

Statutes of Estonian Competition Authority

Approved by Regulation No. 101 of the Minister of Economic Affairs and Communications of 17 December 2007 (RTL1 2007, 97, 1628), entered into force 1 January 2008.

Amended by the following Regulation (date, number, publication in the *Riigi Teataja*, date of entry into force):

7.03.2008 No 21 (RTL 2008, 21, 313) 21.03.2008 (implemented as of 1.03.2008)

23.04.2008 No 30 (RTL 2008, 34, 501) 1.05.2008

The Regulation is established on the basis of subsection 42 (1) of the Government of the Republic Act.

Chapter 1

General Provisions

§ 1. Status of Estonian Competition Authority

The Estonian Competition Authority (hereinafter referred to as the “Authority”) is a government agency, which operates within the area of government of the Ministry of Economic Affairs and Communications (hereinafter referred to as the “Ministry”), has a directing function and which exercises state supervision and applies enforcement powers of the state on the bases and to the extent prescribed by law.

§ 2. Representation

In the performance of its functions, the Authority represents the state.

§ 3. Name of Authority in different languages

The name of the Authority is:

- 1) in English - Estonian Competition Authority;
- 2) in French - Office de la Concurrence d’Estonie;
- 3) in German - Estnische Wettbewerbsbehörde;
- 4) in Finnish - Viron Kilpailuvirasto;
- 5) in Russian - Департамент конкуренции Эстонии.

§ 4. Legislation regulating activities of Authority

The Authority operates pursuant to the Acts of the Republic of Estonia, EU legislation, international agreements mandatory to the Republic of Estonia, regulations and orders of the

Government of the Republic, regulations and directives of the Minister of Economic Affairs and Communications (hereinafter referred to as the „Minister“) and these statutes, as well as the relevant regulations of other Ministers.

§ 5. Accountability

(1) The Authority shall be accountable to the Minister, who shall guide and coordinate its activities and exercise supervisory control over the Authority pursuant to the procedure provided by legislation.

(2) The Authority shall prepare and submit accounting, management and statistical reports pursuant to the procedure provided by legislation.

§ 6. Coordination of Activities of Authority and Cooperation

(1) The Secretary General shall coordinate and organise the activities of the Authority.

(2) The Authority shall cooperate with the Internal Market Department, the Communications Department, the Energy Department, the Road and Railways Department and other departments of the Ministry.

§ 7. Budget of Authority

(1) The expenses of the Authority shall be covered from the state budget. The Minister shall approve and amend the budget of the Authority as well as exercise control over the implementation of the budget.

(2) The Authority has bank accounts within the group account of the State Treasury.

§ 8. Seal and insignia of Authority

The Authority has a seal bearing the small national coat of arms and its name, as well as insignia registered in accordance with the established procedure.

§ 9. Preparation of Documents of Authority

(1) The letterhead, general form and security form of the Authority bear the emblem registered by the State Chancellery.

(2) The licences, permits, certificates and approvals issued and the precepts, official reports, decisions and other documents prepared by the Authority are formalised and signed pursuant to the procedure prescribed in the legislation.

§ 10. Seat

The seat of the Authority is in Tallinn. The postal address of the Authority is Auna 6, 10317 Tallinn. The seats and postal addresses of the structural units located outside the seat of the Authority are indicated in their statutes.

Chapter 2

Area of activity, objective and main functions of Authority

§ 11. Area of activity of Authority

The Authority performs the directing function and exercises state supervision to the extent of the functions provided by law, applies enforcement powers of the state and conducts proceedings of offences:

- 1) in the area of supervision over competition;
- 2) in the areas of fuel and energy;
- 3) in the areas of electronic communications and postal services;
- 4) in the area of railway upon processing complaints submitted concerning distribution of railway infrastructure capacity.

§ 12. Objective of activities of Authority

The objective of the activities of the Authority is the implementation of state economic policy in the areas of activity specified in § 11.

§ 13. Main functions of Authority

The main functions of the Authority are the following:

- 1) to exercise state supervision over compliance with the requirements arising from legislation regulating the areas of activity of the Authority and in case of violation of these requirements, to apply enforcement powers of the state;
- 2) to participate in drafting legislation related to its areas of activity and to put forward propositions to amend such legislation;
- 3) to participate in the development of policies, strategies and development plans related to its areas of activity;
- 4) to prepare and implement projects related to its areas of activity including participation in the preparation and implementation of international projects.

