages;
- 11) “cable distribution service” is a publicly available electronic communications service which consists of transmission of television or radio broadcasts and television or radio programmes to end-users for an agreed charge;
- 12) “cable distribution network” is an electronic communications network which is created for the provision of cable television services;
- 13) “narrowband connection” means connection to the communications network which offers a data rate of up to 64 kbit/s;
- 14) “subscriber line” is the physical circuit connecting the network termination point to the main distribution frame or equivalent facility;

- 15) “user” is a person using a publicly available electronic communications service who has a contract with a communications undertaking for the use of the publicly available electronic communications service;
- 16) “interoperability” is the technical and logical compatibility of interconnected communications networks and similar public communications services provided by means of such networks, or of elements thereof;
- 17) “call” is a narrowband connection for the conveyance of signals between two termination points to transmit voice, telefax or data in real time;
- 18) “call origination” is the transmission of a call from the communications network termination point to the interconnection point;
- 19) “call termination” is the transmission of a call from the interconnection point to the communications network termination point;
- 20) “call transit” is the transmission of a call between two interconnection points;
- 21) “broadband service” is an electronic communications service which can be used only by a broadband connection;
- 22) “broadband connection” means connection to the communications network which offers a data rate of over 144 kbit/s;
- 23) “interface” is a connection point between two functional units which is defined by the relevant functions, physical connection, signal exchange and other similar characteristics;
- 24) “line” is a set of technical facilities which connects the termination point with the connection point of terminal equipment;
- 25) “line facility” is a part of an electronic communications network permanently attached to subsoil, which includes an underground cable, cable in the bottom of a body of water, cable conduit or duct, a set of cables or wires installed on buildings and posts together with switching devices, distribution equipment and cable termination equipment, regenerator, equipment container and a radio mast. Utility networks and constructions within the meaning of the Building Act (RT I 2002, 47, 297; 99, 579; 2003, 25, 153; 2004, 18, 131) and the Law of Property Act Implementation Act (RT I 1993, 72/73, 1021; 1999, 44, 510; 2000, 51, 325; 88, 576; 2001, 31, 171; 42, 234; 94, 582; 2002, 47, 297; 53, 336; 99, 579; 2003, 13, 64; 51, 355; 78, 523; 81, 546; 2004, 14, 91; RT III 2004, 13, 160) are also deemed to be line facilities;
- 26) “subscription contract” is a publicly available electronic communications service contract for the provision of a publicly available electronic communications service to the

end-user, the content of which is to establish and preserve a necessary connection with the communications network;

27) “end-user” is a subscriber who does not provide a publicly available electronic communications service;

28) “end to end connectivity” means connectivity between end-users;

29) “short number” is a decimal number consisting of three to five digits which may be used to provide a publicly available electronic communications service or to use simplified dialling when accessing a communications undertaking or other addressees, including the emergency service;

30) “short dialling code” is a number or sign or a combination of these which is connected with a number of a subscriber in the Estonian numbering plan and which is used for the provision of a publicly available electronic communications service to the subscriber;

31) “mobile telephone service” is a publicly available electronic communications service for originating and receiving national and international calls at an undetermined location and for access to emergency services through a number or a short access code connected with the number in the Estonian or international telephone numbering plan by establishment of partial or complete radiocommunication;

32) “mobile telephone network” is a communications network without stationary termination points which allows the transmission of speech and complies with the requirements established for the mobile telephone network;

33) “number” is, in accordance with ITU Recommendation E.164, a decimal number used for the provision of a publicly available electronic communications service;

34) “number portability” is the possibility of a subscriber to retain a number of which the subscriber is granted use on the basis of a subscription contract if the subscriber changes the provider of electronic communications services or the geographical location of use of the communications service;

35) “numbering” includes numbers, short numbers, service numbers, identification codes and prefixes determined in the numbering plan;

36) “prefix” is a sign, digit or combination of digits preceding dialling a certain number or short number;

37) “leased line” is a connection which allows continuous transmission of signals between two network points;

38) “leased line service” is a publicly available electronic communications service which consists of grant of use of a leased line to a subscriber;

- 39) “harmful radio interference” is an electromagnetic wave which endangers the functioning of equipment and systems, including a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a leally operating radiocommunications service or broadcasting;
- 40) “radio transmission equipment” is equipment used for the transmission of signals in a radio frequency band;
- 41) “radio frequency” is the oscillation frequency of an electromagnetic wave freely propagating in open space in the frequency range from 9 kHz to 3000 GHz;
- 42) “radio frequency band” is a radio frequency range determined for a certain use in the Radio Regulations annexed to the Convention and Constitution of the International Telecommunications Union and in the Estonian radio frequency allocation plan;
- 43) “radio frequency channel” is a part of a radio frequency band which is necessary for the transmission of signals by means of radio transmission equipment and which is defined by the centre frequency and bandwidth or by the edge frequencies;
- 44) “radio equipment” is technical equipment or a relevant component thereof which, for the purposes of information exchange, is capable of radiate or receive electromagnetic waves propagating on radio frequencies allocated for radiocommunication;
- 45) “radiocommunication” means the establishment of a connection and the transmission of signals for the purposes of communication of information, in which electromagnetic waves propagating in open space are used as the information carrier;
- 46) “radio receiving equipment” is equipment used for the receipt of signals on a radio frequency channel;
- 47) “equipment class” is a common denominator for equipment determined and defined by specific typical and standard technical specifications, and by the purpose, manner and possibilities of use. An apparatus may belong to more than one equipment class;
- 48) “restriction of provision of communications services” means restriction, in part or in full, or suspension of provision or use of a publicly available electronic communications service pursuant to law or a publicly available electronic communications service contract without cancellation of the publicly available electronic communications service contract;
- 49) “communications network” is a publicly available electronic communications network through which the publicly available electronic communications services are provided;
- 50) “communications network termination point” (hereinafter termination point) is a physically defined communications network point where subscribers are provided or can be provided with access to the communications network;

- 51) “interconnection line” is a leased line which passes through the interconnection point;
- 52) “interconnection point” is a point of a communications network used for interconnection of communications networks and which ensures interoperability of the communications networks and provided communications services;
- 53) “message” is a set of signals transmitted through the communications network between the sender and recipient;
- 54) “intelligent network service” is a service which is directed through a computer system connected to an exchange;
- 55) “consumer” is an end-user who is a natural person and who mainly does not use electronic communications services in his or her economic or professional activities;
- 56) “interception of messages” means to obtain information concerning users of radio frequencies and information transmitted by them;
- 57) “exchange” is a set of technical facilities which enables the switching of calls;
- 58) “telephone service” is a publicly available electronic communications service for originating and receiving national and international calls at a determined location and for access to emergency services through a number or a short access code connected with the number in the Estonian or international telephone numbering plan;
- 59) “telephone network” is a communications network which is used for the provision of telephone services and which allows the making of calls between the termination points of the communications network;
- 60) “terminal equipment” is technical equipment or a part thereof which, connected at the connection point, allows to send, process or receive calls or transmit data;
- 61) “conditional access” means a set of technical facilities which enables the use of radio or television services only after certain acts which require that the person who ordered the services pay for the services;
- 62) “identification code” is a combination of digits which is used to organise the use of a communications network or its parts and to distinguish a communications undertaking upon provision of communications services;
- 63) “local loop” is the physical circuit connecting the network termination point at the subscriber's premises to the main distribution frame or equivalent facility in the fixed public telephone network;
- 64) “virtual network service” is a publicly available electronic communications service provided by a communications undertaking which is based on a virtual connection or facility created in the communications network of another communications undertaking;

- 65) “roaming” is a publicly available electronic communications service by which the provider of mobile telephone services allows its subscriber to use mobile telephone services in another mobile telephone network;
- 66) “network service” is an electronic communications service which consists of creation, management and grant of use, in full or in part, of an electronic communications network to other communications undertakings for the provision of an electronic communications service;
- 67) “connection point” is the point where the terminal equipment of the subscriber is connected to a line;
- 68) “publicly available electronic communications service” (hereinafter communications service) is a service provided by a communications undertaking on the corresponding communications services market pursuant to the general procedure to all persons, and the persons need not meet any conditions differentiating them from other similar persons. A service is publicly available particularly if provision of the service is continuous and consistent and it is provided essentially under the same conditions;
- 69) “publicly available electronic communications service contract” (hereinafter communications service contract) is a contract on the basis of which a communications undertaking provides a communications service to a subscriber.

## Chapter 2

### Entry into Market

#### § 3. Commencement of provision of communications services and conditions for operation on communications services market

- (1) Taking account of the provisions of subsections (2) and (3) of this section, each person has the right to commence provision of communications services.
- (2) If a person wishes to commence provision of communications services, the person must be entered in the commercial register as an undertaking or must have registered its branch in the commercial register and shall inform the Communications Board of the provision of communications services in accordance with the provisions of § 4 of this Act.
- (3) If provision of communications services requires that radio frequencies are used pursuant to a frequency authorisation and that numbering is used pursuant to a numbering authorisation, the person must hold the frequency authorisation to use radio frequencies in

accordance with the provisions of § 11 of this Act or the numbering authorisation to use numbering in accordance with the provisions of § 33 of this Act.

#### § 4. Specifications for provision of communications services

- (1) Before the commencement of activities, an undertaking which intends to provide communications services shall submit a written notice to the Communications Board.
- (2) A notice specified in subsection (1) of this section shall express the intention to commence provision of communications services and shall contain the following information:
  - 1) the name and personal identification code or registry code of the notifier;
  - 2) the names, addresses and contact numbers of the contact persons of the notifier;
  - 3) a description of the service provided;
  - 4) the geographical area of activity;
  - 5) the estimated date of commencement of activities.
- (3) The Communications Board shall publish the form of a notice specified in subsection (2) of this section on its website.
- (4) On the basis of a written application of a communications undertaking which submitted a notice, the Communications Board shall issue, within seven working days as of receipt of the corresponding application, a written confirmation regarding receipt of the notice to the communications undertaking and, at the request of the communications undertaking, an overview of the rights and obligations of the communications undertaking upon installation of facilities, negotiating interconnection and of the conditions for access and interconnection in the area where the notifier wishes to commence provision of communications services according to the notice.
- (5) The Communications Board shall disclose the information specified in subsection (2) of this section together with an overview of the rights and obligations in the geographical area of the activity of a communications undertaking specified in subsection (4) of this section on its webpage not later than within seven working days after the date of receipt of the notice.
- (6) A communications undertaking which submits a notice is responsible for the correctness of information specified in subsection (2) of this section.

#### § 5. Notification of changes to information and termination of activities

A communications undertaking is required, if information specified in subsection 4 (2) is changed or the activities of which notification has been given are terminated, to submit a written notice concerning changes to the information or termination of the activities to the

Communications Board promptly but not later than within five working days as of changes to the information or termination of the activities.

### Chapter 3

#### Management of Radio Frequencies

##### § 6. Management of radio frequencies

- (1) This Chapter provides the requirements for the management and use of radio frequencies and for radiocommunications.
- (2) The purpose of management of radio frequencies is to ensure the purposeful, objective, transparent and proportionate management, and the effective and efficient use of radio frequencies for the needs of the user of radio frequencies and for the provisions of communications services, the creation of possibilities for the development of new technologies and fast elimination of harmful radio interference.
- (3) The purposes specified in subsection (2) of this section shall be attained, among other things, by harmonisation of use of radio frequencies in Estonia with the Community.

##### § 7. Principles of use of radio frequencies

Radio frequencies are used:

- 1) on the basis of a frequency authorisation pursuant to the procedure provided for in §§ 11-19 of this Act,
- 2) without a frequency authorisation, on the basis of the provisions of § 20 of this Act or
- 3) for national defence purposes, on the basis of the provisions of § 21 of this Act.

##### § 8. Management of radio frequencies

- (1) Radio frequencies are managed by the Ministry of Economic Affairs and Communications and the Communications Board.
- (2) Management of radio frequencies means international and national planning of radio frequency bands, organisation of the coordination and use of radio frequencies, publication and updating of information concerning the rights and conditions related to the use of radio frequencies and exercise of supervision in accordance with international agreements and this Act. Radio frequencies shall be managed on the basis of objective, transparent, non-discriminatory and proportionate criteria.

(3) Upon management of radio frequencies, the need to achieve harmonisation of use of radio frequencies across the Community shall be taken into account.

#### § 9. Estonian radio frequency allocation plan

(1) In accordance with the law of the European Union and international agreements, the Estonian radio frequency allocation plan shall determine the manner, regime and purpose of using radio frequencies, including the radio frequencies used in Estonia for rescue, safety and national defence purposes and shall ensure efficient and purposeful use of radio frequencies.

(2) The Estonian radio frequency allocation plan shall, among other things, determine the radio frequency bands for the introduction of new technologies together with restrictions on new and existing users, self-planned frequency bands and radio frequency bands the right of use of which is granted by way of public tender or the right of use of which can be transferred pursuant to the procedure provided for in § 17 of this Act.

(3) The Estonian radio frequency allocation plan shall be established by the Minister of Economic Affairs and Communications.

(4) The procedure for conducting public tender specified in subsection (2) of this section shall be established by the Minister of Economic Affairs and Communications.

(5) The Communications Board shall publish the Estonian radio frequency allocation plan on its webpage.

#### § 10. Amendment of Estonian radio frequency allocation plan

(1) The Minister of Economic Affairs and Communications shall amend the Estonian radio frequency allocation plan if:

- 1) the development of electronic communications technology requires it,
- 2) it arises from an international agreement or
- 3) it is necessary to ensure national defence.

(2) Consultation provided for in § 152 of this Act is unnecessary if amendments cover the provisions of § 21 of this Act or do not restrict the rights of persons using radio frequencies during amendment of the Estonian radio frequency allocation plan.

(3) If a regulation of the Minister of Economic Affairs and Communications issued pursuant to subsection 9 (3) of this Act restricts the rights of a user of radio frequencies, the part of the regulation in which the rights of the user of radio frequencies are restricted enters into force two years after the date of publication of the regulation, unless otherwise provided by an international agreement.

§ 11. Use of radio frequencies on basis of frequency authorisation

- (1) The use of radio frequencies is permitted on the basis of a frequency authorisation unless otherwise provided for in this Act.
- (2) A frequency authorisation grants the right to use radio frequencies under the conditions determined by the Communications Board. For the purposes of this Act, ship station licences, aircraft station licences and radio amateur licences are also frequency authorisations.
- (3) A frequency authorisation, except frequency authorisations specified in subsections (6) and (7) of this section, shall be issued for a term of up to one year.
- (4) The following conditions and requirements shall be established by a frequency authorisation:
  - 1) designation of the technology for which the right to use radio frequencies has been granted;
  - 2) the purpose, manner, area or location of use of radio frequencies;
  - 3) the requirements for the efficient and purposeful use of radio frequencies;
  - 4) the technical conditions of use of radio frequencies;
  - 5) the technical conditions for the avoidance of harmful radio interference;
  - 6) the requirements arising from international agreements.
- (5) Upon use of radio frequencies on the basis of a frequency authorisation, the conditions of use shall, if necessary be approved pursuant to the procedure provided for in the Public Health Act (RT I 1995, 57, 978; 1996, 3, 56; 49, 953; 1997, 37/38, 569; 1999, 30, 415; 88, 804; 2001, 23, 128; 2002, 32, 187; 53, 336; 61, 375; 63, 387; 90, 521; 2003, 26, 156 and 160; 2004, 45, 315; 75, 520).
- (6) The Communications Board shall issue a ship station licence or aircraft station licence for the use of radio frequencies on board watercraft or aircraft for a term of three years according to the internationally recognised form. The Communications Board shall publish the specified form on its website.
- (7) The Communications Board shall issue a radio amateur licence for the use of radio frequencies for the purposes of amateur radiocommunication, which complies with the internationally recognised form, for a term of three years. The Communications Board shall publish the specified form on its website.
- (8) A frequency authorisation may be issued to an applicant for the frequency authorisation as a joint authorisation for the use of several radio frequencies.

## § 12. Application for frequency authorisation

(1) In order to receive a frequency authorisation, a person shall submit a standard format application to the Communications Board, which contains at least the following information:

- 1) the name, residence or seat, date of birth or personal identification code or registry code, the telecommunications numbers and the e-mail address of the applicant;
- 2) the radio frequency or radio frequency band being applied for;
- 3) the purpose of use of the radio frequency or radio frequency band;
- 4) the technical conditions of use of the radio frequency or radio frequency band;
- 5) the area or location of use of the radio frequency or radio frequency band;
- 6) the date of commencement of use of the radio frequency or radio frequency band.

(2) The Communications Board shall publish the form of an application for a frequency authorisation on its website.

(3) If a person applies for a frequency authorisation for the use of radio frequencies in broadcasting, a broadcasting licence or a written agreement with a broadcaster holding a broadcasting licence for broadcasting the programme shall be appended to the application specified in subsection (1) of this section, unless a broadcasting licence has been issued to the applicant for the frequency authorisation.

## § 13. Processing of applications for frequency authorisations and grant of frequency authorisations

(1) The Communications Board shall issue a frequency authorisation:

- 1) within six weeks as of receipt of the corresponding application unless use of the radio frequencies needs international co-ordination;
- 2) within eight months as of receipt of the corresponding application if use of the radio frequencies needs international co-ordination or
- 3) pursuant to the procedure specified in subsection 9 (4) or § 19 of this Act.

(2) If the international agreements on the use of radio frequencies or of orbital positions provide for terms which are different from the ones set out in subsection (1) of this section, the terms determined in the specified agreements apply.

(3) Before the grant of a frequency authorisation for the provision of air traffic services by radiocommunication, navigation or monitoring equipment, the Communications Board shall submit the conditions of the frequency authorisation for approval to the frequency coordinator of the International Civil Aviation Organisation in Estonia.

- (4) The procedure for the approval of conditions of frequency authorisations provided for in subsection (3) of this section and the frequency bands subject to approval shall be established by the Minister of Economic Affairs and Communications.
- (5) The Communications Board shall inform the applicant for a frequency authorisation within one week as of the receipt of the application of the deficiencies contained in the application and shall set a term for elimination of the deficiencies.
- (6) Before the grant of a frequency authorisation, the Communications Board shall inform the applicant for the frequency authorisation in writing or, with the consent of the applicant, electronically of the restrictions established pursuant to subsection 11 (4) of this Act together with the reasons for the application thereof and of the amount of the state fee to be paid.
- (7) In order to receive a frequency authorisation, an applicant is required to pay a state fee within five working days after the notification provided for in subsection (6) of this section.
- (8) At the written request of the holder of a frequency authorisation, the Communications Board shall issue to the applicant a written confirmation regarding the rights and obligations upon use of radio frequencies which are granted to the applicant by the frequency authorisation within three working days after the date of receipt of the corresponding application.
- (9) A decision to grant a frequency authorisation and the conditions of the frequency authorisation shall be made available on the website of the Communications Board within ten working days after the grant of the frequency authorisation, except in the case provided by legislation.

#### § 14. Refusal to grant frequency authorisation

- (1) The Communications Board shall refuse to grant a frequency authorisation if:
- 1) the applicant has submitted false information,
  - 2) the activities of the applicant may be hazardous for human health or the environment,
  - 3) there are no free radio frequency channels,
  - 4) use of radio frequencies is not in conformity with the Estonian radio frequency allocation plan or legislation regulating the use of radio frequencies,
  - 5) use of radio frequencies is not in conformity with the conditions arising from international agreements,
  - 6) use of radio frequencies may cause harmful radio interference,

- 7) use of radio frequencies may interfere with the operation of fixed equipment of the Communications Board used for the purposes of technical supervision in the area where the fixed equipment is located,
  - 8) use of radio frequencies is ineffective,
  - 9) use of radio frequencies is not agreed in the course of international coordination or
  - 10) the state fee has not been paid.
- (2) A decision of the Communications Board concerning refusal to grant a frequency authorisation shall be delivered to the applicant within three working days after the decision is made.
- (3) If the reason for the refusal to grant a frequency authorisation is absence of a free radio frequency channel or the fact that use of radio frequencies has not been approved in the course of international coordination, the applicant shall be entered in the waiting list if the applicant so requests.
- (4) The areas specified in clause (1) 7) of this section shall be determined by the Minister of Economic Affairs and Communications.

#### § 15. Amendment of conditions of frequency authorisation

- (1) The Communications Board may amend the conditions of a frequency authorisation if after the grant of the authorisation the bases provided for in clauses 14 (1) 2), 4), 5), 6), 7) and 8) of this Act become evident or the broadcasting licence which was the prerequisite for the grant of the frequency authorisation is amended.
- (2) A decision to amend the conditions of a frequency authorisation enters into force six months after the decision is made, unless the holder of the frequency authorisation wishes that the decision to amend the frequency authorisation enters into force before the expiry of the specified term. If the bases for amendment of the frequency authorisation arise from clause 14 (1) 2) of this Act, the decision of the Communications Board on amendment of the conditions of the frequency authorisation enters into force at the moment when it is made. Amendment of the frequency authorisation which arises from amendments to the broadcasting licence enters into force at the date specified in the decision to amend the broadcasting licence.
- (3) If the holder of a frequency authorisation submits an application for amendment of the conditions of the frequency authorisation to the Communications Board, the Communications Board shall decide to amend or refuse to amend the conditions within the terms provided for in subsections 13 (1) and (2) of this Act, on the basis of the provisions of § 14 of this Act.

#### § 16. Extension of frequency authorisation

- (1) In order to extend a frequency authorisation under the valid conditions, the holder of the frequency authorisation shall submit an application for the extension of the frequency authorisation to the Communications Board not later than one month before the expiry of the frequency authorisation. The applicant is required to pay the state fee for the extension of the frequency authorisation.
- (2) The Communications Board does not extend a frequency authorisation if the holder of the frequency authorisation has not paid the state fee before expiry of the frequency authorisation.

#### § 17. Transfer of right of use of radio frequencies

- (1) The holder of a frequency authorisation has the right to partially or fully transfer the right of use of radio frequencies defined in the frequency authorisation to another person if the right of transfer of the corresponding radio frequencies is provided for in the Estonian radio frequency allocation plan.
- (2) In order to transfer the right of use of radio frequencies and to obtain the right to use radio frequencies, a corresponding application shall be submitted to the Communications Board.
- (3) The Communications Board has the right to refuse transfer of the use of radio frequencies if it distorts competition.
- (4) The procedure for the transfer of use of radio frequencies shall be established by the Minister of Economic Affairs and Communications.

#### § 18. Suspension and revocation of frequency authorisation

- (1) Upon violation of the conditions of a frequency authorisation, the Communications Board may suspend the right to use the radio frequencies which is granted by the frequency authorisation if the holder of the frequency authorisation has failed to eliminate a violation of the conditions of the frequency authorisation within one month after the Communications Board informed the user of the radio frequencies of violation of the conditions and granted the user a possibility to provide an opinion or eliminate the violation, unless the Communications Board has set a longer term.
- (2) The Communications Board shall revoke a decision on suspension if the holder of the frequency authorisation eliminates the deficiencies within one month as of the date when the

decision to suspend the right to use radio frequencies was made, unless the Communications Board has set a longer term.

(3) The Communications Board may revoke a frequency authorisation if:

1) use of the rights granted by the frequency authorisation has not commenced within six months after the grant of the frequency authorisation or within the term prescribed in the frequency authorisation or the holder of the frequency authorisation has terminated use of the rights granted by the frequency authorisation,

2) the holder of the frequency authorisation has materially or repeatedly violated the conditions of the frequency authorisation,

3) after the grant of the frequency authorisation it becomes evident that the bases for refusal to grant the frequency authorisation provided for in clauses 14 (1) 1)-9) of this Act existed before the grant of the authorisation,

4) use of the radio frequencies is suspended pursuant to subsection (1) of this section and the user of the radio frequencies has not eliminated the circumstances on which the suspension is based within one month as of the date on which the decision on suspension is made, unless the Communications Board has set a longer term or

5) the broadcasting licence which was the basis for the grant of the frequency authorisation has expired or is revoked.

(4) If the user of radio frequencies has terminated use of the rights granted to the user by a frequency authorisation, the user is required to promptly inform the Communications Board thereof.

(5) The decision of the Communications Board to suspend the right to use radio frequencies or revoke a frequency authorisation shall be delivered to the user of radio frequencies within three working days after the date on which the decision on suspension or revocation is made.

#### § 19. Organisation of auction

(1) If several persons have submitted applications for the use of the same radio frequency, the Communications Board shall organise an action in order to grant a frequency authorisation. Applications which have arrived on the same date are deemed to be applications that have arrived concurrently.

(2) The Communications Board shall inform applicants of an auction in writing within five working days as of receipt of the applications and the applicants are allowed to submit

their tenders within five working days. The winner of the auction shall be granted a frequency authorisation, taking account of the provisions of § 13 of this Act.

#### § 20. Use of radio frequencies without frequency authorisation

- (1) The Minister of Economic Affairs and Communications has the right, in accordance with the purposes of use of radio frequencies, to determine the possibility to use radio frequencies without a frequency authorisation provided for in § 11 of this Act and establish the conditions for the use of radio frequencies with regard to specified radio frequencies and the technical requirements necessary to avoid harmful radio interference and ensure the interoperability of equipment and the protection of the public from the harmful effect of electromagnetic fields.
- (2) The Communications Board shall publish the conditions for the use of radio frequencies without a frequency authorisation on its webpage.
- (3) The Minister of Economic Affairs and Communications may amend the conditions for the use of radio frequencies established pursuant to subsection (1) of this section if:
  - 1) the Estonian radio frequency allocation plan is amended,
  - 2) the development of electronic communications technology requires it,
  - 3) it arises from an international agreement or
  - 4) it arises from another Act.
- (4) The consultation provided for in § 152 of this Act is unnecessary if the amendment specified in subsection (3) of this section does not restrict the existing rights of users of radio frequencies.
- (5) If a regulation of the Minister of Economic Affairs and Communications amends the conditions of the use of radio frequencies and restricts the existing rights of users of radio frequencies, the part of the regulation in which the rights of the users of radio frequencies are restricted enters into force two years after the date of publication of the regulation.

#### § 21. Use of radio frequencies for national defence purposes

- (1) The Minister of Defence shall establish the procedure and technical requirements for the use of radio frequency bands allocated to the use of the Defence Forces in peace-time in accordance with the Radio Regulations annexed to the Constitution and Convention of the International Telecommunications Union.
- (2) The establishment of technical requirements specified in subsection (1) of this section is based on the following:

- 1) the need of the Defence Forces to use the radio frequencies;
  - 2) international agreements, including coordination agreements;
  - 3) the possible need to establish restrictions in order to ensure the electromagnetic compatibility of the radio equipment in civil use and the radio equipment of the Defence Forces;
  - 4) the need to avoid harmful radio interference.
- (3) Radio frequencies for national defence purposes outside of radio frequencies designated for exclusive use by the Defence Forces shall be used on the basis of a frequency authorisation in accordance with §§ 11-18 of this Act. The Communications Board shall grant the specified frequency authorisation to the Defence Forces as a priority.
- (4) The provisions of clause 14 (1) 8) and 18 (3) 1) of this Act do not apply to frequency authorisations granted to the Defence Forces regarding frequency bands for national defence purposes.

#### § 22. Incorrect or misleading messages and secrecy of radiocommunication

- (1) It is prohibited to send, by means of radiocommunication, incorrect or misleading messages which may endanger the safety of aircraft, ships or vehicles on land or of persons, or prejudice the functioning of any rescue service.
- (2) It is prohibited for third persons to intercept, by means of radio transmission equipment, messages, except in the cases prescribed by law.
- (3) It is prohibited to process, or to use or divulge the contents of unauthorised illegally intercepted messages.

#### § 23. Harmful radio interference and elimination thereof

- (1) Causing of harmful radio interference is prohibited, except in the cases and pursuant to the procedure provided for in § 115 of this Act.
- (2) The user of radio frequencies may submit to the Communications Board a complaint in connection with harmful radio interference.
- (3) A person who becomes aware of the fact that, as a result of his or her action or inaction, harmful radio interference is caused is required to immediately take all measures available to eliminate the interference.
- (4) The Communications Board shall suspend or restrict the use of equipment causing harmful radio interference. The demand to suspend or restrict the use of equipment shall be prepared in writing.

(5) If the Communications Board has suspended the use of equipment causing harmful radio interference, the equipment shall not be switched on before elimination of the causes for the harmful radio interference and before the Communications Board permits continuation of use of the equipment in writing.

(6) An official of the Communications Board which exercises supervision has the right, in order to eliminate harmful radio interference, to enter the territory where the source of radio interference is located together with the possessor of the territory or a representative thereof in order to localise the source of radio interference and eliminate the harmful radio interference, and the official also has the right to demand all information concerning the equipment which causes harmful radio interference from the owner, user or possessor of the equipment.

(7) The person who causes harmful radio interference shall compensate to the Communications Board for the direct expenses related to the elimination of the interference.

(8) The procedure for the calculation of and compensation for expenses related to the elimination of harmful radio interference specified in subsection (7) of this section shall be established by the Minister of Economic Affairs and Communications.

#### § 24. Radiocommunication between radio amateurs

The procedure for the use of radio frequencies for amateur radiocommunication purposes and for the issue of radio amateur qualification shall be established by the Minister of Economic Affairs and Communications.

#### § 25. Formation and assignment of radio call signs

(1) Radio call sign is a combination of numbers or letters used for the identification of messages or radio transmission equipment.

(2) The procedure for the formation and assignment of radio call signs shall be established by the Minister of Economic Affairs and Communications.

#### § 26. Giving notification of information related to radio frequency management

(1) The aviation frequency coordinator of the International Civil Aviation Organisation in Estonia shall notify the Communications Board in writing of coordinated radio frequencies for the organisation of air traffic services in the territory of Estonia and their technical conditions and amendment of the technical conditions within three working days as of the date of establishment or amendment of the radio frequencies and the conditions.

- (2) The Communications Board shall notify the person who manages state electronic communications networks and the Border Guard Administration of the call sign, selective call and the identification number of the radio transmission equipment assigned to an Estonian ship within one working day as of receipt of the corresponding information concerning the water craft.
- (3) The Communications Board shall notify the Maritime Administration of the conditions of an issued ship station licence within one working day after the issue of the specified licence in order to make a corresponding entry in the Maritime Mobile Access and Retrieval System database of the International Telecommunications Union.
- (4) The Communications Board shall register the maritime accounting authorities, exercise supervision over them and communicate the corresponding information to the database of the International Telecommunications Union.
- (5) The Minister of Economic Affairs and Communications may establish requirements for the maritime accounting authorities specified in subsection (4) of this section and the procedure for the registration of and exercise of supervision over them.

## Chapter 4

### Management of Numbering Resources

#### § 27. Purpose of management of numbering resources

The purpose of the management of numbering resources is to ensure the numbering necessary for the provision of communications services.

#### § 28. Management of numbering resources

- (1) Numbering resources shall be managed by the Ministry of Economic Affairs and Communications and the Communications Board.
- (2) Management of numbering resources means the allocation of numbering pursuant to the Estonian numbering plan and supervision over the use of numbering. The Minister of Economic Affairs and Communications and the Communications Board shall manage the numbering resources on the basis of objective, transparent, non-discriminatory and proportionate criteria, taking account of the need to achieve the harmonised, efficient and effective use of numbering.
- (3) Numbering resources shall be managed and used through the Numbering Management Database.

### § 29. Users of numbering and conditions for use of numbering

- (1) A person who provides communications services or uses communications services to provide other services, including Information Society services within the meaning of the Information Society Services Act, and government authorities within the limits of their competence (hereinafter user of numbering) have the right to use numbering.
- (2) In addition to the conditions for the use of numbering provided for in this Chapter, the Minister of Economic Affairs and Communications may establish:
  - 1) the conditions for the use of numbering, including services for the provision of which the number may be used, and the requirements established for the services;
  - 2) the obligation to publish information on subscribers in the Public Number Directory and the conditions for publishing;
  - 3) the conditions for transfer of the right to use a number;
  - 4) the conditions arising from international agreements which concern the use of numbering;
  - 5) the conditions for the reservation of a number;
  - 6) the conditions for the use of numbering to ensure public order and national security.
- (3) The establishment of conditions specified in subsection (2) of this section must be objectively justified, non-discriminatory, proportional and transparent.

### § 30. Estonian numbering plan

- (1) The Estonian numbering plan shall determine the location in the Telephony Numbering Area of numbers, short numbers, identification codes and prefixes necessary for the provision of communications services, the requirements for their length, use and dialling procedure, and prefixes for services inside user groups which cannot be used by persons not included in the corresponding groups, and for several services associated with the numbers of the end-users' numbers.
- (2) The Estonian numbering plan does not regulate the use of world-wide and other addresses of international data communication networks.
- (3) The Estonian numbering plan shall be established by the Minister of Economic Affairs and Communications and managed by the Communications Board.

### § 31. Amendment of Estonian numbering plan and conditions for use of numbering

- (1) The Minister of Economic Affairs and Communications shall amend the Estonian numbering plan or the conditions for the use of numbering if:
- 1) the development of the electronic communications sector requires it or
  - 2) it arises from international agreements.
- (2) If a regulation of the Minister of Economic Affairs and Communications issued pursuant to subsection 30 (3) of this Act restricts the rights of a user of numbering, the part of the regulation in which the rights of the user of numbering are restricted enters into force one year after the date of publication of the regulation.

### § 32. Guarantee of dialling of numbers and short numbers

- (1) A communications undertaking which provides telephone or mobile telephone services shall ensure that calls originating from a user, including calls to the numbers of European Telephony Numbering Space 3883 and short numbers and calls made by using a short dialling code are terminated at the point where the user wishes, unless the communications undertaking terminating the call has applied restrictions thereto pursuant to § 98 of this Act.
- (2) A communications undertaking specified in subsection (1) of this section shall guarantee the possibility of dialling international calls at least by dialling the standard international telephone access code 00.

### § 33. Numbering authorisation

- (1) A numbering authorisation is a licence for the use of numbering which grants the user of the numbering the right, for the provision of services, to:
- 1) use the quantity of numbers indicated in the numbering authorisation, book single numbers and organise the use thereof;
  - 2) use the short number or identification code indicated in the numbering authorisation and organise the use thereof.
- (2) In respect of numbers, a numbering authorisation is based on the quantity of numbers and, in respect of identification codes and short numbers, it is based on single numbers.
- (3) A numbering authorisation shall set out at least the following:
- 1) in the case of an identification code or a short number, the short number or identification code allocated and, in the case of a number, the quantity and type of numbers permitted to be used pursuant to the Estonian numbering plan;
  - 2) the date of issue and the date of expiry of the authorisation;

3) the name, date of birth, registry code or personal identification code of the user of the numbering.

(4) A numbering authorisation shall be issued for one year.

#### § 34. Application for and processing of numbering authorisations

(1) In order to receive a numbering authorisation, a person shall submit a standard format application to the Communications Board, which contains at least the following information:

- 1) the name, residence or seat, date of birth or personal identification code or registry code and the contact numbers of the applicant;
- 2) the planned use of the numbering being applied for;
- 3) the quantity of numbers and, in the case of a short number, the specific short number being applied for or the length of the short number.

(2) The Communications Board shall publish the form of an application for a numbering authorisation on its website.

(3) In the course of processing an application for a numbering authorisation, the Communications Board may demand an applicant to submit more specific information and other data concerning the submitted information, which are necessary for the treatment of the application, and make enquiries to verify the submitted information.

(4) The Communications Board shall issue a numbering authorisation to the user of numbering within ten working days as of receipt of the application which complies with subsection (1) of this section if the user of the numbering has paid the state fee.

(5) A decision to issue or refuse to issue a numbering authorisation subject to disclosure shall be published on the website of the Communications Board within ten working days as of making the decision and shall be issued also in writing at the request of the applicant for the numbering authorisation.

#### § 35. Amendment and extension of numbering authorisations

(1) The holder of a numbering authorisation may apply that the quantity of numbers set out in the numbering authorisation be increased and shall therefor submit an application for amendment of the numbering authorisation to the Communications Board, the information provided for in subsection 34 (1) of this Act and shall pay the state fee for additional numbers in proportion to the number of full months until the expiry of the numbering authorisation.

(2) A numbering authorisation shall be extended one year at a time. An application for the extension of a numbering authorisation shall be submitted at least twenty days before the

expiry of the numbering authorisation. An applicant is required to pay the state fee for the extension of a numbering authorisation before submission of an application for the extension of the numbering authorisation.

(3) A numbering authorisation shall be extended not later than three working days before expiry of the valid numbering authorisation.

#### § 36. Refusal to issue, amend or extend numbering authorisation

The Communications Board may refuse to issue, amend or extend a numbering authorisation if:

- 1) the state fee has not been paid,
- 2) incorrect information has been submitted upon application for the numbering authorisation,
- 3) the applicant for the numbering authorisation does not meet the requirements for the users of numbering provided for in subsection 29 (1) of this Act,
- 4) the planned use of numbering does not comply with the conditions of use of numbering,
- 5) the short number or identification code has been issued to another person.

#### § 37. Restriction of rights of holder of numbering authorisation

(1) The Communication Board may restrict the rights granted by a numbering authorisation if the holder of the numbering authorisation fails to meet the requirements provided for in this Act or legislation arising therefrom and the holder of the numbering authorisation has failed to eliminate the violation within the term prescribed in a precept issued to the holder of the numbering authorisation by the Communications Board for the elimination of the violation.

(2) A decision of the Communications Board to restrict the right granted by a numbering authorisation shall be delivered to the holder of the numbering authorisation not later than ten working days before the entry into force of the decision.

(3) The Communications Board shall revoke a decision to restrict the right granted by a numbering authorisation immediately after the circumstances which are the bases for the restriction cease to exist.

(4) A decision of the Communications Board to revoke restriction of the right granted by a numbering authorisation shall be delivered to the holder of the numbering authorisation within ten days as of making the decision.

### § 38. Booking numbers

- (1) A person who holds a valid numbering authorisation has the right to book a number. Booking of a number grants the holder of the numbering authorisation the right to use the specific number.
- (2) A number is booked and the booking is cancelled by the holder of the numbering authorisation through the database created therefor.
- (3) A number shall not be booked if:
  - 1) the number is booked for another person,
  - 2) the person who wishes to make a booking does not hold a valid numbering authorisation or the rights of the holder of the numbering authorisation have been restricted or
  - 3) the quantity of numbers which the person wishes to book exceeds the quantity of numbers permitted to be used according to the numbering authorisation.
- (4) A number shall be booked for an unlimited term.
- (5) The booking of a number terminates upon expiry of the numbering authorisation or cancellation of the booking.
- (6) If a subscriber changes a provider of telephone or mobile telephone services and preserves his or her former number, the booking of the number in respect of the former provider of telephone or mobile telephone services ends and the booking of the number transfers to the provider of telephone or mobile telephone services with whom the subscriber enters into a subscription contract which sets out preservation of the former number.

### § 39. Organisation of auction

- (1) If several persons have submitted applications for numbering authorisations for the use of the same short number or identification code and the applicants cannot be granted joint use of the short number or identification code, the Communications Board shall organise an auction for the issue of the numbering authorisation. Applications which have arrived on the same date are deemed to be applications that have arrived concurrently.
- (2) The Communications Board shall inform applicants of an auction in writing within five working days as of receipt of the applications and the applicants are allowed to submit their tenders within five working days. The winner of the auction shall receive a numbering authorisation within twenty working days after submission of the applications.
- (3) The procedure for the organisation of an auction specified in § 19 of this Act and in this section shall be established by the Minister of Economic Affairs and Communications.

## Chapter 5

### Sector-specific Regulation of Markets of Communications Services

#### § 40. Purpose of sector-specific regulation of markets of communications services

(1) The purpose of the sector-specific regulation of markets of communications services (hereinafter market) is to ensure the pluralism of communications service providers, their equal and non-discriminatory treatment by encouraging competition, and the quality and availability to end-users of the provided services.

(2) The sector-specific regulation of markets is only permitted in markets listed in § 42 of this Act.

(3) The sector-specific regulation of markets shall be technologically neutral.

(4) The sector-specific regulation of markets shall be conducted by the Communications Board. The Communications Board shall take account of the general objectives provided for in § 134 of this Act upon performance of sector-specific acts and application of sector-specific measures provided for in this Chapter.

#### § 41. Sector-specific acts and measures

(1) For the sector-specific regulation of markets, the Communications Board has the right to perform the following acts:

- 1) define markets pursuant to § 43 of this Act;
- 2) conduct market analysis on limited markets pursuant to § 44 of this Act;
- 3) determine the undertaking with significant market power pursuant to § 45 of this Act.

(2) For the sector-specific regulation of markets, the Communications Board has the right to apply the following measures:

- 1) establish obligations to undertakings with significant market power pursuant to § 46 of this Act and amend obligations of undertakings with significant market power pursuant to the provisions of subsections 49 (4) and (6) of this Act;
- 2) establish obligations to communications undertakings and release communications undertakings from obligations in connection with access and interconnection pursuant to § 63 of this Act.

#### § 42. Communications services markets subject to sector-specific regulation

- (1) Only the following retail product and service markets of electronic communications provided for end-users are susceptible to sector-specific regulation:
- 1) access to the public telephone network at a fixed location for residential customers;
  - 2) access to the public telephone network at a fixed location for non-residential customers;
  - 3) publicly available local and/or national telephone services provided at a fixed location for residential customers;
  - 4) publicly available international telephone services provided at a fixed location for residential customers;
  - 5) publicly available local and/or national telephone services provided at a fixed location for non-residential customers;
  - 6) publicly available international telephone services provided at a fixed location for non-residential customers;
  - 7) the minimum set of leased lines as referenced in subsection 55 (1) of this Act.
- (2) Only the following wholesale product and service markets of electronic communications not provided for end-users are susceptible to sector-specific regulation:
- 1) call origination on the public telephone network provided at a fixed location;
  - 2) call termination on individual public telephone networks provided at a fixed location;
  - 3) transit services in the fixed public telephone network;
  - 4) wholesale unbundled access (including shared access) to metallic loops and subloops for the purpose of providing broadband and voice services;
  - 5) wholesale broadband access;
  - 6) wholesale terminating segments of leased lines;
  - 7) wholesale trunk segments of leased lines;
  - 8) access and call origination on public mobile telephone networks;
  - 9) voice call termination on individual mobile networks;
  - 10) the wholesale national market for international roaming on public mobile networks;
  - 11) broadcasting transmission services, to deliver broadcast content to end-users.
- (3) If the European Commission alters the underlying Recommendations of the sector-specific markets list provided for in subsections (1) and (2) of this section or the competitive situation requires upgrading the list of markets, the Communications Board through the Minister of Economic Affairs and Communications proposes the Government of the Republic to initiate amendment of this Act in order to alter or upgrade the list of sector-specific markets provided for in subsections (1) and (2) of this section in accordance with the

Recommendations of the European Commission. Market added to the list must be approved by the European Commission in accordance with subsection 48 (2) of this Act.

#### § 43. Definition of markets

(1) In accordance with the principles of competition law of the European Union, the Communications Board shall define the communications services markets provided for in subsections 42 (1) and (2) of this Act and their geographical area. The Communications Board shall define markets on the basis of the European Commission recommendations and guidelines concerning the list of markets and the decisions of the European Commission and rulings of the European Court of Justice.

(2) The Communications Board may define the whole territory of the Republic of Estonia or a part thereof as the geographical area of communications services. If the geographical area of communications services crosses the state border of the Republic of Estonia, the Communications Board shall inform the European Commission thereof.

(3) A certain region forms a common geographical area if the competition conditions in the region are similar or sufficiently homogeneous and the region can be differentiated from other regions where the corresponding competition conditions are different to a significant extent.

#### § 44. Market analysis

(1) The Communications Board shall regularly, but not less frequently than once every three years, analyse the competitive situation in the communications services markets listed in § 42 of this Act and defined in accordance with § 43 of this Act (hereinafter market analysis) in order to verify whether competition is present in the corresponding communications services market.

(2) In addition to the provisions of subsection (1) of this section, the Communications Board is required to immediately conduct a market analysis if circumstances which may significantly affect the competitive situation become evident.

(3) The Communications Board shall conduct a market analysis in accordance with the principles of competition law of the European Union and the guidelines of the European Commission.

(4) Upon conduct of a market analysis, the Communications Board shall, if necessary, consult the Competition Board to ensure the uniform and consistent application of competition law.

- (5) If a corresponding communications services market covers the territory of several Member States of the European Union, the Communications Board shall conduct market analysis in cooperation with the supervision authorities of the corresponding Member States.
- (6) The Communications Board shall prepare a report on the definition of markets provided for in § 43 of this Act and a market analysis specified in this section.
- (7) If, arising from a market analysis specified in this section, competition is present in the communications services market, the Communications Board shall prepare a draft decision concerning failure to designate an undertaking with significant market power, which includes:
- 1) a report specified in subsection (6) of this section;
  - 2) a proposal not to designate an undertaking with significant market power.

#### § 45. Undertakings with significant market power

- (1) The Communications Board shall designate one or several undertakings with significant market power in accordance with the provision of this Chapter if, in the course of a market analysis provided for in § 44 of this Act, the Board has established that competition is not present in the corresponding communications service market and the undertaking meets the criteria provided for in subsection (2) of this section.
- (2) The Communications Board shall designate an undertaking as having significant market power in the specific communications service market and in the region where the services are provided if, individually or together with other undertakings, the undertaking has significant market power which enables the undertaking to operate to an appreciable extent independently of competitors, parties and end-users.
- (3) The Communications Board does not designate an undertaking which meets the criteria provided for in subsection (2) of this section as having significant market power if the market of the corresponding service is new and developing and imposition of obligations in the market may in the long-term restrict the development of the market and preclude the motivation of the undertaking which meets the criteria for an undertaking with significant market power to develop the corresponding market.
- (4) Two or more undertakings are in a joint dominant position in a specific communications service market within the meaning of the Competition Act (RT I 2001, 56, 332; 93, 565; 2002, 61, 375; 63, 387; 82, 480; 87, 505; 102, 600; 2003, 23, 133; 2004, 25, 168; 56, 401) regardless of whether the undertakings are structurally or otherwise connected with each other if the undertakings jointly can operate in the corresponding market to an

appreciable extent independently of competitors, parties and end-users and there is no competition between such undertakings in the market of the corresponding service.

(5) If an undertaking has significant market power in one communications service market, the undertaking may be designated as having significant market power also in the market of another communication service market closely related to the corresponding market if the two markets are related such that significant market power in one market increases market power in another market as a result of which competition is not present in the other market.