§ 14. Activities of Authority upon performing its main functions

In order to perform its main functions, the Authority shall:

- 1) cooperate with other government agencies, local governments, foundations, non-profit organisations, business and consumer organisations and the corresponding authorities of other countries and international organisations;
- 2) subject to approval by the Ministry, represent the state in international organisations connected with the areas of activity of the Authority;
- 3) participate in fulfilling the obligations of the Republic of Estonia arising from international agreements concerning its areas of activity;
- 4) prepare the draft budget of the Authority and the report on the implementation of the budget for the previous year;
- 5) prepare and implement the strategy and work plans of the Authority;
- 6) monitor, evaluate and analyse the situation in its areas of activity and notify the Internal Market Department, the Communications Department, the Energy Department or the Road and Railways Department of the Ministry thereof;
- 7) notify the general public and persons concerned of the developments, changes and results achieved in its areas of activity;
- 8) settle complaints and disputes in its areas of activity and participate in court proceedings within the limits of its competence;
- 9) conduct proceedings of offences within the limits of its competence;
- 10) perform the functions of the chief processor or authorised processor of the database assigned to it by legislation;
- 11) issue licences, permits, certificates, approvals and other documents within the limits of its competence;
- 12) counsel persons concerning the issues in its areas of activity;
- 13) perform other functions assigned to it by legislation.

Chapter 3

Structure of Authority

§ 15. Structural units

- (1) The principal structural units of the Authority are divisions, which may be divided into departments on the basis of main activity. The Authority includes also a support department which is not part of any division. A department may include offices if these are prescribed in

the Authority structure approved by the Minister. In addition, the Authority structure may include officials, who are not included in any department and are directly subordinate to the Director General or the Head of Division – the Deputy Director General.

[RTL 2008, 34, 501 – entered into force 1.05.2008]

(2) The Minister shall approve the structure and staff of the Authority on the proposal of the Director General of the Authority.

§ 16. Structure and functions of structural units and rights, obligations and liability of staff

(1) The structures and functions of structural units shall be established by statutes approved by the Director General.

(2) The rights, obligations and liability of staff shall be established by job descriptions approved by the Director General.

§ 17. Management of structural units

A structural unit shall be directed by the Director General, the Head of Division – the Deputy Director General, the Head of Department or by an official appointed by the Director General who shall be liable for the performance of the tasks assigned to the structural unit.

§ 18. Divisions of Authority

The structure of the Authority includes the following divisions:

- 1) the Competition Division;
- 2) the Railway and Energy Regulatory Division;
- 3) the Communications Regulatory Division.

§ 19. Main Functions of Competition Division

The main functions of the Competition Division are the following:

- 1) prevention, combating and detection of offences relating to competition provided for by law and conduct of proceedings of these offences (extrajudicial proceedings in matters of misdemeanours and pre-trial investigation of criminal offences);
- 2) analysing the competitive situation, counselling undertakings;
- 3) preparing draft administrative acts of the Director General and the Head of Division – the Deputy Director General, exercising supervision over compliance with the precepts;
- 4) control of concentrations between undertakings in all economic sectors;

5) participation in resolving complaints against administrative acts and decisions in misdemeanour proceedings.

§ 20. Main functions of Railway and Energy Regulatory Division

The main functions of the Railway and Energy Regulatory Division are the following:

- 1) processing of complaints submitted concerning distribution of railway infrastructure capacity;
- 2) review of the financial performance of fuel and energy undertakings dominating the market or prescribed by law and approval and review of the prices of fuel and energy sold by them;
- 3) review and approval of connection charges, the methods for the calculation of connection charges and the terms and conditions of connection contracts;
- 4) imposing activity and development obligations on energy and fuel undertakings and network operators and monitoring performance of these obligations;
- 5) approval and review of the rates for transmission or transport and distribution services of network operators;
- 6) issuing activity licences to fuel and energy undertakings and supervision over compliance with the conditions of activity licences;
- 7) issuing, refusing to issue activity licences to railway undertakings, suspension and revocation of activity licences, or terminating the validity thereof;
- 8) prevention, combating and detection of misdemeanours provided for by law and conduct of proceedings in matters of misdemeanours (extrajudicial proceedings in matters of misdemeanours);
[RTL 2008, 21, 313 – entered into force 21.03.2008] - implemented as of 1.03.2008
- 9) analysing the competitive situation, counselling undertakings;
[RTL 2008, 21, 313 – entered into force 21.03.2008] - implemented as of 1.03.2008
- 10) preparing draft administrative acts of the Director General and the Head of Division – the Deputy Director General, exercising supervision over compliance with the precepts;
[RTL 2008, 21, 313 – entered into force 21.03.2008] - implemented as of 1.03.2008
- 11) participation in resolving complaints against administrative acts and decisions in misdemeanour proceedings.
[RTL 2008, 21, 313 – entered into force 21.03.2008] - implemented as of 1.03.2008