(6) The Communications Board shall designate an undertaking which, within the meaning of the Competition Act, has been granted a special or exclusive right to operate in the relevant market by the state or local government as having significant market power in a communications service market specified in § 42 of this Act and in the region where the service is provided.

(7) If it has been determined that an undertaking has significant market power, the Communications Board shall propose to designate the undertaking as having significant market power.

#### § 46. Draft decision to designate as undertakings with significant market power

(1) The Communications Board shall prepare a draft decision to designate as an undertaking with significant market power, which sets out:

- 1) a report specified in subsection 44 (6) of this Act;
- 2) a proposal specified in subsection 45 (7) of this Act;
- 3) an obligation imposed on the undertaking with significant market power pursuant to subsection (2) of this section.

(2) The Communications Board shall impose obligations on an undertaking with significant market power on the basis of the provisions of §§ 50-58 of this Act and shall establish one or several relevant obligations on the undertaking in the communications service market in which a proposal to designate the communications undertaking as having significant market power has been made.

#### § 47. Public consultation

(1) The Communications Board shall make a draft decision not to designate an undertaking with significant market power specified in subsection 44 (7) of this Act or a draft decision to designate as an undertaking having significant market power specified in subsection 46 (1) of this Act available to the public on its webpage and shall omit information

containing business secrets. The Communications Board shall send the specified draft decision to the communications undertaking which the Communications Board intends to designate as having significant market power by post and electronic means.

(2) Within one month after the date of publication of the draft decision specified in subsection 44 (7) or 46 (1) of this Act, interested persons have the right to submit opinions thereon. A communications undertaking which the Communications Boards intends to designate as having significant market power has the right to submit its objection to the draft decision within one month as of the receipt thereof by post or electronic means.

(3) The Communications Board shall prepare a draft decision to designate as an undertaking with significant market power or a draft decision not to designate an undertaking with significant market power, taking account of the opinions submitted concerning the draft decisions specified in subsection 44 (7) or 46 (1) of this Act. If the Communications Board fails to take the submitted opinions into account, the Board shall justify it in the draft decision.

(4) A draft decision specified in subsection (3) of this section shall contain the information specified in subsection 44 (7) or 46 (1) of this Act.

#### § 48. Consultations with regulators of European Commission and Member States of European Union

(1) The Communications Board shall inform the communications market regulators of the European Commission and Member States of the European Union of a draft decision to designate as an undertaking with significant market power or a draft decision not to designate an undertaking with significant market power prepared pursuant to subsection 47 (3) of this Act.

(2) If the European Commission informs the Communications Board that definition of the communications market planned by the Communications Board differs from the recommendation of the European Commission or designation of an undertaking as an undertaking with significant market power or failure to designate an undertaking with significant market power hinders the development of the European single market and is contrary to the European Union law, the Communications Board shall suspend making of the planned decision for two months. In such case, the Communications Board may make the planned decision only if the European Commission does not prohibit the Communications Board to perform the planned act or apply the planned measures within the specified two-month period.

(3) If performance of an act or application of a measure provided for in the draft decision prepared pursuant to subsection 47 (3) of this Act may affect trading between Member States of the European Union, the Communications Board shall grant the communications market regulators of the European Commission and the Member States of the European Union the possibility to submit their opinions regarding the planned act or measure within one month.

(4) Acts or measures which would affect trade between Member States of the European Union are acts or measures that may have an influence, direct or indirect, actual or potential, on the pattern of trade between Member States of the European Union in a manner which might create a barrier to the single market. Such acts or measures may affect prices for users of services in other Member States, the ability of undertakings established in other Member States to provide communications services, and in particular the ability to offer services on a transnational basis and market structure or access, leading to repercussions for undertakings in other Member States.

(5) In exceptional circumstances, where the Communications Board considers that there is an urgent need to act, by way of derogation from the procedure set out in subsections (1)-(3) of this section, in order to safeguard competition and protect the interests of end-users, it may immediately establish provisional and proportionate measures. In such case, the Communications Board shall promptly inform the communications market regulators of the European Commission and the Member States of the European Union of the applied measures and of reasons for the application thereof. If the Communications Board wishes to make the aforementioned provisional measures permanent or wishes to extend the period of application of the measures, it shall comply with the procedure set out in subsections (1)-(3) of this section.

(6) If the Communications Board finds that, due to exceptional circumstances, an obligation not provided for in §§ 50-58 of this Act must be imposed on an undertaking with significant market power, it shall submit the corresponding application to the European Commission. The Communications Board may impose the planned obligation only after the European Commission has granted a permission therefore.

§ 49. Designation as undertaking with significant market power and imposition of obligations and failure to designate undertaking with significant market power

(1) The Communications Board shall make a decision to designate as an undertaking with significant market power and a decision to impose an obligation on an undertaking with significant market power (hereinafter decision to designate as an undertaking with significant

market power) or a decision not to designate an undertaking with significant market power after consultations with the European Commission pursuant to § 48 of this Act. If the consent of the European Commission is necessary to impose an obligation pursuant to § 48 of this Act, the consent shall be appended to the decision.

(2) A decision to designate as an undertaking with significant market power specified in subsection (1) of this section shall be delivered to the undertaking with significant market power within five days after the decision is made.

(3) The list of undertakings with significant market power and the list of obligations imposed on undertakings with significant market power and a decision not to designate an undertaking with significant market power shall be published on the website of the Communications Board and in the official publication *Ametlikud Teadaanded*<sup>3</sup>.

(4) In a decision specified in subsection (1) of this section, the Communications Board shall grant to a person designated as having significant market power a reasonable term for performance of an obligation provided in the decision.

(5) If the Communications Board finds that performance of an obligation imposed on an undertaking by a decision made in accordance with subsection (1) of this section does not ensure competition on the specific market, the Communications Board shall prepare a new draft decision for the imposition of a new obligation on an undertaking with significant market power and shall amend the obligation imposed on the undertaking with significant market power in accordance with this Act.

(6) If the Communications Board, as a result of the market analysis provided for in § 44 of this Act, establishes that competition is present in the corresponding communication service market, it shall revoke the decision provided for in subsection (1) of this section and inform the undertaking thereof by post or electronic means and shall publish a notice concerning revocation of the decision in the official publication *Ametlikud Teadaanded*. If the Communications Board has imposed several obligations in one or several communications service markets by the same decision and competition is present in part of the markets or in sectors related to part of the obligations, the Communications Board shall partially revoke the decision.

§ 50. Obligations of undertaking with significant market power in relation to access and interconnection

(1) The Communications Board may impose on a communications undertaking designated as having significant market power the following obligations in relation to access and interconnection in the corresponding market:

- 1) obligations to publish information in relation to access and interconnection which concerns accounting information, technical specifications, network characteristics, terms and conditions for provision of services, and prices;
- 2) obligations to publish a reference offer regarding a specific access or interconnection service which shall contain the conditions for provision of the corresponding service, including prices pursuant to § 53 of this Act;
- 3) obligations of non-discrimination which ensures that undertakings with significant market power and in particular vertically integrated undertakings with significant market power which provide services to undertakings with which they compete at the retail level apply equivalent conditions in equivalent circumstances to other undertakings providing equivalent services, and provide services and information to others under the same conditions and of the same quality as they provide for their own services, or those of their subsidiaries or partners;
- 4) obligations to maintain separate records of activities related to interconnection or access in the framework of which the Communications Board may require a vertically integrated undertaking to make transparent its wholesale prices and its internal transfer prices;
- 5) obligations to meet reasonable requests of other communications undertakings for access to, and use of, specific network elements and associated facilities pursuant to § 51 of this Act, if denial of access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level, or would not be in the end-user's interest;
- 6) obligations to broadcast the radio and television programmes of legal persons in public law;
- 7) obligations relating to the recovery of costs for access or interconnection and price controls and obligations for cost orientation of prices and obligations concerning cost accounting systems pursuant to § 52 of this Act.

(2) The Communications Board may impose obligations not specified in subsection (1) of this section on an undertaking with significant market power. In such case, the Communications Board shall take the provisions of subsection 48 (6) of this Act into account.

§ 51. Obligations of undertaking with significant market power in relation to interconnection of networks and equipment and provision of access thereto

(1) Within the obligations specified in clause 50 (1) 5) of this Act, the Communications Board may require an undertaking with significant market power:

- 1) to give communications undertakings access to specific network elements or facilities, including the local loop;
- 2) to negotiate in good faith with communications undertakings requesting access;
- 3) not to withdraw access to facilities already granted;
- 4) to provide specified services on a wholesale basis for resale by communications undertakings;
- 5) to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services;
- 6) to provide co-location or other forms of facility sharing, including duct, building or mast sharing;
- 7) to provide specified services needed to ensure interoperability of end-to-end services to end-users, including facilities for intelligent network services or roaming on mobile networks;
- 8) to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;
- 9) to interconnect networks or network facilities.

(2) When the Communications Board is considering whether to impose the obligations provided for in subsection (1) of this section, and in particular when assessing whether such obligations would be proportionate to the objectives provided for in § 134 of this Act, it shall take account in particular of the following factors:

- 1) the technical and economic viability of using or installing competing facilities, in the light of the rate of market development, taking into account the nature and type of interconnection and access involved;
- 2) the feasibility of providing the access proposed, in relation to the capacity available;
- 3) the initial investment by the facility owner, bearing in mind the risks involved in making the investment;
- 4) the need to safeguard competition in the long term;
- 5) the need to create competition at the retail level and the ensurance of the rights of end-users;
- 6) where appropriate, any relevant intellectual property rights;

7) the provision of pan-European services.

§ 52. Obligations related to charges and costs of access and interconnection on undertakings with significant market power

(1) The Communications Board may impose obligations related to the charges and costs of access and interconnection provided for in clause 50 (1) 7) of this Act, including obligations for cost orientation and obligations concerning cost accounting systems, on an undertaking with significant market power, provided that a market analysis has indicated that a lack of effective competition means that the undertaking with significant market power might sustain prices at an excessively high or low level and to distort competition and the interests of end-users.

(2) Upon imposition of obligations specified in 50 (1) 7) of this Act, the Communications Board shall take into account the investments made by the undertaking with significant market power and allow it a reasonable rate of return, taking into account the risks involved. At the same time, the Communications Board shall impose the obligations specified in 50 (1) 7) of this Act on communications undertakings on the basis of the principle that any cost recovery mechanism or pricing methodology that is mandated serves to promote efficiency and sustainable competition and maximise consumer benefits. In this regard the Communications Board may also take account of prices available in comparable competitive markets.

(3) Where an undertaking with significant market power has an obligation imposed by the Communications Board regarding the cost orientation of its prices provided for in clause 50 (1) 7) of this Act, the undertaking with significant market power shall, at the request of the Communications Board, prove that charges are derived from costs including a reasonable rate of return on investment.

(4) For the purpose of calculating the cost of efficient provision of services provided for in subsection (3) of this section, the Communications Board may, if necessary, use cost accounting methods independent of those used by the undertaking. If it becomes evident that charges are not derived from costs for the provision of the services, the Communications Board has the right to require that the charges be adjusted to the costs for the provision of the services.

(5) The cost accounting methods specified in subsection (4) of this section used by the Communications Board for the calculating the cost of efficient provision of services shall be established by the Minister of Economic Affairs and Communications.

(6) If the Communications Board has imposed on an undertaking with significant market power a specific obligation to use the cost accounting system pursuant to clause 50 (1) 7) of this Act, the Communications Board or a qualified independent person ordered by the communications undertaking with the approval of the Communications Board shall verify compliance with the requirements of the cost accounting system each year. If the qualified independent person confirms compliance with the cost accounting system, the costs borne by the person shall be incurred by the undertaking with significant market power.

(7) Once a year, a communications undertaking shall publish a statement concerning compliance with the requirements of the cost accounting system on its webpage. The corresponding statement shall, among other things, set out the categories under which costs are grouped and the rules used for the allocation of costs.

(8) The Communications Board may verify whether an undertaking with significant market power complies with the cost accounting system correctly.

#### § 53. Obligation of undertaking with significant market power to publish reference offer regarding access and interconnection

(1) If the Communications Board has imposed on an undertaking with significant market power the obligation to publish a reference offer regarding an access service in accordance with clause 50 (1) 2) of this Act, the specified undertaking shall prepare the reference offer regarding the access service which, among other things, shall include the following conditions:

- 1) the term of the agreement;
- 2) a description and location of access;
- 3) the possibilities for the joint use of constructions and equipment;
- 4) the technical requirements and standards of access, including the interface;
- 5) the restrictions on equipment to be installed in constructions;
- 6) the security requirements for the location of access;
- 7) the conditions for access of the technical staff of the parties to equipment and constructions;
- 8) the safety requirements;
- 9) the possibilities for the co-location of equipment in the location of access, the rules for the use of premises in joint use and the rules for the inspection of constructions in joint use;
- 10) the conditions for the joint use of network equipment and line facilities;
- 11) the quality requirements of networks and services, and insurance thereof;

- 12) the procedure for settling accounts and payment conditions;
  - 13) the description of and procedure for amendment of the service charges;
  - 14) the procedure for amending agreement terms;
  - 15) the procedure for receipt of information concerning breakdowns and elimination of breakdowns;
  - 16) the procedure for the performance of repair and maintenance work;
  - 17) the condition for liability of the parties upon violation of the agreement, the conditions for the limitation of liability and compensation for damage;
  - 18) the procedure for resolution of disputes;
  - 19) the consequences of violation of the agreement and cancellation of the agreement.
- (2) If the Communications Board has imposed on an undertaking with significant market power the obligation to publish a reference offer regarding an interconnection service in accordance with clause 50 (1) 2) of this Act, the specified undertaking shall prepare the reference offer regarding the interconnection service which, among other things, shall include the following conditions:
- 1) the term of the agreement;
  - 2) a description of the interconnection service;
  - 3) the use of the service at the request of one party to the agreement;
  - 4) the procedure for ordering interconnection lines and their capacity;
  - 5) the prognosis of traffic and traffic management procedures;
  - 6) ensurance of the security of networks;
  - 7) the technical requirements and standards of interconnection;
  - 8) the location of the interconnection point and conditions for use of numbering and the interconnection point;
  - 9) the action in the case of one party to the agreement wishing to change the configuration of the network which may affect interconnection, interoperability of networks or the interconnection service provided;
  - 10) the conditions for the joint use of network equipment and line facilities;
  - 11) the quality requirements of networks and services, and ensurance thereof;
  - 12) the procedure for the testing of interconnection and interoperability of networks;
  - 13) the description of and procedure for amendment of the interconnection charges and the conditions for payment;
  - 14) the conditions and charges for use of interconnection lines;
  - 15) the procedure for amending agreement terms;

- 16) the procedure for receipt of information concerning breakdowns and elimination of breakdowns;
  - 17) the procedure for the performance of repair and maintenance work;
  - 18) the condition for liability of the parties upon violation of the agreement, the conditions for the limitation of liability and compensation for damage;
  - 19) the procedure for resolution of disputes;
  - 20) the consequences of violation of the agreement and cancellation of the agreement.
- (3) Upon mutual agreement, communications undertakings have the right to enter into access or interconnection agreements under the conditions different from these of the reference offer unless the conditions of the agreement to be entered into are contrary to the objectives of the reference offer publication obligation.
- (4) A communications undertaking on whom the obligation to publish a reference offer has been imposed, is required to publish the reference offer on its webpage or, in the absence thereof, in any other reasonable manner and submit a copy of the access or interconnection agreement entered into to the Communications Board at the request of the latter.
- (5) If a reference offer specified in subsections (1) and (2) of this section is not in accordance with the objectives of the reference offer publication obligation, the Communications Board has the right to demand that the communications undertaking amend the reference offer.
- (6) A communications undertaking shall submit a copy of the access or interconnection agreement entered into under the conditions different from these of the reference offer to the Communications Board.

#### § 54. Obligations of undertakings with significant market power on retail market of services

- (1) Where, as a result of a market analysis carried out in accordance with § 44 of this Act, the Communications Board determines that a retail market specified in subsection 42 (1) of this Act is not effectively competitive and imposition of the obligations for access and interconnection provided for in subsection 50 (1) of this Act and obligations provided for in § 56 of this Act on a communications undertaking do not ensure competition, the Communications Board shall impose on the undertaking designated as having significant market power in the corresponding service market one or several obligations provided for in subsection (2) of this section.
- (2) On the basis provided for in subsection (1) of this section, the Communications Board may, among other things, demand that an undertaking with significant market power avoid:

- 1) sustaining prices at an excessively high level;
  - 2) prevention of competitors from entering a market or limitation of competition by application of excessively low prices;
  - 3) showing undue preference to certain end-users;
  - 4) linking the provided services to each other without reason such that, upon use of one service, a subscriber is also forced to use another service and pay for it.
- (3) The Communications Board may impose obligations not listed in subsection (2) of this section only on the basis of the provisions of subsection 48 (6) of this Act.
- (4) Where obligations are imposed on an undertaking with significant market power pursuant to this Act, the undertaking with significant market power shall use the necessary and appropriate methodology of cost accounting. The Communications Board has the right to determine the methodology of cost accounting and the reporting forms.
- (5) The Communications Board or, on the order of the Communications Board, a qualified independent person shall verify each year whether an undertaking with significant market power has performed the obligations imposed thereon pursuant to this section. Once a year, the undertaking with significant market power shall publish a statement concerning performance of the specified obligations on its webpage.

§ 55. Obligation of undertaking with significant market power to provide leased line service

- (1) If the Communications Board finds, as a result of a market analysis conducted in the market of leased lines services according to § 44 of this Act, that competition is not present in the market of leased lines services, it shall establish on an undertaking designated as having significant market power in the market one or several obligations necessary to ensure competition in offering services which belong to the minimum set of leased line services (hereinafter leased line service) and comply with the standards published in the Commission Decision 2003/548/EC on the minimum set of leased lines with harmonised characteristics and associated standards referred to in Article 18 of the Universal Service Directive (OJ L 186, 25.07.2003, p. 43–45).
- (2) Where the Communications Board has established on an undertaking with significant market power an obligation to provide leased line services in accordance with subsection (1) of this section, the undertaking shall comply with the requirements of non-discrimination, cost orientation and transparency pursuant to the provisions of subsections (3)-(6) of this section.
- (3) An undertaking specified in subsection (1) of this section shall, upon provision of leased line services, apply similar conditions to undertakings providing similar services under

similar circumstances and offer leased lines to other communications undertakings under the same conditions and with the same quality under or with which it uses the leased lines or offers them to its subsidiaries or partners.

(4) The leased line service charges applied by an undertaking specified in subsection (1) of this section shall be calculated pursuant to justified costs. In order to perform the specified obligations, the undertaking shall develop and apply an appropriate cost accounting system.

(5) The leased line service charges applied by an undertaking specified in subsection (1) of this section shall cover the expenses of the undertaking and ensure a reasonable rate of return from provision of the leased line services.

(6) An undertaking specified in subsection (1) of this section shall publish on its webpage or, in the absence of the webpage, in any other reasonable manner, the following information relating to leased lines and shall ensure the accessibility of the information:

- 1) the technical characteristics, including the physical and electrical characteristics as well as the detailed technical and performance specifications which apply at the network termination point;
- 2) tariffs, including the initial connection charges, the periodic rental charges and information on differentiated charges where established;
- 3) the conditions for the provision of services;
- 4) the ordering procedure and the typical delivery period, which is the period, counted from the date when the subscriber has made a firm request for a leased line, in which 95 per cent of all leased lines of the same type have been put through to the subscriber;
- 5) the contractual period, which includes the period which is in general laid down in the contract and the minimum contractual period which the subscriber is obliged to accept;
- 6) the typical repair time, which is the period, counted from the time when a failure message has been given to the responsible unit within the undertaking up to the moment in which 80 per cent of all leased lines of the same type have been re-established and in appropriate cases notified back in operation to the subscriber. Where different classes of quality of repair are offered for the same type of leased lines, the different typical repair times shall be published.

(7) Where, in response to a particular request for a leased line to an undertaking specified in subsection (1) of this section, the undertaking with significant market power considers it unreasonable to provide the leased line in the minimum set under its published tariffs and supply conditions, the undertaking must seek the agreement of the Communications Board to vary those conditions in that case.

(8) The requirements provided for in subsections (3)-(7) of this section do not apply with regard to the conditions for the provision of leased lines not included in the minimum set of leased lines provided for in subsection (1) of this section.

§ 56. Obligation of undertaking with significant market power to ensure access to services of other undertakings

(1) If the Communications Board has designated an undertaking as having significant market power in the retail market specified in clause 42 (1) 1) or 2) of this Act, it imposes on an undertaking the obligation to enable its end-users to access the services of any interconnected provider of publicly available telephone services by dialling a carrier selection code and by means of pre-selection, with a facility to override any pre-selected choice on a call-by-call basis by dialling a carrier selection code.

(2) A communications undertaking may demand a cost oriented price including a reasonable rate of return for performance of the obligation provided for in subsection (1) of this section. Charges to subscribers shall not act as a disincentive for the use of the facilities specified in subsection (1) of this section.

§ 57. Obligations of undertaking with special and exclusive rights

A communications undertaking which has special or exclusive rights within the meaning of the Competition Act for the provision of services in other sectors in Estonia or in another Member State of the European Union shall keep separate accounts of the expenditure and revenue relating to the provision of communications services and of the expenditure and revenue relating to the activities in other sectors to the extent that would be required if these activities were carried out by legally independent undertakings. The communications undertaking which has the specified special or exclusive rights shall, within the undertaking, separate structural units which engage in the provision of communications services.

§ 58. Obligations related to cable television networks

(1) A communications undertaking which provides network services shall not provide cable television network services if the undertaking:

- 1) is a public undertaking or has special or exclusive rights within the meaning of the Competition Act or
- 2) is in a dominant position in a network or communications services market within the meaning of the Competition Act.

(2) A case where a subsidiary of a communications undertaking which provides network services provides cable television network services is not deemed to be violation of the prohibition provided for in subsection (1) of this section.

## Chapter 6

### Access and Interconnection

#### § 59. Purpose of regulation of access and interconnection

This Chapter provides for the rights and obligations of communications undertakings in connection with the access of one undertaking to the equipment, networks or services of another undertaking in order to ensure competition, the interoperability of communications services and protection of the interests of end-users.

#### § 60. Access

(1) Access means the making available of networks, line facilities and network facilities or services provided by one communications undertaking to another undertaking for the purpose of providing communications services.

(2) The access specified in subsection (1) of this section includes access to:

- 1) specific network elements and associated facilities, in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop,
- 2) access to infrastructure and line facilities, including buildings, masts and ducts,
- 3) access to relevant software systems including operational support systems,
- 4) access to number translation or systems offering equivalent functionality,
- 5) access to communications networks, in particular for roaming or
- 6) access to conditional access systems for digital television services and radio services and access to virtual network services.

#### § 61. Interconnection and obligation to negotiate interconnection

(1) Interconnection is a special type of access which means the technical and logical linking of two or more communications networks in a manner which enables provision of communications services to the subscribers of the connected communications networks.

(2) A communications undertaking providing network services is required, at the request of another communications undertaking, to negotiate the interconnection in good faith if this is necessary for the provision of communications services.

(3) In order to perform the obligations provided for in subsection (2) of this section, a communications undertaking is required to disclose to the party with whom it has commenced to negotiate the interconnection, among other things, all the information necessary for the interconnection, including the parameters of the network interfaces.

#### § 62. Freedom to enter into access or interconnection agreements

Communications undertakings have the right to agree on the technical and commercial conditions for access and interconnection, taking account of the provisions of subsection 63 (3) of this Act and the possible obligations imposed on communications undertakings pursuant to §§ 50-53 of this Act.

#### § 63. Obligations of communications undertaking in connection with access and interconnection

(1) The Communications Board may impose obligations necessary for the ensurance of end to end connectivity, including obligations for the interconnection of networks, on a communications undertaking providing network services and controlling access to end-users.

(2) The Communications Board may impose on a communications undertaking providing network services the obligation to ensure access to the application program interfaces (APIs) and electronic programme guides (EPGs) on fair, reasonable and non-discriminatory terms if that is necessary to ensure accessibility for end-users to specified digital radio and television broadcasting programmes.

(3) The Communications Board may impose on a communications undertaking providing network services the obligation to use jointly or co-locate network equipment or other property used for the provision of communications services, including line facilities, on the basis of the provisions of subsection 60 (2) of this Act. The Communications Board may impose the obligations provided for in this subsection particularly if other communications undertakings do not have alternative possibilities for access due to environmental, health protection or building and planning requirements.

(4) The obligation specified in subsection (3) of this section may mean that a communications undertaking must incur a proportional share of the costs relating to joint use or co-location or tolerate that line facilities, equipment or other property are used by another communications undertaking.

(5) The Communications Board may impose obligations specified in this section on a communications undertaking or release a communications undertaking from the specified

obligations either on its own initiative or at the request of an interested person. A decision to impose obligations or release from obligations shall be made only after an appropriate period of consultation during which all interested parties must be given an opportunity to express their views on the specified issue to the Communications Board.

(6) The Communications Board may impose obligations specified in this section on a communications undertaking providing network services regardless of whether the undertaking has been designated as having significant market power.

(7) The Communications Board shall inform a communications undertaking of a decision specified in this section within five working days by post or by electronic means and shall publish the decision on its webpage within seven working days after the decision is made.

#### § 64. Condition for performance of access and interconnection obligations

(1) If the Communications Board has imposed an access or interconnection obligation on a communications undertaking in accordance with clause 50 (1) 5) or § 63 of this Act, the corresponding communications undertaking is required to enter into an interconnection or access agreement and ensure access to networks, equipment or services and interconnect the networks and equipment within a reasonable term set by the Communications Board, taking into account that the communications undertaking obligated to provide access or interconnection may need to create technical conditions for the provision of interconnection or access, installation of equipment included.

(2) A communications undertaking in respect of which an access or interconnection obligation has been imposed is required, upon performance of the access or interconnection obligation, to comply with the following requirements arising from the nature of the obligation:

- 1) ensure use of the network equipment, buildings and line facilities under equal conditions and with equal quality as compared to these offered by the undertaking to its parent company or subsidiaries, subscribers or business partners;
- 2) enable an undertaking which has submitted an application for access or interconnection to obtain information necessary for the access and interconnection;
- 3) use the information obtained in connection with access or interconnection only for the provision of the corresponding service and not to disclose it to third persons, including its partners and subsidiaries, unless otherwise provided by law;
- 4) not to restrict the access of subscribers to the services provided by another communications undertaking.

(3) The list set out in subsection (2) of this section does not preclude the obligation to comply with the requirements not listed therein if the obligation arises from law or the obligation to negotiate in good faith.

#### § 65. Refusal to provide access or interconnection

(1) A communications undertaking may terminate precontractual negotiations and refuse to enter into an access or interconnection agreement if:

- 1) the creation of technical conditions for interconnection or access is unreasonably burdensome or
- 2) the interconnection or access damages the integrity of its network.

(2) A communications undertaking which, pursuant to this Act, has the obligation to ensure access to the local loop may refuse to provide access in addition to the bases specified in subsection (1) of this section also if the end-user using the corresponding local loop has not consented thereto or the access endangers the inviolability of private life.

#### § 66. Restrictions on access

(1) A communications undertaking which has entered into an access or interconnection agreement may restrict the access of another party to the communications network if:

- 1) the other party has failed to pay for the provided services in a timely manner,
- 2) the other party has connected terminal equipment which is not in working order or is not in compliance with the requirements or to the communications network and it interferes the operation of the communications network or other subscribers of the communications undertaking,
- 3) restriction on the provision of communications services is necessary for the installation, repair, exchange or maintenance of the equipment or communications facilities of the communications network,
- 4) a communications network connected or interconnected to the communications network which enables provision of a service does not conform with the access or interconnection requirements and no interoperability of such networks without disturbance is ensured,
- 5) the integral operation of the communications network is endangered,
- 6) restriction of access is necessary to ensure the protection of personal data and other data to the extent prescribed by law,

- 7) restriction of access is necessary due to an emergency situation, a state of emergency or state of war,
  - 8) restriction of access is prescribed in the access or interconnection agreement or
  - 9) restriction of access arises from legislation.
- (2) Restriction of access on the bases prescribed in clauses (1) 1) and 4) of this section is permitted on the condition that a communications undertaking informs of the restriction of access thirty days in advance.
- (3) Upon restricting access to a communications network, a communications undertaking shall observe that the restrictions be based on an objective assessment of the situation and that the extent of such restrictions be minimum in order to ensure the normal operation of the communications network. The communications undertaking shall allow elimination of the reason for application of the restrictions.
- (4) A communications undertaking is required to notify, directly or through media, persons affected by the application of a particular restriction specified in subsection (1) of this section of the reason for, nature, extent and duration of the application of such restriction as soon as possible, and shall perform all obligations to ensure restoration of the availability of communication services.

#### § 67. Conditional access systems to digital television and radio services

- (1) A communications undertaking which provides conditional access systems is required to ensure that the conditional access systems allow the technical conduct of cost-oriented cross-checks of services provided by other communications undertakings by means of conditional access systems.
- (2) A communications undertaking which provides services of conditional access to digital television and radio services, and if the access of broadcasters to the potential viewers and listeners depends on the access services, is required to:
- 1) offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, technical services enabling the broadcasters' digitally-transmitted services to be received by viewers or listeners authorised by means of decoders;
  - 2) keep separate accounts of its activities as provider of conditional access services.

#### § 68. Settlement of complaints related to access and interconnection

- (1) The Communications Board shall settle complaints related to access or interconnection on the basis of § 149 of this Act.

(2) A complaint related to application of the restrictions provided for in § 66 of this Act shall be settled on the basis of the procedure for the settlement of complaints provided for in § 149 of this Act, taking account of the following specifications:

- 1) a person which has applied a restriction shall give a written explanation to the Communications Board concerning application of the restriction within five days as of receipt of the corresponding demand from the Communications Board;
- 2) the Communications Board shall settle the complaint within ten working days as of receipt of the application;
- 3) if the Communications Board decides that a restriction established with regard to another communications undertaking is unlawful, it shall issue to the undertaking which established the restriction a precept for the immediate termination of the violation.

## Chapter 7

### Universal Service

#### Division 1

##### Provision of Universal Service

###### § 69. Definition and objectives of universal service

A universal service is a set of services which conforms with the technical and quality requirements established by the EU law, which is of specified quality and available to all end-users requesting it to the extent provided for in this Chapter, independently of their geographical location, uniformly and at an affordable price. The following are universal services:

- 1) connection to the public telephone network;
- 2) public pay-phone service;
- 3) accessibility of a universal electronic Public Number Directory and directory enquiry services.

###### § 70. Connection to public telephone network

The connection to the public telephone network specified in clause 69 1) of this Act shall enable:

- 1) making and receiving national and international calls ;
- 2) sending and receiving faxes;

3) use of data communication services at data rates sufficient to support satisfactory Internet access, taking into account the hardware and software used by most of the end-users.

#### § 71. Public pay-phone service

- (1) Public pay-phone service is the possibility to make and receive national and international calls using a public phone.
- (2) Public pay-phone service shall ensure that it is possible to make emergency calls from public pay-phones using national emergency numbers and the single European emergency call number "112", all free of charge and without having to use any means of payment.

#### § 72. Universal service obligation

- (1) The universal service obligation means provision of services specified in clauses 69 1)-3) of this Act to the end-user pursuant to the procedure provided for in this Act. The conditions for the provision of universal service shall be set out in a universal service contract between the state and an undertaking.
- (2) A universal service contract regarding services provided for in clauses 69 1) and 2) of this Act may be entered into only with a communications undertaking.
- (3) The basis for the universal service obligation is a universal service contract entered into between a communications undertaking and the state represented by the Minister of Economic Affairs and Communications or, on the authorisation of the Minister of Economic Affairs and Communications, by the Estonian National Communications Board.
- (4) A universal service contract shall, among other things, contain the following information:
  - 1) the obligation to provide the services provided for in clauses 69 1)-3) of this Act to the end-users requesting it within the territory specified in the contract;
  - 2) a term during which the communications undertaking with the obligation to provide universal service is required to enter into a subscription contract which complies with the requirements provided for in § 96 of this Act for the provision of a service provided for in clause 69 1) of this Act with the end-user;
  - 3) an affordable price charged for the provision of universal service from the end-user for the establishment and preservation of a connection with the telephone network pursuant to § 74 of this Act and for services provided for in clauses 69 2) and 3) of this Act;
  - 4) the maximum charge paid for the universal service;
  - 5) the period of validity of the contract;

- 6) provisions concerning the termination and amendment of the contract;
- 7) sanctions for violation of the contract.

§ 73. Designation of undertaking with universal service obligation

- (1) The provider of services provided for in clauses 69 1)-3) of this Act shall be designated by way of a public tender the conditions of which are established by the Minister of Economic Affairs and Communications. If the charge to be paid on the basis of a universal service contract for the provision of universal services is expected to exceed the value specified in subsection 2 (7) of the Public Procurement Act (RT I 2000, 84, 534; 2001, 40, 224; 50, 284; 2002, 23, 131; 47, 297; 61, 375; 63, 387; 87, 505; 99, 577; 2003, 25, 153; 78, 521; 88, 591; 2004, 56, 402), a public procurement shall be organised pursuant to the procedure provided for in the Public Procurement Act.
- (2) If a public tender provided for in subsection (1) of this section or a public procurement fails, the Ministry of Economic Affairs and Communications may impose the obligation to provide universal services on a communications undertaking with special or exclusive rights or in control of essential facilities on the basis of § 17 of the Competition Act.
- (3) A public tender provided for in subsection (1) of this section or a public procurement shall be organised by the Minister of Economic Affairs and Communications or, on the authorisation of the Minister of Economic Affairs and Communications, by the Estonian National Communications Board.
- (4) Upon designation of a communications undertaking with the universal service obligation pursuant to the procedure provided for in subsections (1) and (2) of this section, the need to ensure provision of the universal services in a cost-effective manner which does not endanger competition at an affordable price and, in short-term and long-term perspective, in accordance with the objectives provided for in § 134 of this Act shall be taken into account.
- (5) A provider of services provided for in clauses 69 1)-3) of this Act may be designated separately:
  - 1) for each specified service within the territory specified by the person who organises the tender provided for in subsection (1) of this section or a public procurement or
  - 2) for each specified service within the territory provided for in subsection (2) of this section where the communications undertaking has special or exclusive rights or is in control of essential facilities.
- (6) The bases for designation of the territories provided for in clauses (5) 1) and 2) of this section shall be established by the Minister of Economic Affairs and Communications.

(7) A provider of services provided for in clause 69 2) of this Act shall be designated only if the specified service is not reasonably accessible for the end-user at an affordable price, taking account of the residence or location of the end-user, the number of public pay-phones and the affordability of the services for people with special social needs.

#### § 74. Price charged for universal service from end-user

(1) The conditions of the tender specified in subsection 73 (1) of this Act or the tender documents relating to the public procurement shall include the affordable price charged for the services provided for in clauses 1) and 3) of this Act from end-users by the provider of universal service.

(2) The Minister of Economic Affairs and Communications shall determine the same affordable price specified in subsection (1) of this section for both of the services specified on clauses 69 1) and 3) of this Act on the proposal of the Communications Board throughout the territory of the state.

#### § 75. Costs related to performance of universal service obligation

(1) A communications undertaking with the universal service obligation may submit an application to the Communications Board for compensation for the unfairly burdensome costs relating to the performance of the universal service obligation.

(2) Upon assessment of the costs relating to the performance of the universal service obligation, the Communications Board shall verify whether the costs relating to the performance of the universal service obligation by a communications undertaking with the universal service obligation are justified.

(3) If, as a result of the assessment provided for in subsection (2) of this section, the Communications Board finds that performance of the universal service obligation is unfairly burdensome for a communications undertaking with the universal service obligation, taking account of the revenue arising from performance of the specified obligation for the communications undertaking and any market benefit, the Communications Board shall decide to compensate for the costs related to the universal service obligation to the extent provided for in subsection (4) of this section.

(4) The costs specified in subsection (3) of this section shall be compensated for communications undertakings with the universal service obligation only to the extent to which the price charged from end-users specified in § 74 of this Act does not enable covering of the costs related to performance of the universal service obligation or ensure a reasonable profit.

(5) The procedure for the assessment of and compensation for costs specified in subsections (2)-(4) of this section shall be established by the Minister of Economic Affairs and Communications.

#### § 76. Specifications for designation of universal service provider

(1) The conditions of the tender specified in subsection 73 (1) of this Act or the tender documents relating to the public procurement shall include the obligation of the tenderer to submit at least the following information:

- 1) the additional costs of and revenue involved in the provision of universal service;
- 2) the costs not specified in clause (1) 1) of this section, ordinary business expenses incurred without the universal service obligation and charges for establishment and preservation of a connection with the public telephone network for end-users and charges for the services specified in clauses 69 2) and 3) of this Act which are planned on the basis of the expenses incurred so far;
- 3) the combined payment schemes for the connection of end-users to the public telephone network and for services provided through the network and possibilities for advance payments and payment in instalments;
- 4) information on increase of the number of subscribers of a communications undertaking and the satisfaction of subscribers during the year preceding the tender.

(2) When the costs specified in clause (1) 1) of this section are being determined:

- 1) only the costs necessary for performance of the universal service obligation shall be taken into account;
- 2) the costs which the communications undertaking would incur also without the universal service obligation (ordinary business expenses), and costs which have been incurred before the beginning of the calendar year of submission of the tender shall not be taken into account.

#### § 77. Entry into subscription contract with end-user

The provisions of Chapter 9 of this Act apply to a subscription contract between an end-user and a communications undertaking having the universal service obligation.

#### § 78. Publication of data concerning universal service

(1) A communications undertaking with the universal service obligation shall make available to the public at least the following information concerning the provision of universal

services pursuant to the concepts and methods of measurement provided for in the Estonian standard EVS 874:2003:

- 1) supply time for initial connection;
- 2) fault rate per access line;
- 3) fault repair time;
- 4) response times for operator services;
- 5) response times for directory enquiry services;
- 6) proportion of coin and card operated public pay telephones in working order;
- 7) number of bill correctness complaints.

(2) Information which is made available to the public shall be submitted to the Communications Board. The correctness and comparability of information submitted to the Communications Board may be verified on the order of the Communications Board, by a qualified independent person at the expense of the communications undertaking with the universal service obligation if the communications undertaking does not agree with the results of the verification of information conducted by the Communications Board.

(3) If the information submitted to the Communications Board has been verified pursuant to subsection (2) of this section at the expense of the communications undertaking with the universal service obligation and the results of the verification confirm the correctness and comparability of the information submitted by the communications undertaking, the Communications Board shall compensate for the amount paid for the verification to a reasonable extent.

(4) In order to ensure access to information, the Minister of Economic Affairs and Communications may specify the content and form of information to be made available to the public pursuant to subsection (1) of this section and the manner of making the specified information available to the public.

(5) The Communications Board may require that a communications undertaking with the universal service obligation reduce the supply time for initial connection provided for in clause (1) 1) of this section and the fault rate provided for in clause (1) 2) of this section within a reasonable term, taking account of the technical or economic possibilities of the communications undertaking.

## § 79. Control of expenditure

(1) Upon provision of universal service, a communications undertaking with the universal service obligation shall provide the end-users with the following possibilities to control expenditure relating to the universal service:

- 1) submission of bills which separately set out charges for the establishment and preservation of a connection with the telephone network and for the use of telephone services;
- 2) possibility to bar outgoing calls of defined types or to defined types of numbers;
- 3) access to the telephone network and use of telephone services on pre-paid terms;
- 4) arising from a contract, payment for connection to the telephone network on the basis of payments phased over time.

(2) The possibilities provided for in clauses (1) 3) and 4) of this section shall be provided only to consumers.

(3) Consumers may use the possibilities provided for in subsection (1) of this section free of charge. Other end-users may use the service provided for in clause (1) 2) of this section free of charge.

#### § 80. Communication of information to Public Number Directory and directory enquiry services

(1) If, pursuant to § 73 of this Act, the obligation to provide services provided for in clause 69 3) of this Act has been imposed on an undertaking, the provider of telephone or mobile telephone services shall communicate the information concerning the name and number of the subscriber of telephone or mobile telephone services provided thereby to the undertaking specified in § 73 of this Act at least once during a calendar year if the subscriber has consented to disclosure of the information.

(2) A provider of public telephone and mobile telephone services may demand a reasonable fee for communication of the information specified in subsection (1) of this section. The specified fee shall be cost-oriented and may include a reasonable profit.

### Division 2

#### Financing of Universal Service

#### § 81. Sources of financing

(1) The costs specified in § 75 of this Act shall be compensated for out of the universal service charges paid by communications undertakings with the obligation to pay the universal service charge (hereinafter the financing obligation).

(2) Only costs incurred for the provision of universal services provided for in clauses 69 1) and 2) of this Act shall be compensated for out of the universal services charges.

#### § 82. Universal service charge

Universal service charge is a payment made by a communications undertaking with the financing obligation in order to compensate for the costs specified in § 75 of this Act.

#### § 83. Rate of universal service charge

(1) The rate of universal service charge is 0.01–1 per cent of the turnovers of a communications undertaking with the financing obligation during the preceding financial year.

(2) On the proposal of the Minister of Economic Affairs and Communications, the Government of the Republic shall establish the rate provided for in subsection (1) of this section for a calendar year not later than three months before the beginning of the calendar year.

(3) The Minister of Economic Affairs and Communications shall submit a proposal specified in subsection (2) of this section on the basis of the reports prepared by the Communications Board pursuant to § 137 of this Act.

#### § 84. Communications undertaking with financing obligation

(1) A communications undertaking has the financing obligation if the undertaking is subject to the obligation to submit a notice provided for in subsection 4 (1) of this Act and if its turnover of communications services exceeds 6 000 000 kroons per calendar year.

(2) The financing obligation of a person specified in subsection (1) of this section arises as of the moment when the specified person submits or should submit the notice specified in subsection 4 (1) of this Act.

(3) The financing obligation of a person specified in subsection (1) of this section terminates as of the moment when the person submits a notice concerning termination of activities specified in § 5 of this Act.

(4) If the financing obligation arises or terminates before the fifteenth day of the calendar month, the financing obligation is deemed to have arisen or terminated as of the beginning of the calendar month.

(5) If the financing obligation arises or terminates after the fifteenth day of the calendar month, the financing obligation is deemed to have arisen or terminated as of the following calendar month.

#### § 85. Payment of universal service charge

(1) Universal service charges shall be paid, in instalments of one third of the total amount, by 15 May, 15 September and 15 January.

(2) For universal service charge to be paid, the Communications Board shall send a corresponding notice not later than thirty days before the due date for payment of the universal service charge.

(3) If the universal service charges paid during a calendar year exceed the costs compensated to the communications undertaking with the universal service obligation pursuant to § 75 of this Act during the calendar year, the universal service charges paid but not used during the calendar year are deemed to be prepaid.

(4) Upon the expiry of a financing obligation, the paid universal service charges shall not be refunded.

#### § 86. Receipt and use of universal service charge

(1) Universal service charge is paid into the state budget.

(2) The procedure for the payment of universal service charge into the state budget and for the use of the charge shall be established by the Minister of Finance.

### Chapter 8

#### Requirements for Provision of Communications Services

#### § 87. Requirements set for provision of communications services and communications networks, and quality of communications services

(1) Upon provision of communications services, communications undertakings shall be guided by the following principles and objectives:

- 1) ensurance of the security of operation of the communications network;
- 2) preservation of the integrity of the communications network;
- 3) ensurance of the protection of transmitted or stored information;
- 4) ensurance of the interoperability of communications networks and services;
- 5) compliance with health and environmental requirements;

- 6) compliance with the planning and land readjustment requirements;
- 7) ensurance of the quality of the communications services;
- 8) avoidance of harmful interference between space based or terrestrial technical systems;
- 9) ensurance of public order and national security;
- 10) monitoring of compliance with the established requirements, provision of data and organisation of statistics;
- 11) avoidance of activities which prejudice free competition on the communications market.

(2) Based on the principles and objectives provided in subsection (1) of this section, the Government of the Republic may establish technical requirements for the communications networks and where necessary, the requirements for the provision of communications services for:

- 1) protection of subscribers;
- 2) publication of data concerning subscribers in telephone directories and by way of telephone enquiries;
- 3) ensurance of connection to the national emergency numbers and the European standard 112 emergency number;
- 4) ensurance of public order and national security;
- 5) provision of communications services for persons with special needs;
- 6) for the interconnection of communications networks and for ensuring interoperability of communications networks, or
- 7) determination of the location of interconnection points.

(3) A communications undertaking shall make information on the quality of the communications services publicly accessible to the end-user on the web page of the operator or in the absence thereof, in any other reasonable manner.

#### § 88. Placing calls to emergency numbers and determination of location of calling user

(1) A communications undertaking providing telephone or mobile services shall organise the operation of the communications network such that free connection to the national emergency numbers and the European standard 112 emergency number is guaranteed through each communications network.

(2) A user of communication service is required to enable calls to be placed to national emergency numbers and the European standard 112 emergency number for notification of accidents, or to forward such messages themselves.

(3) For calls placed to national emergency numbers and the European standard 112 emergency number, the communications undertakings specified in subsection (1) of this section shall make available, free of charge, the telephone number of the calling user and where possible, information on the location of the calling user to the national emergency service and alarm centre.

#### § 89. Requirement for number portability

(1) A subscriber has the right to retain a telephone number belonging to the Estonian numbering plan and issued thereto by a telephone or mobile service provider upon:

- 1) change of the telephone service provider;
- 2) change of mobile telephone service provider;
- 3) change of the geographical location of the connection point of the subscriber.

(2) The right of the subscriber specified in subsection (1) of this section does not extend to:

- 1) changing from telephone services to mobile telephone services;
- 2) changing from mobile telephone services to telephone services;
- 3) communications service contracts if the subscriber is not identified;
- 4) numbers determined by the conditions for use of the numbering established by the Minister of Economic Affairs and Communications on the basis of subsection 29 (2) of this Act.

(3) A telephone or mobile telephone service provider is required to provide a consumer with free information concerning the portability of numbers through telephone enquiries and at their website.

(4) The charge for number portability must be cost-based. The charge shall be paid by the communications undertaking with whom the subscriber has entered into a new subscription contract which provides, among other conditions, an opportunity to keep the current telephone number.