§ 21. Main functions of Communications Regulatory Division

The main functions of the Communications Regulatory Division are the following:

- 1) performance of acts necessary for appointment of undertaking with the obligation to provide universal services;
- 2) analysing the applications for compensation for the unfairly burdensome costs relating to the performance of the universal service obligation;
- 3) analysing of the basis of the rate of universal service charge;
- 4) verification of compliance of provision of universal service;
- 5) receipt of notices and entering information concerning the provision of postal services in the register of economic activities, issuing activity licences and establishment and amendment of conditions of activity licences;
- 6) approval of the standard conditions for the provision of postal services provided on the basis of an activity licence and amendments thereto;
- 7) inspection of application of charges for postal services provided on the basis of an activity licence;
- 8) settlement of disputes and complaints arising upon the provision of postal service, including disputes concerning conditions and charges for universal postal service;
- 9) exercising supervision over compliance with the requirements provided for in the Postal Act;
- 10) supplying information to the universal postal service provider concerning the standards of postal services;
- 11) analysing, verification of and settlement of the complaints concerning the charges for and the expenses of electronic communications services;
- 12) imposition of obligations concerning the leased line service, the charges and costs of access and interconnection of undertakings with significant market power, as well as the retail market and monitoring the performance of these obligations;
- 13) verification of the correctness of the budget for the additional investments and costs necessary to perform the obligation to provide the universal service and its compliance with the principles prescribed by law;
- 14) estimating whether the connection charges and the monthly charges for universal service are reasonable;
- 15) analysing and monitoring the general market situation of the electronic communications sector and analysing the economic activities of the undertakings;
- 16) definition of the markets of electronic communications services and analysing regularly the competitive situation in the defined markets;

- 17) conduct of the process of designation of an undertaking as an undertaking with significant market power in the defined electronic communications markets and imposing obligations on an undertaking with significant market power and, if necessary, amendment of obligations imposed on an undertaking with significant market power;
- 18) imposing obligations related to access and interconnection on undertakings with significant market power and monitoring the performance of these obligations;
- 19) imposing obligations related to access and interconnection on communications undertakings and monitoring the performance of these obligations;
- 20) settlement of complaints and disputes concerning access and interconnection;
- 21) verification of access and interconnection agreements including the reference offers regarding access and interconnection of undertakings with significant market power.
- 22) prevention, combating and detection of misdemeanours provided for by law and conduct of proceedings in matters of misdemeanours (extrajudicial proceedings in matters of misdemeanours);
[RTL 2008, 21, 313 – entered into force 21.03.2008] - implemented as of 1.03.2008
- 23) counselling undertakings;
[RTL 2008, 21, 313 – entered into force 21.03.2008] - implemented as of 1.03.2008
- 24) preparing draft administrative acts of the Director General and the Head of Division – the Deputy Director General, exercising supervision over compliance with the precepts;
[RTL 2008, 21, 313 – entered into force 21.03.2008] - implemented as of 1.03.2008
- 25) participation in resolving complaints against administrative acts and decisions in misdemeanour proceedings.
[RTL 2008, 21, 313 – entered into force 21.03.2008] - implemented as of 1.03.2008

§ 22. Main functions of General Administration

The main functions of General Administration are the following:

- 1) ensuring administrative organisation of the Authority;
- 2) administration of state assets in the possession of the Authority and organising public procurement;
- 3) ensuring the existence of the tools and inventory;
- 4) organisation of personnel actions and training;
- 5) organisation of occupational health and safety activities;
- 6) preparation of draft budget and financial monitoring;
- 7) organisation of customer service, management of documentation and archives;