(5) Compliance with the number portability requirement is ensured by use of common routing database, the management of which is organised by a person with whom the state has entered into a corresponding contract. Such person shall be appointed as a result of a public tender. The public tender is organised by the Ministry of Economic Affairs and

Communications, or the Communications Board as authorised by the Minister of Economic Affairs and Communications.

(6) The technical requirements for ensuring the portability of numbers shall be established by the Minister of Economic Affairs and Communications.

(7) The requirements for the public tender specified in subsection (5) of this section shall be established by the Minister of Economic Affairs and Communications.

#### § 90. Special requirement for provision of cable television services

(1) A communications undertaking who provides cable television services shall guarantee the continuous retransmission of the following programmes:

- 1) television programmes of the Estonian public service broadcaster;
- 2) television programmes transmitted by terrestrial broadcasting transmitters within a cable television network area that are received at a signal strength compatible with the technical requirements and for the transmission of which the broadcaster requires no charge.

(2) The programmes specified in subsection (1) of this section are transmitted as a single packet based on a subscription contract entered into between the communications undertaking providing cable television services and the end-user.

(3) Programmes not specified in subsection (1) of this section are transmitted based on an agreement between the communications undertaking and the end-user.

(4) A communications undertaking shall ensure the end-user with the possibility to view the programmes offered by way of cable television services to the full extent of the duration of the broadcasting time unless the contracting parties agree otherwise.

(5) The requirements for the provision of the cable television services provided in clause (1) 2) of this Act shall be established by the minister of Economic Affairs and Communications.

### Chapter 9

#### Provision of Communications Services to End-users and Protection of Rights of End-users

#### § 91. Communications service contracts

(1) Communications services are provided to end-users on the basis of communications service contracts.

(2) Communications service contracts are subscription contracts or other contracts for the provision of communications services.

(3) The provisions of the Law of Obligations Act (RT I 2001, 81, 487; 2002, 60, 374; 2003, 78, 523; 2004, 13, 86; 37, 255; 75, 522) apply to communications service contracts insofar as they are not regulated by the provisions of this Act.

#### § 92. Freedom of entry into communication service contract

(1) Taking account of the restrictions arising from this Act and the restrictions established for the protection of the rights of end-users, communications undertakings and end-users are free to agree on the conditions of a communications service contract.

(2) Any condition of a communications service contract which restricts the rights of the end-user, as compared to the rights provided by this Act, is null and void.

#### § 93. Obligation to enter into subscription contract with end-user

(1) A communications undertaking who provides connection to a communications network is required to enter into a subscription contract with a person based on an application to this effect submitted by the person. A subscription contract shall be entered into in writing if a contracting party so desires.

(2) Entry into a subscription contract specified in subsection (1) of this section may be refused only if:

- 1) connection of terminal equipment to the communications network is not technically possible in the requested area or in the requested form at the time of receipt of an application;
- 2) the applicant fails to present information necessary for his or her identification or for communication with him or her, or the address of the location of connection to the communications network allowing the provision of requested communications services;
- 3) upon filing an application or entering into a requested subscription contract, the applicant presents incorrect information;
- 4) the applicant owes collectable arrears for provided communications services, or
- 5) bankruptcy proceedings have been commenced against the applicant.

#### § 94. Procedure for entry into subscription contract

(1) A communications undertaking specified in subsection 93 (1) of this Act shall send, within thirty days after submission by a person of an application for entry into a subscription contract, a notice by which the undertaking informs the applicant of the possibility to enter into a subscription contract and of the term of such contract.

(2) If a communications undertaking has the necessary technical potential for the provision of communications services, the undertaking shall send the person the notice specified in subsection (1) of this section in order to inform the person of the fact that entry into a subscription contract with the undertaking is possible. A communications undertaking shall not delay entry into a subscription contract without good reason.

(3) If provision of communications services to a person is not possible due to technical reasons, the communications undertaking shall register the application submitted by the person for entry into a subscription contract and inform the person, by way of the notice specified in subsection (1) of this section, of the absence of necessary technical potential.

(4) If provision of communications services is possible, subscription contracts shall be entered into in the order of receipt of the applications. The date of submission of an application shall be the basis for satisfaction of the application also in the case if the person submitting the application waives the rights arising from the application to another person or if the place of connection to a communications network which enables provision of the communications service as indicated in the application by the person is changed.

(5) If two or more applications are received at the same time, priority, in the entry into a subscription contract for the provision of a communications service in the place of residence of a disabled person, shall be given to an application submitted by a person with a profound or severe disability as defined by the Social Benefits Act (RT I 1999, 16, 273; 2002, 39, 245; 61, 375) or by his or her caregiver. Such preferential right is not transferable.

#### § 95. Creation of possibility to use electronic communications service

A communications undertaking shall create a possibility to the end-user to commence the use of electronic communications services within ten working days after entry into a subscription contract provided that the end-user has performed the obligations assumed by the subscription contract.

#### § 96. Mandatory terms and conditions of electronic communications service contract

(1) An electronic communications service contract entered into with the end-user shall contain at least the following terms and conditions:

- 1) the name, address and other details of the communications undertaking;
- 2) a description of the electronic communications service and possibility to use related services;

- 3) the number assigned to the end-user where the electronic communications service required assignment of a number;
  - 4) charges for services including maintenance charge, procedure for settlement of accounts, and discounts and other price packages;
  - 5) differences in payment and compensation mechanisms in the event of services not conforming to the agreed conditions;
  - 6) quality requirements set for electronic communications services;
  - 7) maintenance services which the communications undertaking offers to the end-user;
  - 8) procedure and time limit for elimination of breakdowns;
  - 9) procedure and time limit for submission of complaints and claims, and procedure for settlement of disputes;
  - 10) conditions for disclosure of information on the end-user pursuant to §§ 102–107 of this Act, including the procedure for obtaining the consent of the end-user for disclosure, transmission or other processing of information concerning the end-user, and the conditions for refusal to grant consent;
  - 11) basis and procedure for amendment of contract;
  - 12) term of validity of contract and conditions for cancellation and extension of contract.
- (2) In addition to the terms and conditions specified in subsection (1) of this section, the following shall be set out in a subscription contract:
- 1) location of the communications network termination point, except where connection to the electronic communications network is based on the use of radio frequencies;
  - 2) time of and conditions for connection to the electronic communications network.
- (3) A communications undertaking is required to make available the terms and conditions specified in clauses (1) 1), 2) and 4)–11) of this section, the condition specified in clause (2) 2) of this section, and the standard conditions established thereby for the provision of communications services to the public at its website or in the absence thereof, in any other reasonable manner.

#### § 97. Elimination of electronic communications network breakdowns

- (1) An end-user of communications services shall inform the repair service of the communications undertaking of a breakdown in the communications network. A communications undertaking shall organise the receipt and recording of information concerning breakdowns from end-users of communications services, inform the end-users of the procedure for receipt of such information and of the time during which the information

can be submitted and, after receiving information on a breakdown, notify the end-user of the deadline for elimination of the breakdown.

(2) A communications undertaking shall eliminate a breakdown of the communications network or a line of an end-user within a reasonable period of time after becoming aware of the breakdown.

(3) In the case of a breakdown of a communications network, the end-user of communications services shall provide access for the representative of the communications undertaking to the equipment which form part of the network, to terminal equipment and the terminal equipment which are connected to the communications network through such terminal equipment for inspection and for determination of the location of the breakdown.

(4) The cost of elimination of a breakdown in a line belonging to an end-user of communications services, to terminal equipment and the terminal equipment which are connected to the communications network through such terminal equipment shall be borne by the end-user of the communications services except in cases where the communications undertaking is responsible for causing the breakdown.

#### § 98. Restriction of provision of communications services

(1) A communications undertaking may restrict the provision of communications services to the end-user only if:

1) the end-user has delayed payment for services provided to the user for more than fourteen days or has exceeded the credit limit extended to the user;

2) the end-user has connected faulty or non-conforming terminal equipment to the communications network;

3) the end-user harmfully interferes, by using the terminal equipment, with the operation of the communications network or other users of communications services;

4) restriction of the provision of communications services is necessary for installation, repair, exchanging or maintenance of network equipment or a line facility;

5) the end-user materially violates the terms or conditions of the communications service contract, or

6) the restriction arises from law.

(2) A communications undertaking has the right to restrict the provision of communications services only after giving the end-user due notice of the restriction and specifying the duration of and reasons for the restriction. A communications undertaking is

required to give at least five working days' notice of the work prescribed in clause 1) 4) of this section.

(3) Restriction of the provision of communications services on the bases provided in clauses (1) 2) and 3) of this section shall be carried out pursuant to § 127 of this Act.

(4) A communications undertaking must not restrict the provision of communications services if the end-user eliminates the circumstances which constitute the basis for restriction of the provision of the services and the undertaking is aware of such fact.

(5) Upon application of restriction of the provision of communications, free connection to the national emergency numbers and the European standard 112 emergency number shall be maintained.

(6) A communications undertaking may not restrict the provision of communications services if the end-user contests the amount of the charge payable for provided communications services in writing before the due date for payment and pays, in a timely manner, for the part of the part of the communications services the charge for which is not contested. If contestation of charge for the communications services by the end-user is unjustified, the communications undertaking has the right to demand a fine for delay from the end-user payable at the rate of 0.15 per cent per day for the period of time beginning on the due date for payment of the contested amount and ending on the date of actual payment thereof.

(7) The communications undertaking shall restore the provision of the communications services to the end-user to the former extent within a period of two working days after the elimination of the circumstances which constituted the basis for restriction of the provision of the communications services.

(8) An end-user has the right to request restriction of the provision of communications services to a desired extent. The communications undertaking is required to apply a restriction requested by an end-user within one working day after receiving the corresponding application. If the service for restriction of communications services is provided for a charge, the communications undertaking is required to inform the end-user of such fact, allowing the end-user a period of at least one working day during which the end-user may withdraw the request.

#### § 99. Amendment of communications service contracts

(1) A communications undertaking has the right to amend a communications service contract unilaterally if the need for amendment arises from amendments to legislation, or if

the circumstances which constitute the basis for entry into contract change after the contract is entered into, and such change causes the undertaking significant increase in the costs of performance of the contract.

(2) In addition to the provisions of subsection (1) of this section, a communications undertaking may amend a communications service contract pursuant to the terms and conditions provided by the contract.

(3) A communications undertaking shall give the end-user at least one month prior notice of the intended amendment of the communications service contract, and inform the end-user, in the notice, that upon disagreement with the amendments, the end-user has the right to cancel the contract. Any agreement by which the end-user is obliged to pay a contractual penalty for cancelling the contract due to amendment thereof by the communications undertaking is null and void.

(4) In order to comply with the notification obligation provided in subsection (3) of this section, a communications undertaking may publish the corresponding notice on its website or, in the absence thereof, in at least one national newspaper.

#### § 100. Cancellation of communications service contract

(1) A consumer has the right to cancel a communications service contract at any time without prior notice by informing the communications undertaking of cancellation. In respect of a communications undertaking, the cancellation of a contract is deemed to enter in force in as of the working day after the receipt of the notice to this effect unless a later date is indicated in the notice.

(2) A communications undertaking has the right to cancel a contract without prior notice if the provision of communications services is restricted pursuant to clauses 98 (1) 1-3 or 5 of this Act and the grounds for restriction continue to exist after one month has passed from the date of creation of the basis for application of restriction.

### Chapter 10

#### Security and Protection of Data

#### § 101. Security requirement

(1) A communications undertaking must guarantee the security of a communications network and prevent third persons from accessing the data specified in subsection 102 (1) of this section without legal grounds.

(2) If clear and present danger exists to the security of the communications network, the communications undertaking shall immediately inform the subscriber of such danger in a reasonable manner and, if elimination of the danger by the efforts of the undertaking is impossible, also of possible means to combat the threat and of any costs related thereto.

#### § 102. General principles of data protection

(1) A communications undertaking is required to maintain the confidentiality of all information which becomes known thereto in the process of provision of communications services and which concerns subscribers as well as other persons who have not entered into a contract for the provision of communications services but who use communications services with the consent of a subscriber; above all, the following data must be protected:

- 1) specific data of using communications services;
- 2) the content and format of messages transmitted through the communications network;
- 3) information concerning the time and manner of transmission of messages.

(2) The information specified in subsection (1) of this section may be disclosed only to the relevant subscriber and, with the consent of the subscriber, to third persons, except in the cases specified in §§ 112 and 113 of this Act. A subscriber has the right to withdraw his or her consent at any time.

(3) A communications undertaking may process the information provided for in subsection (1) of this section if the undertaking notifies the subscriber, in a clear and unambiguous manner, of the purposes of processing the information, and gives the subscriber an opportunity to refuse the processing.

(4) The obligation of a communications undertaking specified in subsection (3) of this section does not restrict the right of the undertaking to collect and process, without the consent of a subscriber, information which must be processed for the purposes of recording the transactions carried out in the conduct of business activities and for other business-related exchange of information. In addition to the above, the restriction provided in subsection (3) of this section does not limit the right of a communications undertaking to store or process data without the consent of a subscriber if the sole purpose of such activity is the provision of services through the communications network, or if such activity is necessary for the provision of the Information Society services defined by the Information Society Services Act which are directly requested for by the subscriber.

#### § 103. Processing of information for marketing purposes

If a communications undertaking wishes to process, with the subscriber's consent, information specified in subsection 102 (1) of this Act for marketing purposes, the undertaking is required to inform the subscriber, prior to obtaining the consent, of the type of information needed for such purposes and the duration of the intended use of such information. A communications undertaking has the right to use information, which the undertaking is permitted to use for marketing purposes, only until it is necessary for achieving the relevant goal. If the subscriber so desires, the communications undertaking shall provide the subscriber with details concerning the use of the information.

#### § 104. Processing of information necessary for billing subscribers

A communications undertaking may process the information provided for in subsection 102 (1) of this Act without the subscribers' consent if such activity is necessary for billing the subscribers, including for the determination and calculation of interconnection charges.

#### § 105. Processing of location data of subscribers

(1) Communications undertakings have the right to process subscribers' location data, the processing of which is not provided in § 104 of this Act, only if such data is rendered anonymous prior to processing.

(2) In order to provide other services in the process of using the communications services, communications undertakings also have the right to process, with the consent of the subscribers, the data provided in subsection (1) of this section to an extent and during the term necessary for processing and without rendering the data anonymous.

(3) Before obtaining the consent of a subscriber, a communications undertaking is required to inform the subscriber of the data needed for the provision of services, the purpose and term of using such data and whether such data are forwarded to third persons for the purposes of providing the services. A subscriber has the right to withdraw his or her consent at any time.

(4) A subscriber who has granted consent for the processing of the data provided in subsection (1) of this section must have easy opportunity to temporarily prohibit, free of charge, the processing of the data in the part of establishment of the connection or transmission of the information indicated thereby.

#### § 106. Persons authorised to process data and deletion of data

(1) The information provided in subsection 102 (1) of this section, and in §§ 103-105 of this Act may be processed only by communications undertakings and persons duly authorised thereby who are engaged in organising transactions, processing the data specified in subsection 102 (1) of this Act, answering subscriber enquiries, detection of fraud, marketing of communications services, resale of communications services or provision of other services in the process of use of communications services. Processing of the data is permitted only to the extent necessary for the activities specified above.

(2) Communications undertakings and persons acting with the authorisation thereof are required to delete or render anonymous the data provided for in subsection 102 (1) of this Act, and in §§ 103 or 105 of this Act within one calendar month after the need to store such data ceases to exist or the purpose of processing such data has been achieved. The information provided in § 104 of this Act shall be deleted or rendered anonymous immediately after the date on which one year passes from payment for the communications services prescribed by the communications service contract or payment of the arrears by the subscriber.

#### § 107. Publication of data in telephone directories and through telephone enquiries

(1) Undertakings which wish to make public data on subscribers in telephone directories or through telephone enquiries are required, prior to publication of data on subscribers in telephone directories or through telephone enquiries provide the subscribers with free information concerning the purposes of the databases of the telephone directories or telephone enquiries. If information is to be made public by electronic means, the communications undertaking shall inform the subscribers of the possibilities to use the databases by means of search engines.

(2) Undertakings which wish to make public data on subscribers in telephone directories or through telephone enquiries are required to provide the subscribers with an opportunity to decide on whether and to which extent they wish such data to be made public. Subscribers shall also have the opportunity to verify and amend the data which concerns them, and to terminate the publication of such data.

(3) Refusal by subscribers to permit the publication of their data in telephone directories and through telephone enquiries, the verification or amendment by subscribers of such data, and termination of the publication by subscribers of such data in telephone directories and through telephone enquiries shall be free of charge to the subscribers. Subscribers have no right to demand the amendment or deletion of the data already published concerning them in a telephone directory on paper.

§ 108. Presentation and restriction of calling-line and connected-line identification

(1) Where presentation of calling-line identification is offered as a part of communications services, the communications undertaking shall provide the subscribers with a possibility via a simple means, free of charge, to eliminate the presentation of the calling-line identification and, where technically possible, provide such opportunity with respect to each separate call and number. A communications undertaking is required to guarantee that the identity and telephone number of the caller is not disclosed to the person receiving the call even after the call is terminated.

(2) Where the presentation of calling-line identification specified in subsection (1) of this section is offered, the communications undertaking shall provide the end-user receiving the call with a possibility via a simple means and provided that this function is used within reasonable limits, free of charge, to eliminate the presentation of the calling-line identification where it is technically possible.

(3) Where the presentation of calling-line identification specified in subsection (1) of this section is offered and the number of the calling line is identified prior to connecting the call, the communications undertaking shall provide, where technical capability for such function exists, the end-user with a possibility to prevent the creation of a connection for incoming calls originated by a caller who has eliminated the presentation of calling-line identification.

(4) Where presentation of connected-line identification is offered as a part of communications services, the communications undertaking shall provide, where technical capability for such function exists, the end-user who receives a call with a possibility via a simple means, free of charge, to eliminate the presentation of the connected-line identification to the end-user who originates the call.

(5) Subsection (1) of this section also applies to calls to third countries which originate from other Member States of the European Union. Subsections (2) to (4) of this section also apply to incoming calls to Member States of the European Union which originate from third countries.

(6) A communications undertaking is required to inform the public of the possibilities provided in this section at its website or, in the absence thereof, in any other reasonable manner.

(7) The possibility provided in subsection (1) of this section cannot be used in the case of calls placed to the national emergency numbers and the European standard 112 emergency number.

#### § 109. Elimination of automatic routing of calls

A communications undertaking is required to provide, where technical capability for such function exists, the end-user with a possibility via a simple means, free of charge, to eliminate automatic routing of calls by third persons to the terminal equipment of the subscriber.

#### § 110. Dispensing with itemised bills

A subscriber has the right to request that a bill presented to the subscriber shall not reflect the details of provision of the service.

#### § 111. Notification of absence of technical capability

A communications undertaking which lacks the technical capability needed for the provision of the services specified in § 108 or 109 of this Act is required to inform the Communications Board of such fact, and the Board shall forward such information to the European Committee.

#### § 112. Obligation to provide information to surveillance agencies and security authorities

(1) Where adherence to the deadlines specified below is possible due to the nature of an enquiry, a communications undertaking is required to provide, within twenty four hours after receiving an urgent enquiry submitted by a surveillance agency or security authority, or within ten working days if the enquiry is not urgent, the surveillance agency or security authority with information at its disposal concerning:

- 1) information on the personal data of the sender and receiver of messages contained in the subscription contracts;
- 2) information on the location of the sender and recipient of messages;
- 3) the fact of transmission of messages, and the duration, mode and format of the messages;
- 4) the databases describing the transmission of messages in the process of message transmission and the data contained in the databases (the fact of transmission of messages, and the duration, mode and format of the messages).

(2) The enquiry specified in subsection (1) of this section shall be submitted in writing or by electronic media. Enquiries concerning messages specified in clause (1) 1) of this section may also be made in oral form verifying the request with a password. Access to the data specified in subsection (1) of this section may also be granted online on the basis of a written contract.

§ 113. Obligation to grant access to communications network

(1) Communications undertakings shall grant surveillance agencies and security authorities access to the communications network for the conduct of surveillance activities or for the restriction of the right to confidentiality of messages, correspondingly.

(2) In connection with granting a surveillance agency or security authority access to the communications network, the communications undertaking is required to submit information concerning the technical parameters of the communications network to the agency or authority, if they so request. A communications undertaking shall assume the obligation to immediately inform the surveillance agency or security authority of any modifications which are made to the technical parameters of the communications network and of the launching of any new services, if this may interfere with the performance of the obligations specified in subsection (3) of this section, and shall commence the performance of such obligations with regard to all offered services within a reasonable period of time.

(3) Upon granting access to a communications network, a communications undertaking is required to:

1) enable the surveillance agency or security authority to select messages and to ensure their transmission to a central or portable surveillance device of the surveillance agency or security authority in an unchanged form and in real time;

2) ensure the quality of message transmission which must be equal to the quality of the regular services provided by the communications undertaking;

3) ensure the protection of the messages and the data related to their transmission.

(4) Transmission by a communications undertaking of messages to a central or portable surveillance device of a surveillance agency or security authority shall be decided by the surveillance agency or security authority. A surveillance agency or security authority shall inform the Ministry of Economic Affairs and Communications of communications undertakings who transmit messages to central or portable surveillance devices of the surveillance agency or security authority.

(5) Transmission of messages to a central surveillance device shall be carried out by using a message splitting interface and appropriate hardware and software, which ensures the preservation of independent log files concerning the actions performed by the central surveillance device (time, type, object and number of action) for a period of at least five years.

(6) For transmission of messages to a portable surveillance device, a surveillance agency or security authority shall submit an application to a communications undertaking in writing

or by electronic means for access to the communications network which shall set out the date, number and term of validity of the court order for the conduct of a surveillance activity or for the restriction of the confidentiality of messages. The communications undertaking is required to preserve such application for a period of at least five years.

(7) In the event of termination of the provision of communications services by a communications undertaking, the death, or dissolution of an undertaking, including as a result of merger or acquisition, or declaration of bankruptcy of a communications undertaking, the medium containing the log files specified in subsection (5) of this section and the applications specified in subsection (6) of this section shall be immediately transferred to the Communications Board. The procedure for preservation of log files and applications, transfer thereof to the Communications Board and for the transfer and destruction thereof shall be established by the Minister of Economic Affairs and Communications.

(8) In order to exercise supervision over the activities of surveillance agencies and security authorities, a Prosecutor's Office and the security authorities surveillance committee of the Riigikogu<sup>4</sup> have the right to examine the applications specified in subsection (6) of this section and in the case of transmission of messages to a central surveillance device, also with the log files which are preserved.

(9) A communications undertaking is required to preserve the secrecy of information related to the conduct of surveillance activities, and activities which restrict the right to inviolability private life or the right to confidentiality of messages.

(10) Extraordinary and unavoidable acts necessary for enabling access to a communications network which interfere with the provision of communications services, as well as work performed by the undertaking on the communications network which interfere with the transmission of messages to the surveillance devices shall be performed under conditions agreed upon by the communications undertaking and the surveillance agency or the security authority in writing.

#### § 114. Compensation of costs of provision of information and enabling access to communications network

(1) A communications undertaking shall be compensated for the costs incurred thereby in relation to the provision of the information specified in subsection 112 (1) of this Act, enabling access to the communications network specified in subsection 113 (3) of this Act or transmission of messages to the surveillance device of surveillance agencies or security authorities.

(2) The costs specified in subsection (1) of this section consist of the value of the hardware and software specified in subsection 113 (5) of this Act and the cost of maintenance thereof, cost of transmission of messages to the surveillance devices and the cost of provision of information specified in subsection 112 (1) of this Act.

(3) The value of the hardware and software specified in subsection 113 (5) of this Act and the cost of maintenance thereof shall be compensated to the communications undertaking out of the state budget fees sector through the budget of the Ministry of Economic Affairs and Communications. Such fees shall be paid in instalments over a period of not longer than ten years per each acquired item by way of fixed annual payments to be made once a year. The need to acquire or replace software or hardware, the manner of acquisition, and costs for the acquisition and maintenance shall be approved by the Ministry of Economic Affairs and Communications before the acquisition or replacement of the software or hardware. The fees are paid in accordance with the contract entered into between the Ministry of Economic Affairs and Communications and the communications undertaking.

(4) The costs related to transmission of messages and provision of information shall be compensated to the communications undertaking out of the state budget through the budget of the ministry in the area of government of which the surveillance agency or security authority belongs. Such costs are compensated in accordance to the contract entered into between the surveillance agency or security authority and the communications undertaking.

(5) The procedure for compensation for the costs provided for in subsection (3) of this section shall be established by the Government of the Republic.

#### § 115. Restriction of radiocommunications

(1) Imposition of restrictions, in the interests of public order and national security, on radiocommunications is permitted by the following authorities in the following cases:

- 1) by the Defence Forces, within the territory of objects with a national defence purpose which are marked correspondingly;
- 2) by prisons, within their territories;
- 3) by the crisis management committee of the Government of the Republic or the head of a crisis management team, for management of crisis in crisis areas;
- 4) authorities responsible for internal security, for providing security protection in areas of occurrence of events which require heightened security;
- 5) authorities responsible for internal security, for prevention of explosion risk in areas of potential explosion risk.

(2) The list of objects specified in clause (1) 1) of this section, the list of events which require heightened security specified in clause (1) 4) of this section and the procedure for restriction of radiocommunications shall be established by the Government of the Republic.

(3) The requirements for electromagnetic radiation and radio receiving parameters, and for the restriction of radiocommunications in the case specified in subsection (1) of this section shall be established by the Minister of Economic Affairs and Communications.

## Chapter 11

### Line Facility

#### § 116. Planning and construction of line facilities

The requirements for planning and construction of construction works apply to the planning and construction of line facilities.

#### § 117. Protective zone of line facility

(1) For the purposes of this Act, the protective zone of a line facility shall mean an area with the measurements determined by subsection (2) of this section where any activity likely to prejudice the line facility is permitted under the conditions and pursuant to the procedure provided for in §§ 118 and 119 of this Act.

(2) The measurements of the protective zone of line facilities specified in subsection (1) of this section are:

- 1) on land, two metres from the central line of the line facility or from the outer wall of a construction works to an imaginary line parallel to the line facility or works or, in case of guyed radio mast, the radius thereof on land in metres equivalent to its height, or in case of a self-supported radio mast, the radius thereof on land in metres equivalent to 1/3 of its height;
- 2) on internal bodies of water, 100 metres;
- 3) at sea, 0.25 nautical miles.

#### § 118. Marking of line facilities

(1) The owner of a line facility is required to mark the line facility in order to facilitate the determination of its location.

(2) The conditions of and procedure for operation within the protective zone of a line facility which also provide for the technical means for protection of the line facility and the

requirements for marking the line facility shall be established by the Minister of Economic Affairs and Communications.

§ 119. Organisation of activities in protective zone of line facility

- (1) Without the permission of the owner of a line facility, any activity which may harm the line facility is prohibited in the protective zone of the line facility.
- (2) The owner of a line facility has the right to demand that a person operating in the protective zone of the line facility operate under the direct supervision of the owner or a representative authorised by the owner and demand, in the organisation of the activities, implementation of measures and operation in a manner to prevent damage to or injury of the line facility.
- (3) The requirements specified in subsection (2) of this section shall be formalised in writing and signed by the person making such requirements and the person who performs the work.
- (4) If a person operating in the protective zone of a line facility finds that the requirements made by the owner of the line facility pursuant to the provisions of subsection (2) of this section are unjustified, the person has the right to present his or her diverging written opinion to the person making the requirements and operate in a manner and implement such measures which, in the opinion of the person, prevent damage to or injury of the line facility.
- (5) If a person operating within the protective zone of a line facility has caused a dangerous situation as a result of his or her acts, the owner of the line facility has the right to request the termination of the operation of such person or to take appropriate measures until the danger is eliminated. A person operating within the protective zone of a line facility is required to stop any unsafe activities immediately after receiving a corresponding request from the owner of the line facility or a representative thereof.
- (6) A person operating within the protective zone of a line facility is required to immediately inform the owner of the line facility or a representative thereof of any damage to the line facility. In the case of damage to other infrastructure within a line facility, the owner of the line facility is required to send, within two hours after receiving a corresponding message, a representative to the site of the accident.
- (7) The person liquidating an accident has the right to commence liquidation of the accident but shall organise the activity such that damage to or injury of the line facility would be prevented.

- (8) A person operating in the protective zone of a line facility shall bear all costs of implementing measures necessary for the protection of the line facility due to the person's activities in the protective zone of the line facility, including the costs related to the determination of the exact location of the line facility and costs related to marking in an area where construction work is being performed. The owner of a line facility shall provide a person operating within the protective zone of the line facility with free information on the exact location on the line facility.
- (9) The costs related to cutting the branches of trees grooving in the protective zone of a line facility are borne by the owner of the line facility unless the owner of the line facility and the owner of the immovable have agreed otherwise. The owner of a line facility has the right to remove, without the consent of the owner of the immovable, any trees or branches of trees which have caused damage to the line facility or create a dangerous situation.
- (10) Costs relating to the liquidation of damage to or injury of line facility shall be borne by the person responsible for causing the damage or injury.

#### § 120. Settlement of disputes related to line facilities

Upon settlement of disputes related to line facilities, the Communications Board shall be guided by the provisions of § 149 of this Act.

### Chapter 12

#### Requirements for Apparatuses

#### § 121. Area of regulation of Chapter

- (1) This Chapter provides for the requirements for apparatuses, and the conditions of and supervision over placing on the market and putting into service of apparatuses.
- (2) The provisions of the Product Conformity Attestation Act (RT I 1999, 92, 825; 2003, 45, 308; 81, 543; 2004, 18, 131; 30, 208) and the Technical Regulations and Standards Act (RT I 1999, 29, 398; 2000, 29, 169; 78, 495; 2002, 32, 186; 99, 580; 2003, 88, 594; 2004, 2, 8; 25, 167; 29, 191; 30, 208) apply to the procedure and requirements provided in this Chapter with the specifications arising from this Chapter.
- (3) The terms used in this Chapter shall have the meaning provided for in the Product Conformity Attestation Act.

#### § 122. Conditions for placing on market and putting into service of apparatus

- (1) It is permitted to place an apparatus on the market if:
  - 1) the apparatus, if it is installed and maintained according to the prescribed procedure and used for its intended purposes, meets the requirements provided in § 123 of this Act and legislation established on the basis thereof;
  - 2) the conformity of the apparatus has been attested pursuant to the procedure established on the basis of this Act;
  - 3) the apparatus has a declaration of conformity;
  - 4) the apparatus has a user manual and all other requisite information;
  - 5) the apparatus bears inscription and CE conformity mark pursuant to the procedure established on the basis of subsection 125 (3) of this Act;
  - 6) in the case of radio equipment using frequency bands whose use is not harmonised in the States which are Contracting Parties to the EEA Agreement, the Communications Board has been notified, pursuant to the procedure established by subsection (4) of this section, of the intention to place such equipment on the market.
- (2) An apparatus may be used for its prescribed purpose, if:
  - 1) the apparatus conforms to the requirements provided in § 123 of this Act and legislation established on the basis thereof;
  - 2) the apparatus bears requisite marking and a conformity mark pursuant to the procedure established on the basis of subsection 125 (3) of this Act.
- (3) The provisions of this Chapter do not apply to the following apparatuses:
  - 1) radio equipment used by radio amateurs unless the equipment is available commercially;
  - 2) radio equipment included in the safety equipment of vessels, requirements for which are established on the basis of the Maritime Safety Act (RT I 2002, 1, 1; 61, 375; 63, 387; 2003, 88, 591 and 594; 2004, 24, 164; 46, 331);
  - 3) air-traffic management equipment and systems;
  - 4) radio receiving equipment intended to be used solely for the reception of sound and TV broadcasting services;
  - 5) equipment intended exclusively for surveillance activities;
  - 6) equipment used for national defence purposes.
- (4) A person who intends to place radio equipment specified in clause (1) 6) of this section on the market shall notify the Communications Board to that effect no less than four weeks in advance of the start of placing the radio equipment on the market. The notification shall provide at least the information provided for in subsection 132 (3) of this Act.

(5) The format for the notice specified in subsection (4) of this section shall be established by the Minister of Economic Affairs and Communications.

(6) Apparatuses which do not comply with the requirements provided for in this Act or legislation established on the basis thereof, or with regard to which the procedure for assessment and attestation of conformity has not been observed may be presented at trade fairs, exhibitions, demonstrations and other public presentations. Such apparatuses may be presented on the condition that it is accompanied by clearly visible information which states that it is not permitted to place the apparatus on the market before it is brought into conformity with the requirements.

(7) A list of radio equipment operating on radio frequencies whose use has been harmonised in the States which are Contracting Parties to the EEA Agreement shall be published at the webpage of the Communications Board.

#### § 123. Requirements for apparatuses

(1) The use of an apparatus shall be safe and not pose a danger to the life, health and property of the users thereof and of third persons. Among other, an apparatus must meet the requirements set for low-voltage electrical equipment in the Electrical Safety Act (RT I 2002, 49, 310; 110, 659; 2004, 18, 131; 30, 208; 75, 520) and the requirements set for electromagnetic compatibility.

(2) In addition to the requirements specified in subsection n(1) of this section, radio equipment shall be manufactured in a manner which prevents the occurrence of radio interference and guarantees the effective use of the satellite orbital positions.

(3) Based on decisions of the Commission of the European Communities, the Government of the Republic may establish additional requirements for apparatus within certain equipment classes or apparatus of particular types to ensure that:

- 1) it interworks via networks with other apparatus and that it can be connected to interfaces of the appropriate type in the States which are Contracting Parties to the EEA Agreement;
- 2) it ensures interoperability of terminal equipment and communications network;
- 3) it incorporates safeguards to ensure that the personal data and privacy of the user and of the subscriber are protected;
- 4) it supports certain features ensuring avoidance of fraud;
- 5) it supports certain features ensuring access to emergency services;
- 6) it supports certain features in order to facilitate its use by users with a disability.

#### § 124. Harmonised standards

(1) An apparatus manufactured in conformity with a harmonised standard or a part thereof dealing with one or several relevant requirements, concerning which a reference has been published in the Official Journal, is deemed to conform to the requirements provided in § 123 of this Act or legislation established on the basis thereof which are dealt with by the harmonised standard.

(2) If the Communications Board finds that adherence to harmonised standards does not guarantee conformity of apparatuses, the Board shall inform the committee specified in Article 13 of Directive 1999/5/EC of the European Parliament and of the Council on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 07.04.1999, pp. 10–28) of such opinion.

#### § 125. Assessment and attestation of conformity of apparatuses

(1) The assessment and attestation of the conformity of apparatuses in accordance with the relevant procedure established for the attestation of conformity shall be organised, pursuant to the procedure established on the basis of subsection (3) of this section, by the manufacturer of the equipment, a representative thereof or the person who places the apparatuses on the market.

(2) Pursuant to the procedure established on the basis of subsection (3) of this section, the obligation to involve a notified body may be prescribed in the conformity assessment procedures necessary for the assessment and attestation of the conformity of equipment.

(3) The procedure for marking of apparatuses, for affixing conformity marking to apparatuses, and for conformity assessment and attestation thereof, the conformity assessment procedures required for the assessment and attestation of conformity, and the requirements for provision of user manuals and other information concerning apparatuses shall be established by the Minister of Economic Affairs and Communications.

#### § 126. Notified body

(1) A notified body is a designated body which conducts the conformity assessment procedures required for the assessment and attestation of the conformity of apparatuses.

(2) The provisions of the Product Conformity Attestation Act, with the specifications arising from this Act, apply to the grant to a person of the right to operate as a notified body,

to the revocation or suspension of such right, and to the operation of a person as a notified body and the exercise of state supervision over that person.

(3) A notified body shall meet the requirements established for designated bodies with the following differences.

- 1) a person, a member of the management board or supervisory board, or an employee responsible for conformity assessment shall not be the designer, manufacturer, supplier or installer, communications undertaking or representative of such persons;
- 2) a person, a member of the management board or supervisory board, or an employee responsible for conformity assessment shall be independent and shall not, either directly or through a representative, be involved in the design, manufacture, marketing or maintenance of the apparatuses which does not preclude the possibility of an exchange of technical information between the manufacturer and the notified body;
- 3) the person and the employees thereof shall perform attestation acts in adherence to the best professional practices and with high technical competence, and remain independent of any circumstances likely to influence their opinion or the outcome of the inspection;
- 4) the person shall have the necessary staff and shall possess means which enable the technical and administrative duties related to the inspection or supervision to be performed in compliance with the requirements;
- 5) a person responsible for inspection shall have good technical and professional training, adequate knowledge of the requirements set for inspection and performance of tests, adequate experience for inspection and performance of tests and the ability to prepare certificates, records and reports in certification of the results of inspections and tests;
- 6) the person shall ensure the impartiality of the employees conducting inspections and the remuneration of such employees shall not depend on the number of the tests performed and their results;
- 7) the person shall ensure that the employees thereof maintain the confidentiality of information of which they become aware in the performance of their official duties, unless the disclosure of such information is prescribed by law;
- 8) the person shall be accredited pursuant to the Product Conformity Attestation Act to assess and attest the conformity of apparatuses;
- 9) the person shall have liability insurance which meets the requirements provided for in subsection (4) of this section and is valid for the entire period of operation as a notified body;

(4) A notified body shall have a liability insurance contract for an insured sum which guarantees that damages which may be caused to third parties by its operations will be compensated, and which is at least 500 000 kroons.

#### § 127. Right of communications undertaking to restrict use of apparatuses in communications network

(1) A communications undertaking has the right to restrict, within a communications network, the use of an apparatus which does not conform to the requirements provided in § 123 of this Act, affects the integrity of the communications network, is illegally manufactured or reconstructed, or the use of which interferes with the use of communications services by other persons. In the case of restriction of the use of an apparatus, the communications undertaking has the right to limit the provision of communications services to the end-user or restrict access to the communications network until the time that the reason of the restriction ceases to exist.

(2) In the cases provided in subsection (1) of this section, the communications undertaking has the right to disconnect the apparatus from the network, giving written notice of the reasons for disconnection to the subscriber. Giving written notice of disconnection is not required in cases where delay in limitation of communications services or restriction of access is likely to cause damage to the communications undertaking or third persons. A communications undertaking shall inform the Communications Board of disconnecting of apparatus from a communications network within three working days after the apparatus is disconnected.

(3) If the subscriber ceases to use the apparatus specified in subsection (1) of this section in the communications network and starts to use a conforming apparatus, the communications undertaking shall immediately restore the provision of services.

(4) If after receiving the notice specified in subsection (2) of this section, the Communications Board establishes that use of a conforming apparatus causes material damage to the communications network or causes radio interference, the Communications Board may grant permission to the communications undertaking to refuse to connect such apparatus with the communications network. The Communications Board shall inform the European Commission of each case such permission is given.

#### § 128. Provision of information on interfaces

- (1) A communications undertaking is required to communicate to the public the specifications of the types of interface offered to the end-user in the process of provision of communications services prior to the commencement of the provision of communications services via such interfaces, update the specifications at least once a year, and within three working days after the publication or updating of such information, notify the Communications Board thereof.
- (2) The procedure for publication of the specifications of the types of interface provided in subsection (1) of this section and the procedure for updating the information shall be established by the Minister of the Economic Affairs and Communications.
- (3) The specifications provided in subsection (1) must be given in sufficient detail for terminal equipment to be designed which would enable the full use of all the services provided by means of the corresponding interface.
- (4) The specifications provided in subsection (1) must include sufficient information for selection of appropriate testing methods for the verification of the conformity of terminal equipment.
- (5) The Communications Board shall inform the European Commission of the types of interface regulated by Estonian legislation, unless notice has been given based on § 8 of the Technical Regulations and Standards Act, and of the specifications of the types of interface used by Estonian communications undertakings.

#### § 129. Protective measures

- (1) If an apparatus does not conform to the requirements provided by this Act or established on the basis thereof, the Communications Board has the right to demand the removal from the market of the non-conforming apparatus or the termination of provision of communications services by means of such apparatus, prohibit the placing on the market and putting into service of such apparatus or restrict the free movement of such apparatus.
- (2) The Communications Board has the right to apply appropriate protective measures in order to prohibit or restrict the placing on the market of radio equipment, or to demand the removal from the market of radio equipment and types thereof which have caused or are likely to cause radio interference affecting existing or planned radiocommunication.
- (3) The Communications Board shall make a decision which constitutes the basis for application of measures specified in subsection (1) of this section within fifteen working days after becoming aware of the non-conformity of an apparatus.

(4) The Communications Board shall immediately inform the European Commission of the application of any protective measures provided in subsection (1) of this section, set out the reasons for application such protective measures and indicate whether the non-conformity of the apparatus arises from:

- 1) the incorrect application of harmonised standards;
- 2) deficiencies in the harmonised standards, or
- 3) non-compliance of the apparatus with the harmonised standards.

#### § 130. Supervision over conformity of apparatuses

(1) For making the decision to apply or fail to apply the protective measures specified in subsection 129 (1) of this Act, the Communications Board has the right to:

- 1) inspect all documents which verify the assessment of conformity of the apparatus, and require submission of copies thereof;
- 2) request access to the apparatus and inspect its conformity;
- 3) inspect the conformity of the marking of the apparatus;
- 4) request, by way of legal instrument, the possession of the apparatus from the manufacturer, a representative thereof, a person who places on the market or the sells the apparatus, for inspection the conformity thereof;
- 5) order, in justified cases, assessment services for inspection of the conformity of the apparatus from competent authorities.

(2) The cost of the assessment services ordered for the inspection of conformity shall be borne by the Communications Board.

(3) If the apparatus is deemed to be non-conforming, the manufacturer of the apparatus, a representative thereof or the person who places the apparatus on the market shall compensate the Communications Board for the direct costs of the assessment services ordered for the inspection of conformity.

(4) The manufacturers of apparatuses, representatives thereof, suppliers and sellers of apparatuses, and notified bodies shall enable the Communications Board to perform the obligations provided in subsection 129 (1) of this Act and provide information needed for performance of the obligations to the Board.

(5) The procedure for ordering assessment services for the inspection of conformity of apparatuses and the procedure for compensation for related costs shall be established by the Government of the Republic.

### § 131. Procedure for notification of European Commission

Notification of the European Commission in the cases provided in subsection 127 (4), 128 (5) and 129 (4) of this Act shall be conducted pursuant to the procedure provided by the Minister of Economic Affairs and Communications.

### § 132. Database of radio equipment

(1) The database of radio equipment register (hereinafter database) is a state agency database as defined in the Databases Act (RT I 1997, 28, 423; 1998, 36/37, 552; 1999, 10, 155; 2000, 50, 317; 57, 373; 92, 597; 2001, 7, 17; 17, 77; 2002, 61, 375; 63, 387; 2003, 18, 107; 26, 158; 2004, 30, 204).

(2) Only radio equipment the conformity of which has been assessed and attested, and which bear a conformity marking shall be entered in the database.

(3) The database shall contain the following information:

- 1) the name of the notifier;
- 2) the name and address of the person notifying of the placing on the market of the radio equipment;
- 3) the name and address of the person responsible for the placing on the market of the radio equipment;
- 4) information necessary for identification of the radio equipment;
- 5) the technical data concerning the radio equipment;
- 6) the technical data concerning the conformity assessment of the radio equipment;
- 7) information on any restrictions on use of the radio equipment.

(4) Data is entered in the database based on the notice submitted to the Communications Board pursuant to subsection 122 (4) of this Act.

## Chapter 13

### Governmental Control of Electronic Communications Sector

#### § 133. General Provisions

(1) The governmental control of and supervision over the electronic communications sector shall be exercised by the Ministry of Economic Affairs and Communications and the Communications Board within the limit of competence provided by this Act.

(2) Supervision over compliance with this Act shall also be exercised by the Competition Board within the limits of competence provided by this Act and the Competition Act, the Data

Protection Inspectorate within the limits of competence provided by the Personal Data Protection Act (RT I 2003, 26, 158; 2004, 30, 208), and the Consumer Protection Board within the limits of competence provided by the Consumer Protection Act (RT I 2004, 13, 86; 41, 278).

(3) Performance of the duties arising from this Act, and exercise of supervision shall be guided, among other, by European Community law.

#### § 134. Objectives of governmental control

(1) The objective of the governmental control of the electronic communications sector is to promote competition in the area of electronic communications and in the provision of services related thereto. Achievement of such objective is ensured, among other, by means of:

- 1) protection of subscribers, including persons with special needs, in the area of choice of services, quality and price;
- 2) prevention of distortion or hindering of competition on the market of communications services;
- 3) promotion of investment in communications networks and other units of electronic communications infrastructure, support of innovation, and protection of investments;
- 4) promotion of effective use of radio frequencies and numbering, and ensurance of effective management thereof.

(2) The objective of the governmental control of the electronic communications sector is to promote the development of the communications services market, among other, by means of:

- 1) removal of obstacles to the provision of communications services within the European Union, including in the area of offering communications networks and means related thereto;
- 2) supporting the creation and development of Pan-European communications networks, and the interoperability and end to end connectivity of Pan-European communications services;
- 3) ensurance of equal and non-discriminatory treatment of communications undertakings;
- 4) transparent co-operation with other supervisory agencies operating in the area of communications services and with the European Commission with the aim to guarantee the uniform nature and consistency of regulatory practices and the consistent application of the European Communities law regulating the electronic communications sector.

(3) The objective of the governmental control of the electronic communications sector is to protect the rights of the users of communications services, among other, by guaranteeing:

- 1) access to universal services to the end-users;
  - 2) protection of the interests of the end-users;
  - 3) protection of the confidentiality of personal data and inviolability of personal life;
  - 4) provision of information by communications undertakings and above all, ensuring the transparency of the charges for and conditions of providing communications services;
  - 5) taking into consideration the interests of different social groups, including persons with special needs;
  - 6) integrity and safety of communications networks.
- (4) The implementation of and compliance with this Act shall be guided by the principle of technological neutrality.

#### § 135. Duties of Communications Board upon performance of acts and application of measures

Any act performed or measure applied by the Communications Board on the basis of this Act, regardless of whether an administrative act is issued to this effect, must be:

- 1) reasonable and feasible;
- 2) objective, prudent, non-discriminatory and impartial;
- 3) transparent;
- 4) serve the purpose of achieving the specific objectives provided in § 134 of this Act and in proportion to the objective sought.