- 8) informing the public of the activities of the Authority and organisation of the relations between the Authority and the public;
 - 9) resolution of issues concerning international relations;
 - 10) organisation of the activity of the archives, the information room and the library;
 - 11) legal counselling of the Authority;
 - 12) ensuring compliance of the administrative acts and activities of the Authority with legislation;
 - 13) development of the draft legislation and draft contracts concerning the areas of activity of the Authority;
 - 14) representation of the Authority in legal disputes or arrangement thereof.
- [RTL 2008, 34, 501 – entered into force 1.05.2008]

Chapter 4

Management of Authority

§ 23. Management of Authority

The Authority is directed by the Director General who is appointed to and released from office by the Minister on the proposal of the Secretary General. The Head of Division – the Deputy Director General, the Head of Department or an official appointed by the Director General shall act as his or her substitute upon the absence of the Director General.

§ 24. Rights, obligations and liability of Director General

The Director General of the Authority shall:

- 1) direct the work of the Authority, decide and arrange for the performance of the functions within the competence of the Authority, ensure lawful, accurate and timely implementation of the functions of the Authority and report to the Minister;
- 2) approve the statutes of the structural units, the operations procedure, internal procedure rules and other instructions and procedures governing the internal organisation of work of the Authority, as well as staff salaries and job descriptions in accordance with legislation;
- 3) appoint to and release from office officials and other employees who are on the staff of the Authority; conclude, amend and terminate employment contracts with the support staff of the Authority;

- 4) implement an expedient internal control system in the Authority in cooperation with the Internal Audit Department of the Ministry;
- 5) exercise supervisory control over the acts of the staff of the Authority pursuant to the procedure provided by legislation, apply incentives and impose disciplinary punishments;
- 6) make proposals to the Minister concerning the budget of expenditure of the Authority, ensure the accurate and purposeful implementation of the budget and purposeful use of state property;
- 7) represent the Authority in other state agencies and organisations;
- 8) issue administrative acts independently in accordance with legislation, as well as adjudicate challenges and appeals filed against the activities of the Authority as a body conducting extra-judicial proceedings in misdemeanour proceedings or authorise other official of the Authority therefor;
- 9) make proposals to the Minister concerning organisation of work in the areas of activity of the Authority;
- 10) establish the procedure for the use of the seal of the Authority and ensure compliance therewith;
- 11) establish working groups for resolving individual issues concerning the areas of activity of the Authority;
- 12) grant authorisations for representing the Authority, performance of supervision acts, providing recommendations and issue of administrative acts, as well as authorise the Head of Division – the Deputy Director General to issue administrative acts for the performance of the main functions of the corresponding division in order to ensure the independence of the activity of the divisions;
- 13) approve the list of the positions in which officials have the rights to participate in misdemeanour proceedings and criminal proceedings in the name of the Authority;
- 14) establish evaluation requirements for officials in cooperation with the corresponding competition and evaluation committee;
- 15) have the right of first signature in bank and accounting documentation of the Authority and appoint other officials with signing authority;
- 16) perform other functions provided for in legislation.

§ 25. Directives of Director General

- (1) The Director General of the Authority shall issue service-related directives on the basis of law, regulations or orders of the Government of the Republic and regulations or directives of the Minister.
- (2) The Director General of the Authority may issue other written orders related to the internal operations of the Authority.
- (3) The directives and other written orders of the Director General of the Authority shall be executed and registered in accordance with the operations procedure.

§ 26. Rights, obligations and liability of Head of Division – Deputy Director General

The Head of Division – the Deputy Director General shall:

- 1) coordinate, direct, instruct, monitor and analyse the performance of the functions assigned to the division, organise cooperation between the departments and be responsible for the effective performance of the functions of the division;
- 2) represent the Authority within the limits of his or her competence and authority granted by the Director General;
- 3) issue administrative acts for the performance of functions in state supervision proceedings within the limits of his or her authority granted by the Director General;
- 4) perform other functions provided for in legislation or tasks assigned by the Director General.

Chapter 5

Final Provision

§ 27. Reorganisation and termination of activities

The Authority shall be reorganised and its activities shall be terminated pursuant to law.

Chapter 6

Implementing Provision

§ 28. Entry into force of Regulation

This Regulation enters into force on 1 January 2008.

¹RTL = *Riigi Teataja Lisa* = *Appendix to the State Gazette*