#### § 136. Participation of Communications Board in legislative drafting

The Communications Board has the right to make proposals for amendment of this Act and legislation established on the basis thereof. The Communications Board shall make the corresponding proposal to the Ministry of Economic Affairs and Communications.

#### § 137. Reporting by Communications Board

- (1) The Communications Board shall prepare and submit to the Ministry of Economic Affairs and Communications, not later than by 1 April each year, a report on the developments and problems in the electronic communications sector, and the activity of the Communications Board during the previous calendar year.
- (2) The report specified in subsection (1) of this section shall include:
  - 1) changes in the electronic communications sector, description thereof and an analysis of the situation;

- 2) an overview of the quality of the services in the electronic communications sector and an analysis of the situation;
  - 3) an analysis of the activities of the Communications Board, problems which have arisen in relation to the activities and proposals for planning future activities;
  - 4) an overview of the manner the universal services charges are used, the rate of such charges and the estimated reasonable rate for the fees payable for universal services for the next calendar year.
- (3) The Communications Board shall publish the report specified in subsection (1) of this section on its web page with the exception of information prescribed for internal use.
- (4) In addition to the annual report specified in subsection (1) of this section, the Communications Board shall submit to the Ministry of Economic Affairs and Communications an overview on the changes in the electronic communications sector once in every three months. The report shall contain, among other, statistical data concerning the main indicators of the communications market.

#### § 138. Particularities of organisation of work of officials of Communications Board exercising supervision

- (1) The officials of the Communications Board exercising or organising supervision shall be available at agreed times and places in order to perform urgent supervision activities, also during the on-call time.
- (2) For the purposes of this Act, on-call time is the time during which an official exercising or organising supervision shall be available for the performance of urgent supervision activities during the rest time.
- (3) Officials exercising or organising supervision may be required to have up to 150 hours of on-call time which shall be remunerated by additional remuneration of ten per cent of the hourly wage rate of the official.

#### § 139. Special clothing of officials of Communications Board

Special clothing is prescribed for officials of the Communications Board exercising or organising supervision.

#### § 140. Supervisory control over Communications Board

The Minister of Economic Affairs and Communications exercises supervisory control over the Communications Board pursuant to the procedure prescribed by the Government of the

Republic Act (RT I 1995, 94, 1628; 1996, 49, 953; 88, 1560; 1997, 29, 447; 40, 622; 52, 833; 73, 1200; 81, 1361 and 1362; 87, 1468; 1998, 28, 356; 36/37, 552; 40, 614; 107, 1762; 111, 1833; 1999, 10, 155; 16, 271 and 274; 27, 391; 29, 398 and 401; 58, 608; 95, 843 and 845; 2000, 49, 302; 51, 319 and 320; 54, 352; 58, 378; 95, 613; 102, 677; 2001, 7, 16; 53, 305; 59, 358; 94, 578; 100, 646; 102, 677; 2002, 57, 354; 87, 505; 90, 520; 96, 563; 2003, 4, 22; 21, 122; 51, 349; 81, 542; 88, 590; 2004, 22, 148). Supervisory control shall not restrict the independence of the Communications Board upon performance of the duties pursuant to this Act.

#### § 141. Explanations provided by Communications Board

In order to clarify and introduce this Act, the Communications Board has the right to provide explanations and instructions which however, shall not be binding by nature and which shall serve the objective of guaranteeing uniform implementation of this Act. Such explanations and instructions shall be published on the website of the Communications Board or as a periodic printed publication.

#### § 142. Competence of Communications Board in foreign relations

- (1) The Communications Board shall organise, within the limits of its competence, performance of the obligations of the Government of Estonia arising from international agreements related to the area of electronic communications.
- (2) The Communications Board shall submit the standards of the European standardisation body of the electronic communications sector within the meaning of the Technical Regulations and Standards Act to the Estonian national standardisation body for transposition thereof as Estonian national standards.
- (3) The Communications Board shall represent, within the limits of its competence, Estonia in international electronic communications organisations and corresponding international and European standardisation organisations.

#### § 143. Co-operation of Communications Board with experts, other supervisory authorities and European Commission

Where necessary, the Communications Board shall involve experts, and co-operate with other supervisory authorities of Estonia and of foreign states, as well as with the European Commission for performance of the functions assigned thereto by this Act.

#### § 144. Co-operation of Communications Board with Competition Board

(1) Upon exercise of supervision over competition on the communications services markets, the Communications Board shall co-operate and where necessary, exchange information concerning the competition situation on the communications services markets with the Competition Board. The Communications Board and the Competition Board may specify the conditions and organisation of their co-operation by way of a protocol concerning co-operation between such authorities.

(2) The Communications Board shall promptly provide the Competition Board with the following information:

- 1) the results of the market analysis provided in § 44 of this Act, including the results of the analysis conducted for defining the markets;
- 2) declaration of an undertaking as the undertaking with significant market power pursuant to § 49 of this Act, or a decision to revoke such declaration;
- 3) decisions on assignment of the duties specified in §§ 50 and 54–56 of this Act.

(3) The Communications Board has the right to forward confidential business information to the Competition Board. In such case, the obligation provided in subsection 148 (5) of this Act also extends to the officials of the Competition Board.

(4) Co-operation between the Communications Board and the Competition Board in the area of electronic communications shall ensure uniform and consistent interpretation of the competition situation and shall prevent the passing of contradictory decisions.

(5) If a communications undertaking is an undertaking with significant market power within the meaning of this Act, and an undertaking dominating the market within the meaning of the Competition Act, and if the Communications Board has applied the measures provided by this Act, with respect to the undertaking, above all, in the cases specified in subsections (6) and (7) of this section, the Competition Board has no right to apply such measures with respect to the undertaking on the basis of the Competition Act, or to make decisions or to perform acts which are contradictory to the measures applied by the Communications Board.

(6) If a communications undertaking an undertaking with significant market power within the meaning of this Act, and the undertaking dominating the market within the meaning of the Competition Act, the Communications Board shall exercise supervision over the communications services fees charged by such undertaking on the market on which the undertaking has been declared to have significant market power.

(7) If a communications undertaking is an undertaking with significant market power within the meaning of this Act, and the undertaking dominating the market within the

meaning of the Competition Act, the Communications Board shall exercise supervision over the undertaking on the network access services market on which the undertaking has been declared to have significant market power.

#### § 145. Administrative acts of Communications Board

The Communications Board shall issue administrative acts for performance of the duties provided by this Act. The administrative acts are issued in the format of precepts and decisions.

#### § 146. Precept of Communications Board

- (1) The Director General of the Communications Board, or his or her deputy and an official authorised by the Director General has the right to issue mandatory precepts for elimination of violations of the requirements provided by this Act, of legislation established on the basis of this Act and of the regulations of the European Union, or for the performance of certain acts for the performance of the obligations provided by this Act.
- (2) A precept of the Communications Board shall set out at least the following:
  - 1) the time and place of the issue of the precept;
  - 2) the address of the Communications Board;
  - 3) the official title, given name and surname of the official who issued the precept;
  - 4) the person to whom the precept is issued;
  - 5) the circumstances of the issue of the precept;
  - 6) provision of legislation violated by the person to whom the precept is issued;
  - 7) a demand that the offence be terminated or the obligation be performed;
  - 8) statement that the objects and requirements provided by §§ 134 and 135 of this Act are complied with;
  - 9) the term for compliance with the precept;
- (3) A precept shall be delivered to a person or the representative of the person on signature at a specified date and time or shall be sent by post with advice of delivery.
- (4) In the event of failure to perform an obligation imposed by a precept, the Communications Board may impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580). The upper limit for a penalty payment is 150 000 kroons.

#### § 147. Decision of Communications Board

- (1) The Communications Board shall make a decision where it is provided by this Act, and also in the cases where the Communications Board has the obligation to issue an administrative act pursuant to a provision of law which however, does not specify whether the administrative act must be made in the form of a precept or a decision. The Director General of the Communications Board, or his or her deputy and an official authorised by the Director General has the right to make a decision on behalf of the Communications Board.
- (2) The requirements established by subsections 146 (2) and (3) of this Act shall be taken account of upon making a decision of the Communications Board with the differences arising from this Act and the content of the decision.

#### § 148. Duty to provide information to Communications Board

- (1) Communications Board has the right to request information for performance of the duties assigned thereto by this Act from communications undertakings and other persons.
- (2) Persons are required to provide the Communications Board with information needed for performance of the duties assigned to the Communications Board by this Act, except in case of information on specific messages, and information on the users of communications services the disclosure of which is restricted pursuant to §§ 102–107 of this Act.
- (3) Information requested by the Communications Board shall be necessary for performing a specific duty and in proportion thereto.
- (4) In order to obtain information or a document, the Communications Board shall prepare a written application. In the application, the Communications Board shall provide explanation on the duty for the performance of which information is requested, and on the manner it will be used. The application of the Communications Board shall also prescribe a reasonable term not shorter than ten working days as of the date of receipt of the request for information by which the person is required to submit the information.
- (5) Officials of the Communications Board are required to maintain state secrets and confidential information which has become known to them in the course of performing their duties and have the right to use such information only to perform their duties.

#### § 149. Settlement of disputes by Communications Board

- (1) If settlement of a dispute by the Communications Board is provided by this Act, a party to the dispute shall submit a written petition to such effect.

- (2) The Director General of the Communications Board or an official authorised by the Director General shall participate in hearing the petition specified in subsection (1) of this section.
- (3) The Communications Board shall inform the other party to the dispute within ten working days as of submission of the petition specified in subsection (1) of this section, and shall demand explanations. The Communications Board shall set a reasonable term not be shorter than ten working days as of the date of receipt of the demand for explanations.
- (4) The Communications Board shall settle the dispute specified in subsection (1) of this section without undue delay but not later than within four months after the receipt of the petition specified in subsection (1) of this section. If the dispute is particularly complicated, the Communications Board is not required to observed the term of four months. In such event, the Communications Board must explain why the dispute is considered to be particularly complicated and communicate the term for settlement of the dispute.
- (5) The Communications Board shall settle a dispute by passing a resolution to satisfy or to deny the petition specified in subsection (1) of this section. The resolution shall be prepared in the form of a decision or precept of the Director General of the Communications Board. The resolution shall be made in the form of a precept if the settlement of the dispute involves issuing instructions for future conduct to one of the parties of the dispute. The Communications Board shall forward such resolution immediately to the parties of the dispute.
- (6) If the petitioner so desires, the Communications Board may participate in the dispute as the conciliator but in such case, the Board shall not make the binding resolution specified in subsection (5) of this section. In such event, the petition specified in subsection (1) of this section shall set out that the petitioner requests that the Communications Board participate in the dispute as the conciliator.
- (7) The Communications Board does not settle private law disputes between end-users and communications undertakings and consumers' complaints against communications undertakings.

#### § 150. Exchange of information with European Commission and supervisory authorities of Member States of European Union

- (1) If the European Commission so requests, the Ministry of Economic Affairs and Communications and the Communications Board are required to provide information to the Commission.

- (2) The Communications Board may also provide information to the supervisory authorities of other Member States of the European Union.
- (3) If information provided by the Communications Board to the European Commission includes data which the Communications Board has obtained from a communications undertaking, the Communications Board shall inform the undertaking of forwarding such information to the European Commission, and shall guarantee the confidentiality of the information provided by the communications undertaking even after it has been communicated.
- (4) If the Communications Board finds that disclosure to the supervisory authorities of other Member States of the European Union of information submitted to the European Commission is not justified, the Communications Board shall inform the European Commission at the time of submission of such information that the Board does not wish the information to be communicated to the supervisory authorities of the Member States and present an explanation concerning the reasons for not making the information public.
- (5) If the Communications Board has provided information to the supervisory authority of one Member State of the European Union, the Board is required to provide, upon a reasoned request, the information to other supervisory authorities of the Member States.

#### § 151. Publication of information concerning electronic communications sector

- (1) The Communications Board shall make available, in adherence to the requirement of confidentiality of business secrets, the following information on its website:
- 1) decisions on declaring undertakings as undertakings with significant market power;
  - 2) decisions concerning assignment of obligations to undertakings;
  - 3) decisions concerning defining the communications markets;
  - 4) decisions made in disputes between undertakings,
  - 5) other information and decisions which are to be disclosed on the basis of this Act.
- (2) Unless otherwise provided by this Act, the Communications Board shall publish the information specified in subsection (1) of this section in adherence to the provisions of § 152 of this Act.
- (3) A state fee is charged for certified copies of documents issued by the Communications Board.

#### § 152. Consultation obligation

(1) Prior to performing an act, assigning an obligation or application of a measure provided by this Act, and prior to establishing legislation which significantly affects the relevant communications market, or the rights of end-users and consumers, the interested persons, including end-users and persons with special social needs, and communications undertakings shall be given an opportunity to present their opinion on the planned decision or legislation.

(2) In order to obtain the opinions specified in subsection (1) of this section, the governmental authority planning the issue of a decision or legislation shall publish a notice to this effect on its website which shall contain a short description of the obligation, act or legislation, information of the time and place of providing additional information, and a reasonable term for presentation of opinions.

## Chapter 14

### Liability

#### § 153. Failure to submit notice and submission of incorrect data

Failure, by a legal person, to submit the notice specified in subsection 4 (1) and § 5 of this Act, submission of incomplete data, or failure of notify of changes to data or termination of operation is punishable by a fine of up to 30 000 kroons.

#### § 154. Failure to submit information and delayed submission of information

Failure, by a legal person, to submit the information specified in subsection 148 (2) of this Act, submission of incomplete information, delayed submission of information, or knowing submission of incorrect information is punishable by a fine of up to 30 000 kroons.

#### § 155. Illegal use of radio frequencies

(1) Illegal use of radio frequencies or violation of terms of use thereof is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

#### § 156. Causing harmful radio interference

(1) Causing of harmful radio interference which interferes with the operation of the radio navigation service, or distorts, interrupts or prevents other legitimate radiocommunication is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

#### § 157. Use of incorrect and inaccurate radio call sign

(1) Use of incorrect or inaccurate radio call sign is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

#### § 158. Violation of confidentiality of radiocommunications

(1) Obtaining and use, by third persons not engaged in radiocommunication, of information by means of radio equipment concerning persons engaged in radiocommunication and messages transmitted by them is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

#### § 159. Transmission of incorrect and misleading messages

(1) Transmission, in radiocommunication, of incorrect or misleading messages which may prejudice the safety of aircraft, vessels, land vehicles or persons, or to hinder the operation of any rescue service is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

#### § 160. Hindrance of access to radio equipment

(1) Hindrance of immediate access to radio equipment of an official exercising supervision for inspecting the conformity of radio equipment and right of use of radio frequencies is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

#### § 161. Interrupting lawful radio transmission session

(1) Interrupting a lawful radio communications session is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 162. Illegal use of numbering

(1) Use of numbering without numbering authorisation or reservation is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 163. Violation of conditions for use of numbering

(1) Violation of the conditions for the use of numbering is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 164. Violation of number portability requirement

(1) Violation of the requirements for number portability is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 165. Failure by communications undertakings to grant access to numbers, short codes and code "3883" numbers of European Telephony Numbering Space

(1) Failure by a communications undertaking to grant access to numbers, short codes or numbers of European Telephony Numbering Space (ETNS) "3883" is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 166. Violation of obligations established for undertakings with significant market power

(1) Violation of obligations established for undertakings with significant market power is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 167. Violation of requirements established for provision of universal services

(1) Violation of the requirements established for the provision of universal services is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 168. Violation of terms of payment of universal services charge

(1) Violation of the terms of payment of universal services charge is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 169. Violation of technical requirements established for communications networks

(1) Violation of the technical requirements established for communications networks is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 170. Violation of requirements established for quality of communications services

(1) Violation of the requirements established for the quality of communications services is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 171. Violation of special requirement for provision of cable broadcasting services

(1) Violation of the special requirement for provision of cable broadcasting services is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 172. Refusal to enter into subscription contract and violation of procedure for entry into subscription contract

(1) Failure to enter into a subscription contract, except in the cases specified in subsection 93 (2) of this section, or violation of the procedure for entry into subscription contract is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 173. Failure by communications undertaking to create possibility to end-user to commence using communications services

(1) Failure, by a communications undertaking, to create a possibility to an end-user to commence using communications services within the term specified in § 95 of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 174. Failure by communications undertaking to comply with mandatory terms and conditions of communications service contract

(1) Failure, by a communications undertaking, to comply with the mandatory terms and conditions specified in subsection 96 (1) of this Act of a communications service contract is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 175. Failure by communications undertaking to comply with requirements established for elimination of malfunctions of communications network

(1) Failure, by a communications undertaking, to comply with the requirements established for the elimination of malfunctions of communications networks specified in § 97 of this Act is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

§ 176. Unlawful restriction by communications undertaking of communications services used by end-user

(1) Unlawful restriction, by a communications undertaking, of communications services used by an end-user is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 177. Failure to ensure connection to national emergency numbers and European standard 112 emergency number during restriction of provision of communications services

(1) Failure to ensure connection to the national emergency numbers or the European standard 112 emergency number during a restriction of the provision of communications services is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 178. Violation of requirements for amendment of terms and conditions of communications service contracts

(1) Violation of the requirements for amendment of the terms or conditions of communications service contracts provided for in § 99 of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 179. Damaging communications networks or line facilities

(1) Damaging of a communications network or a line facility is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 180. Operation in protective zone of line facility without permission of owner of line facility

(1) Operation in the protective zone of a line facility without the permission of the owner of the line facility which resulted in a dangerous situation or prejudiced the line facility is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

§ 181. Violation of requirements established for apparatuses

- (1) Placing on the market or putting into service of a non-conforming apparatus is punishable by a fine of up to 200 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 182. Failure to submit notice on placing on market of radio equipment and incomplete or untimely submission of information

- (1) Failure to submit a notice on placing on market of radio equipment specified in subsection 122 (4) of this Act, or incomplete or untimely submission of information is punishable by a fine of up to 100 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 183. Failure to publish, untimely publication, failure to update and untimely updating of specifications of types of interface offered to end-users

- (1) Failure to publish, the untimely publication, failure to update and untimely updating of the specifications of the types of interface offered to end-users specified in subsection 128 (1) of this section is punishable by a fine of up to 100 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 184. Violation of terms and conditions of technical licences for third generation mobile telephone networks

Violation, by a legal person, of the terms and conditions of a technical licence for a third generation mobile telephone network (*Universal Mobile Telecommunication System – UMTS*) is punishable by a fine of 50 000 kroons.

§ 185. Violation of obligation to provide information and guarantee access to communications networks to surveillance agencies and security authorities

- (1) Violation of the obligation to provide information and guarantee access to communications networks to surveillance agencies and security authorities provided by §§ 112 and 113 of this Act is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 186. Violation of obligation to preserve secrecy of information related to conduct of surveillance activities, and activities which restrict right to inviolability private life or right to confidentiality of messages

(1) Violation of the obligation specified in subsection 113 (9) of this Act to preserve the secrecy of information related to the conduct of surveillance activities, or activities which restrict the right to inviolability private life or the right to confidentiality of messages is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 187. Violation of obligation to maintain confidentiality of information

(1) Violation of the obligation to maintain the confidentiality of information concerning a user which become known in the process of provision of communications services is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 188. Proceedings

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 62, 480; 105, 612; 2003, 4, 22; 83, 557; 90, 601; 2004, 7, 40; 46, 329; 54, 387; 56, 401) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654; 2003, 26, 156; 83, 557; 88, 590; 593; 2004, 46, 329; 54, 387 and 390; 56, 403; RT III 2004, 9, 96) apply to the proceedings in matters of misdemeanours provided for in § 153–187 of this Act.

(2) The Communications Board may confiscate, pursuant to the provisions of the Penal Code, the object which was the direct object of commission of a misdemeanour provided for in §§ 155, 156, 158, 159, 161 and 181 of this Act.

(3) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 153–184 of this Act shall be conducted by the Communications Board.

(4) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 172–178 of this Act shall be conducted by the Consumer Protection Board according to its competence.

- (5) Police prefectures or the Security Police Board conduct extra-judicial proceedings in matters of misdemeanours provided for in §§ 185 and 186 of this Act.
- (6) Extra-judicial proceedings concerning the misdemeanours provided for in § 187 of this Act shall be conducted by the Data Protection Inspectorate.

## Chapter 15

### Implementing Provisions

#### § 189. Revocation of activity licences

- (1) Activity licences issued prior to the entry of this Act pursuant to the Telecommunications Act (RT I 2000, 18, 116; 78, 495; 2001, 23, 125; 53, 310; 2002, 47, 297; 61, 375; 63, 387; 99, 580; 2003, 23, 136; 88, 594; 2004, 30, 207 and 208; 46, 332; 56, 398) and the Cable Distribution Act (RT I 2001, 53, 310; 2002, 61, 375; 63, 387; 2003, 88, 594) become invalid upon the entry into force of this Act.
- (2) A communications undertaking which submitted a notice on commencement of activities before the entry into force of this Act is deemed to have submitted the notice on commencement of activities specified in § 4 of this Act in the part of communications services and geographic territory which were communicated before the entry into force of this Act.
- (3) A communications undertaking which holds an activity licence valid until the entry into force of this Act, is deemed to have submitted the notice on commencement of activities specified in § 4 of this Act in the part of communications services and geographic territory determined by the activity licence.
- (4) The Communications Board is required to publish the information specified in subsections 4 (2) and (3) of this Act on its website within three months after the entry into force of this Act.

#### § 190. Transfer to frequency authorisation

- (1) The permits for the use of radio transmitting equipment, ship station licences and aircraft station licences and radio amateur licences issued before the entry into force of this Act are valid until the date of expiry indicated in the permits.
- (2) The installation permits for radio transmitting equipment issued before the entry into force of this Act are valid until the date of expiry indicated in the permits, however for no longer than until 31 December 2005.

- (3) A technical licence for a third generation mobile telephone network (*Universal Mobile Telecommunication System – UMTS*) is valid until the date of expiry indicated therein and the permit for installation of radio transmission equipment providing national coverage together with the reservation of the corresponding radio frequency band is replaced by a frequency authorisation, and clause 14 (1) 8) of this Act is not applicable.
- (4) A technical licence for a third generation mobile telephone network (*Universal Mobile Telecommunication System – UMTS*) is valid until revocation of the frequency authorisation.
- (5) Transfer of the right of use of radio frequencies provided in § 17 of this Act shall not be applied earlier than on 31 December 2006.

#### § 191. Transition to numbering authorisation

- (1) A permit for the use of a numbering block, identification code or short code issued before the entry into force of this Act shall remain valid until the date of expiry set out therein, and the numbers reserved by the communications undertaking before the entry into force of this Act are deemed to be booked. One month before the expiry of a permit for the use of a numbering block, identification code or short code, the person specified in subsection 29 (1) of this section shall submit an application for a numbering authorisation to the Communications Board.
- (2) The holder of a permit for the use of a numbering block, identification code or short code issued prior to the entry into force of this Act has the right to apply, after the entry into force of this Act, for substitution of the permit for the use of a numbering block, identification code or short code issued prior to the entry into force of this Act with a numbering authorisation under the conditions specified in subsection (1) of this section.
- (3) Before the establishment of the Numbering Management Database provided in subsection 28 (3) of this Act, the Communications Board shall issue a numbering authorisation to a person specified in subsection 29 (1) of this Act within one month after receipt of an application to this effect, and shall book a corresponding number. The Communications Board shall change or annul a booking within ten days after receipt of an application to this effect.
- (4) The duty of the Communications Board to book numbers provided in subsection (3) of this section ends after establishment of the Numbering Management Database provided in subsection 28 (3) of this Act.

- (5) Upon the grant of a numbering authorisation specified by this Act before the expiry of the validity of the previous permit, the state fee to be paid shall be set off with the paid state fee for the overlapping period in the cases specified in subsections (2) or (9) of this section.
- (6) The procedure for set-off of the state fee specified in subsection (5) of this section shall be established by the Government of the Republic.
- (7) The Communications Board shall establish the Numbering Management Database provided in subsection 28 (3) of this Act within nine months after the entry into force of this Act, consulting beforehand with the interested persons pursuant to the procedure provided in § 152 of this Act.
- (8) Upon establishing the Numbering Management Database, the Communications Board shall enter the booked numbers in the database pursuant to subsection (3) of this section.
- (9) After establishment of the Numbering Management Database, the holder of a permit for the use of a numbering block, identification code or short code issued prior to the entry into force of this Act has the right to submit an application for substitution of such permit with a numbering permit, specifying the quantity of numbers the applicant wishes to use. The applicant for a numbering permit is required to modify, within fifteen days after submission of the application, the quantity of numbers booked so that it would not be higher than the quantity requested in the application.

#### § 192. Transfer to market regulation

The designations of undertakings as undertakings with significant market power made prior to the entry into force of this Act pursuant to the Telecommunications Act, and the duties of undertakings with significant market power arising from the Telecommunications Act shall be valid until 31 December 2005.

#### § 193. Provision of universal service

- (1) The obligation to provide universal services on the basis of the Telecommunications Act prior to the entry into force of this Act remains valid under the conditions applicable before the entry into force of this Act until a communications undertaking with the obligation to provide universal services is appointed pursuant to § 73 of this Act however, for no longer than until 31 December 2006.
- (2) The rate of the universal services charges provided in subsection 83 (1) of this Act shall be established by the Government of the Republic not later than on 30 September 2006.

§ 194. Bringing of communications service contracts into conformity with this Act

- (1) Communications undertakings are required to bring all communications service contracts concluded with end-users before the entry into force of this Act and which do not conform to the requirements of this Act into conformity with the provisions of this Act within one year after the entry into force of this Act.
- (2) For bringing a communications service contract into conformity with this Act, a communications undertaking shall propose amendment of the contract to the end-user and give the end-user a reasonable term for acceptance or refusal of the proposal. If the end-user fails to give an answer within the set term, the contract shall be deemed to be amended.
- (3) If the end-user refuses to amend the contract, the communications undertaking has the right to terminate the communications service contract concluded with the end-user.

§ 195. Bringing of access and interconnection agreements into conformity with this Act

- (1) Communications undertakings are required to bring all access or interconnection agreements concluded with before the entry into force of this Act and which do not conform to the requirements of this Act into conformity with the provisions of this Act within one year after the entry into force of this Act.
- (2) For bringing an access or interconnection agreement into conformity with this Act, the communications undertaking shall propose amendment of the contract to the other communications undertaking and to set a reasonable term thereto for acceptance or refusal of the proposal. If the other communications undertaking fails to give an answer within the set term, the contract shall be deemed to be amended.
- (3) If the communications undertaking refuses to amend the contract, the communications undertaking who proposed amendment has the right to terminate the access or interconnection agreement contract.

§ 196. Termination of state register of telecommunications systems

The operation of the state register of telecommunications systems shall be terminated pursuant to the procedure provided for in the Databases Act.

§ 197. Amendment of Broadcasting Act

The Broadcasting Act (RT I 1994, 42, 680; 66, 1145; 1995, 16, 228; 83, 1437; 97, 1664; 1996, 49, 953; 1997, 29, 448; 52, 834; 93, 1564; 1998, 2, 42 and 44; 1999, 16, 268; 25, 364;

59, 613; 2000, 25, 143; 35, 220; 102, 666; 2001, 53, 310; 2002, 3, 5; 21, 117; 53, 336; 57, 357; 61, 375; 63, 387; 2003, 4, 22; 83, 560; 88, 594) is amended as follows:

1) Subsection 24 (5) is amended and worded as follows:

„(5) The broadcasting frequencies and digital transmission channels of *Eesti Raadio*<sup>5</sup> and *Eesti Televisioon*<sup>6</sup> shall be specified by the Communications Board with the approval of the Ministry of Culture.”;

2) clause 39 (3) 2) is amended and worded as follows:

„2) the documents specified in clauses (2) 4) and 6) of this section.”;

3) Subsection 39 (5) is amended and worded as follows:

„(5) If a licence for broadcasting in a cable distribution network is applied for, a corresponding petition shall be appended to the application together with a description of the television programme and information concerning the coverage of the cable distribution network.”;

4) clause 40 (1) 1) is amended and worded as follows:

„1) decide on and publish the types, number and other conditions of broadcasting licences to be issued and the terms for the submission of applications for a licence in at least one national daily newspaper, and obtain beforehand approval from the Communications Board for the possibility to use radio frequencies.”;

5) subsection (6<sup>1</sup>) is added to § 42 worded as follows:

„(6<sup>1</sup>) Subsections (1) and (6), and clause (4) 2) do not apply upon issue of licences for broadcasting in cable distribution networks.”;

6) subsection 5<sup>1</sup> (2), subsection 37 (2), clauses 38 (1) 1) and 2), clause 39 (2) 5, clause 40 (4) 3) and subsection 42 (3) are repealed.

#### § 198. Amendment of Security Authorities Act

The Security Authorities Act (RT I 2001, 7, 17; 100, 643; 2002, 61, 375; 2003, 23, 147; 90, 601; 2004, 46, 332) is amended as follows:

1) subsection 7 (3) is amended and worded as follows:

„(3) In order to organise special communications, the Information Board may enter into a contract under public law with an undertaking which, pursuant to the procedure provided by legislation, has the right to provide electronic communications services and to access state secrets classified as "top secret”;

2) in § 7<sup>1</sup> the word "telecommunications services" is substituted by the word "electronic communications services”;

3) clause 25 (3) 2) is amended and worded as follows:

„2) eavesdropping, observing or recording of messages and other information communicated through electronic communications networks;”;

4) clause 26 (3) 4) is amended and worded as follows:

„4) collection of information concerning the fact of messages being communicated via electronic communications networks, duration, manner and mode of communication thereof and personal data and location of senders and receivers of such messages;”;

5) subsection 27 (4) is amended and worded as follows:

„(4) The acts specified in clause 25 (3) 2) and 26 (3) 4) of this Act shall be performed in conformity with the corresponding provisions of the Electronic Communications Act.»

#### § 199. Amendment of Surveillance Act

Section 12 of the Surveillance Act (RT I 1994, 16, 290; 2004, 64, 454) is amended as follows:

1) the words "telecommunications networks" in clause (1) 5) and clause (3) 2) shall be replaced by the words "electronic communications networks";

2) subsection (4) is amended and worded as follows:

„(4) The acts specified in clause (1) 5) and (3) 2) of this section shall be performed in conformity with the corresponding provisions of the Electronic Communications Act.»

#### § 200. Amendment of Aviation Act

Subsection 37 (6) of the Aviation Act (RT I 1999, 26, 376; 2001, 87, 525; 2002, 47, 297; 61, 375; 63, 387; 2003, 23, 138 ja 143; 88, 594; 2004, 25, 169; 30, 208) is amended and worded as follows:

„(6) The frequency coordinator of the International Civil Aviation Organisation in Estonia is the authority responsible for coordinating the frequencies for the radiocommunication, navigation or monitoring equipment used for air traffic management.”

#### § 201. Amendments to Public Health Act

Subsection (9) is added to § 12 of the Public Health Act (RT I 1995, 57, 978; 1996, 3, 56; 49, 953; 1997, 37/38, 569; 1999, 30, 415; 88, 804; 2001, 23, 128; 2002, 32, 187; 53, 336; 61, 375; 63, 387; 90, 521; 2003, 26, 156 and 160; 2004, 45, 315; 75, 520) worded as follows:

„(9) Legal persons in public law, legal persons in private law and natural persons shall obtain the approval of the Health Protection Inspectorate for the conditions for using radio

frequencies on the basis of a frequency authorisation pursuant to the procedure provided by the Minister of Social Affairs."

#### § 202. Amendment of Law of Obligations Act

The words "telecommunications services" in clause 53 (2) 2) and subsection 55 (3) of the Law of Obligations Act (RT I 2001, 81, 487; 2002, 60, 374; 2003, 78, 523; 2004, 13, 86; 37, 255; 75, 522) shall be substituted by the words "electronic communications services".

#### § 203. Amendments to State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2004, 76, 526; 75, 521) is amended as follows:

1) section 29<sup>2</sup> is amended and worded as follows:

„§ 29<sup>2</sup>. Exemption from payment of state fees for acts related to radio frequencies and numbering

(1) The Defence Forces of Estonia are exempt from payment of state fees for the use of radio frequency channels in frequency bands which are designated for the Defence Forces in the Radio Frequency Allocation Plan.

(2) Acts related to numbering authorisations for the mandatory short numbers established as national emergency numbers, the European standard emergency number 112 and for the mandatory short numbers for emergency psychiatric care are exempt from state fees.

(3) Holders of ship station licences are exempt from payment of state fees for entry in the licence of information on radio equipment included in the safety equipment of vessels, requirements for which are established on the basis of the Maritime Safety Act (RT I 2002, 1, 1; 61, 375; 63, 387; 2003, 88, 591 and 594; 2004, 24, 164; 46, 331).

(4) Holders of aircraft station licences are exempt from payment of state fees for entry in the licence of information concerning radio equipment installed on the aircraft with the sole aim of ensuring the safety of human life.

(5) Holders of ship station licences or aircraft station licences are exempt from payment of state fees for entry in the licence of information concerning radio equipment installed on the water craft or aircraft and for the use of which no frequency authorisation is required.

(6) Acts related to frequency authorisations issues for frequencies which are used for environmental monitoring are exempt from state fee.";

2) subsections 183 (3<sup>4</sup>), (3<sup>6</sup>) and (3<sup>7</sup>) are repealed;

3) sections (189<sup>12</sup>) and (89<sup>13</sup>) are amended and worded as follows:

„§ 189<sup>12</sup>. Transcripts of documents

A state fee of 50 kroons per page shall be paid for a certified transcript of a document issued by the Communications Board.

§ 189<sup>13</sup>. Grant and amendment of frequency authorisation, and issue and extension of radio amateur licences and ship station licence and aircraft station licence

(1) A state fee of 36 kroons shall be paid for the grant or extension, for up to three years, of a radio amateur licence..

(2) A state fee shall be paid for the grant or extension of a frequency authorisation for one radio frequency channel used for simplex transmission in the following manner:

1) the state fee rate set out in Annex 4 to this Act for a radio network located within one county;

2) two times the state fee rate set out in Annex 4 for a radio network located within two to five counties;

3) three times the state fee rate set out in Annex 4 for a radio network located within six to ten counties;

4) five times the state fee rate set out in Annex 4 for a radio network located within eleven or more counties;

5) the state fee rate set out in Annex 4 for a radio transmitter of one fixed radio link.

(3) A state fee shall be paid for the grant or extension of a frequency authorisation for one radio frequency channel used for duplex or semiduplex transmission in the following manner:

1) one-and-a-half times the state fee rate set out in clauses 1 or 2 of Annex 4 to this Act for a radio network located within one county;

2) three times the state fee rate set out in clauses 1 or 2 of Annex 4 for a radio network located within two to five counties;

3) four times the state fee rate set out in clauses 1 or 2 of Annex 4 for a radio network located within six to ten counties;

4) seven times the state fee rate set out in clauses 1 or 2 of Annex 4 for a radio network located within eleven or more counties;

5) one-and-a-half times the state fee rate set out in clause 4 of Annex 4 for a radio transmitter of one fixed radio link.

(4) For the grant of a ship station licence or aircraft station licence for a period of up to three years, and for the extension of such permit, a state fee shall be paid in the amount of one third the state fee rate set out in Annex 4 to this Act shall be paid for each year.

- (5) For the grant or extension of frequency authorisation for 12.5 MHz channel spacing, a state fee in the amount of 50 per cent of the state fee rate calculated on the basis of subsections (2) and (3) of this section, and clause 1 of Annex 4 to this Act shall be paid.
- (6) For the grant or extension of frequency authorisation with a term of validity of up to 31 calendar days, a state fee shall be paid in the amount of one sixth the state fee rate set out in Annex 4 to this Act, and for the issue or extension of a ship station licence or aircraft station licence with a term of validity of up to 31 calendar days, a state fee in the amount of one twelfth the state fee rate set out in Annex 4 to this Act shall be paid.
- (7) For the grant or extension of frequency authorisation with a term of validity of 32 calendar days to eleven months, a state fee shall be paid in the amount of one twelfth the state fee rate set out in Annex 4 to this Act shall be paid for each month, and for the issue or extension of a ship station licence or aircraft station licence with a term of validity of 32 calendar days to eleven months, a state fee in the amount of one twenty-fourth the state fee rate set out in Annex 4 to this Act shall be paid for each month.
- (8) If the conditions of a frequency authorisation specified in Annex 4 to this Act are amended on the request of the holder of the authorisation, the state fee shall be paid according to the rate set forth in Annex 4 to this Act.
- (9) If the number of counties on a frequency authorisation is increased on the request of the holder of the authorisation, a state fee shall be paid in the amount of one twelfth of the difference between the initial state fee rate specified in subsection (2) or (3) of this section and the state fee rate for the increased number of counties for each month until the expiry of the authorisation.
- (10) A state fee shall be paid according the rate set out in Annex 4 to this Act for the grant or extension of a numbering authorisation designated for electronic communications purposes by the numbering plan.
- (11) For the grant of frequency authorisation first time on the basis of valid permit for installation of radio transmission equipment, a state fee in the amount of one twelfth the state fee rate specified in Annex 4 to this Act shall be paid for each month remaining from the grant of the permit for installation of radio transmission equipment until the grant of frequency authorisation.";
- 4) Annex 3 is repealed;
- 5) the heading of Annex 4, and the introductory part of clause 1 shall be amended and worded as follows:

"Rates of state fee for grant and extension of numbering authorisation and frequency authorisation, and for grant and extension of ship station licence and aircraft station licence.

1. A state fee shall be paid in the following amount for the grant or extension, for one year, of frequency authorisation for land mobile radio transmitting equipment:";

6) clause 2, and the introductory part of clause 3 of Annex 4 shall be amended and worded as follows:

„2. In the case of grant or extension, for one year of local exclusive use, of frequency authorisation for a mobile telephone network, or a radio access network of a telephone network, a state fee in the amount of 540 kroons shall be paid for each frequency channel with the width of 100 kHz.

3. A state fee shall be paid in the following amount for the issue for one year of frequency authorisation for a paging system:";

7) the introductory part of clause 4 of Annex 4 shall be amended and worded as follows:

„4. A state fee shall be paid in the following amount for the grant or extension, for one year, of frequency authorisation for a transmitter of a fixed radio link:";

8) clause 5, and the introductory part of clause 6 of Annex 4 shall be amended and worded as follows:

„5. A state fee of 4800 shall be paid for the grant or extension, for one year, of frequency authorisation for the surveillance radar of a fixed radio service.

6. A state fee shall be paid in the following amount for the grant or extension, for one year, of frequency authorisation for a fixed radio network:";

9) the introductory part of clause 7 of Annex 4 shall be amended and worded as follows:

„7. A state fee shall be paid in the following amount for the grant or extension, for one year, of frequency authorisation for a fixed terrestrial radio transmitter, including a navigation transmitter, used for communication with water craft or aircraft:";

10) clauses 8 and 9 of Annex 4 are amended and worded as follows:

„8. A state fee of 4800 shall be paid for the grant or extension, for one year, of frequency authorisation for a terrestrial radar of a radio service used for determination of objects located on the water surface or in the air.

9. A state fee of 2400 kroons per frequency band shall be paid for the grant or extension, for one year, of frequency authorisation for a terrestrial radio network used for communication with water craft or aircraft within the frequency bands 117.975 MHz to 144.000 MHz, 156.000 MHz to 162.050 MHz, 457.525 MHz to 457.575 MHz and 467.525 MHz to 467.575 MHz.";

- 11) clause 10 of Annex 4 is repealed;
- 12) the introductory part of clause 11 of Annex 4 shall be amended and worded as follows:  
„11. A state fee shall be paid in the following amount for the grant or extension, for one year, of frequency authorisation for a fixed satellite earth station:";
- 13) clause 12, and the introductory part of clause 13 of Annex 4 shall be amended and worded as follows:  
„12. A state fee of 1200 kroons shall be paid for the grant or extension, for one year, of frequency authorisation for a transmitter of a standard frequency and time signal service.  
13. A state fee shall be paid in the following amount for the issue for one year of frequency authorisation for a radio broadcasting transmitter:";
- 14) the introductory part of clause 14, and clauses 14.1–14.3 of Annex 4 shall be amended and worded as follows:  
„14. State fee rates for the grant or extension for up to three years of ship station licence or aircraft station licence and for the entry of earth stations on the licence:  
14.1. a state fee of 600 kroons per frequency band shall be paid for the grant or extension of ship station licence or aircraft station licence on which the frequency band 117.975 MHz to 144.0 MHz or 156 MHz to 162.025 MHz is entered;  
14.2. a state fee of 1200 kroons per frequency band shall be paid for the grant or extension of ship station licence or aircraft station licence on which the frequency bands 110 to 150 kHz, 405 to 535 kHz, 1605 to 4000 kHz, 1605 to 3800 kHz, 3800 to 4000 kHz, 4000 to 27 500 kHz, 4200 to 4400 MHz, or 8750 to 8850 MHz are entered;  
14.3. a state fee of 3600 kroons per frequency band shall be paid for the grant or extension of ship station licence or aircraft station licence on which the frequency bands 457.525 to 457.575 MHz, 467.525 to 467.575 MHz, 2900 to 3100 MHz, 5350 to 5460 MHz, or 9300 MHz to 9500 MHz are entered;
- 15) clauses 15, 15<sup>1</sup> and 16 of Annex 4 are amended and worded as follows:  
„15. State fee rates for issue and extension, for one year, of frequency authorisation for mobile or portable earth stations on land:  
15.1. a state fee of 1200 kroons shall be paid for the issue or extension of frequency authorisation for an Inmarsat A or Inmarsat B earth station;  
15.2. a state fee of 600 kroons shall be paid for the issue or extension of frequency authorisation for an Inmarsat C earth station;  
15.3. a state fee of 960 kroons shall be paid for the issue or extension of frequency authorisation for an Inmarsat M earth station;

15.4. a state fee of 2400 kroons shall be paid for the issue or extension of frequency authorisation for an Inmarsat A or Inmarsat B HSD terminal;

15.5. a state fee of 1200 kroons shall be paid for the issue or extension of a frequency authorisation for any other type of mobile or portable earth station.

15<sup>1</sup>. A state fee of 240 kroons shall be paid for the grant or extension, for one year, of frequency authorisation for short range devices.

16. State fee rates for issue and extension, for one year, of numbering authorisation:

16.1. a state fee shall be paid in the following amount for the grant of numbering authorisation which grants the right to use a carrier selection code for the provision of voice services, or for the extension thereof for one year:

- 1) 250 000 kroons in the case of a three-digit carrier selection code;
- 2) 180 000 kroons in the case of a four-digit carrier selection code;
- 3) 60 000 kroons in the case of a five-digit carrier selection code;

16.2. a state fee of 3000 kroons shall be paid for the grant of numbering authorisation which grants the right to use an identification code, or for the extension thereof for one year;

16.3. a state fee shall be paid in the following amount for the grant of numbering authorisation not specified in clause 16.1 which grants the right to use a short number, or for the extension thereof for one year:

- 1) 12 000 kroons if the short number consists of five digits;
- 2) 24 000 kroons if the short number consists of four digits;
- 3) 240 000 kroons if the short number consists of three digits;

16.4. a state fee of 5 kroons per authorised number shall be paid upon the grant of numbering authorisation which grants the right to use numbers, or for the extension thereof for one year, except in the cases specified in clauses 16.1–16.3 and 16.5;

16.5. a state fee of 2400 kroons per authorised number shall be paid upon the grant of numbering authorisation which grants the right to use numbers in the numbering ranges 800, 900 or 901, or for the extension thereof for one year;

16.6. in the case of amendment of the numbering authorisations specified in clauses 16.4 or 16.5, the state fee for the additional numbers shall be paid in full months in proportion to the time remaining until the expiry of the corresponding numbering authorisation."

#### § 204. Repeal of Cable Distribution Act

(1) The Cable Distribution Act (RT I 2001, 53, 310; 2002, 61, 375; 63, 387; 2003, 88, 594) is repealed.

(2) Legislation issued on the basis of subsection 3 (4), subsection 4 (3), subsection 12 (4), subsection 18 (7), subsection 19 (4) and subsection 26 (4) of the Cable Distribution Act valid until the entry into force of this Act are valid in so far as they are not contrary to this Act until they are repealed.

#### § 205. Repeal of Telecommunications Act

(1) The Telecommunications Act (RT I 2000, 18, 116; 78, 495; 2001, 23, 125; 53, 310; 2002, 47, 297; 61, 375; 63, 387; 99, 580; 2003, 23, 136; 88, 594; 2004, 30, 207 and 208; 46, 332; 56, 398) is repealed.

(2) Legislation issued on the basis of subsection 3 (23), subsection 4 (5), subsection 6 (8), subsection 7 (2, subsection 18 (7), subsection 19 (8), subsection 31 (4) and (4<sup>1</sup>), subsection 37 (3) and (4), subsection 47 (3), subsection 51 (7), subsection 53 (6), subsection 56 (1), subsection 57 (3) and 4, subsection 58 (5), subsection 64 (2) and (4), subsection 65 (3), subsection 66 (4), subsection 69 (1) and (5), subsection 74 (10), subsection 80 (3) and (4), subsection 82 (5), subsection 84 (6), subsection 95 (12) and subsection 113 (10) of the Telecommunications Act valid until the entry into force of this Act are valid in so far as they are not contrary to this Act until they are repealed.

#### § 206. Entry into force of Act

This Act enters into force on 1 January 2005.

<sup>1</sup> Directive 1999/5/EC of the European Parliament and of the Council on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 07.04.1999, pp. 10–28); Directive 2002/19/EC of the European Parliament and of the Council on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.04.2002, pp. 7–20); Directive 2002/20/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services (Authorisation Directive), (OJ L 108, 24.04.2002, pp. 21–32); Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Framework Directive), (OJ L 108, 24.04.2002, pp. 33–50); Directive 2002/22/EC of the European Parliament and of the Council on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.04.2002, pp. 51–77); Directive 2002/58/EC of the European Parliament and of the Council concerning

the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.07.2002, pp. 37–47); Commission Directive 2002/77/EC on competition in the markets for electronic communications networks and services (OJ L 249, 17.09.2002, pp. 21–26).

<sup>2</sup> RT = *Riigi Teataja* = State Gazette

<sup>3</sup> *Ametlikud Teadaanded* = Official Notices

<sup>4</sup> *Riigikogu* = Parliament of Estonia

<sup>5</sup> *Eesti Raadio* = Estonian state radio

<sup>6</sup> *Eesti Televisioon* = Estonian state television