

Act C of 2003

on Electronic Communications

In order to further improve the electronic communications infrastructure of the information society, to provide consumers with reliable, safe and quality electronic communications services at the lowest possible prices, to promote development and protection of the electronic communications market and competition regardless of the technologies used, and for the purpose of approximation with European Community legislation, Parliament has adopted the following Act on electronic communications:

PART ONE

GENERAL PROVISIONS

Chapter I

SCOPE, OBJECTIVES AND BASIC PRINCIPLES

Section 1.

(1) This Act shall apply to:

a) electronic communications activities performed in or directed toward the territory of the Republic of Hungary, and to all other activities and communications services provided or used that result in or generate radio frequency signals;

b) natural and legal persons and unincorporated organizations without legal personality engaged in performing any activities within the scope of Paragraph a) or providing services in connection with such activities;

c) end-users, consumers and subscribers;

d) natural and legal persons and unincorporated organizations without legal personality, established in the domestic territory or elsewhere, engaged in performing any activities within the scope of Paragraph a) or providing or receiving services in connection with such activities.

(2) This Act shall apply in respect of electronic communications networks, being distinct due to their purpose (private networks), used exclusively for meeting special government, national security, judicial, law enforcement and national defense requirements, subject to the exceptions contained in the relevant acts and specific other legislation.

Section 2.

The objectives and basic principles are:

a) to lay down regulations promoting the development of the electronic communications infrastructure of an information society and the introduction of services and new technologies, and which regulations are technologically neutral and are aiming to ensure effective competition;

b) the protection of consumers rights in their relations with all entrants of the electronic communications market, in particular to ensure that consumers:

ba) have access to those communications services which are essential for the consumers to obtain all information conveyed through electronic communications apparatuses, authorization permitting, and the services of content providers;

bb) have the option to choose freely between electronic communications networks, provider of electronic communications services (hereinafter referred to as "service providers"), or between services, and to decide which network, service provider, or service to use;

bc) are able to communicate with other consumers by means of electronic communications, regardless of whether these consumers have a contract with the same service provider or not;

bd) are able to select among the service providers and services they use, independent of service providers;

be) have access to electronic communications services at an affordable price and at the highest quality, under the contractual terms and predetermined conditions made available to all end-users;

bf) have constant access to reliable, and transparent and appropriately updated information regarding the characteristics of services and the conditions of their use;

bg) have access to a high level of protection in their dealings with service providers by ensuring the availability of simple and inexpensive dispute resolution procedures;

c) the provision of high quality universal electronic communications services to all citizens in a cost-effective manner;

d) addressing the needs of specific social groups, in particular disabled users and low-income users;

e) ensuring that there is no distortion or restriction of competition in the converging electronic communications sector, and to promote effective competition;

f) setting up mechanisms to guarantee the freedom, rights, obligations, equal treatment and representation of all market players, and to lay down the legal and economic framework for new entrants, in particular to introduce differentiated measures to encourage effective competition where there are any operators with significant market power, and to sustain effective competition, and to ensure that all market players maintain the highest possible degree of professional integrity in their dealings with competitors;

g) ensuring that the electronic communications market remains effective and efficient, to protect the interests of both those engaged in electronic communications activities and users, and to maintain fair and effective competition;

h) laying down procedures and measures in view of the principle of equal treatment to effectively supervise the conduct of organizations and persons engaged in electronic communications activities in the converging electronic communications sector;

i) laying down safeguards for the protection of personal data and privacy of the user;

j) enforcement of environmental protection requirements incidental to electronic communications;

k) promoting the conveyance of cultural, scientific and social values by way of regulating broadcast dissemination within the framework of electronic communications services, such as to ensure the accessibility of public radio and television programming, and defining the public service obligations relating to the quality of and continuous access to, these services;

l) ensuring that the integrity and security of public electronic communications networks are maintained;

m) efficient management of radio frequencies and identifiers;

n) introducing measures for using radio frequencies free of harmful interference;

o) ensuring the freedom of providing electronic communications services in accordance with the international agreements to which the Republic of Hungary is a party, and fulfilling the international commitments of the Republic of Hungary, including the provision of cross-border services at affordable prices;

p) integration of the local electronic communications markets into the converging electronic communications markets of the European Communities, with particular attention to the establishment and development of trans-European networks, and encouraging the interoperability of pan-European services, and end-to-end connectivity;

q) laying down the regulatory functions of the authorities relating to electronic communications, with special regard to the safety of electronic communications, any threat it may be exposed to, and the preparations for potential emergencies and crisis situations (hereinafter referred to as "extraordinary period of emergency").

Section 3.

(1) All entities engaged in electronic communications activities shall cooperate in the performance of activities governed by this Act.

(2) Electronic communications networks shall operate with a background supported by common technical facilities so as to allow, in the cases defined in other legal regulations or international agreements, the establishment of interconnection either directly or by the insertion of appropriate interface units, network components, elements, equipment and services, capable of operating as a single unit.

PART II

GOVERNMENT DUTIES IN CONNECTION WITH ELECTRONIC COMMUNICATIONS

Chapter II

DUTIES OF THE GOVERNMENT AND THE MINISTER

Duties of the Government

Section 4.

(1) The Government:

a) shall draw up the electronic communications and radio spectrum policies, the basic principles and conditions of electronic communications and informatics activities and services, and the management of frequencies and identifiers, as well as the government programs for the development of the infrastructure of an information society;

b) shall provide for the publication of the National Plan for the Allocation of Identifiers (NPAI) containing all identifiers and the scheme of allocation among the various activities and services, the types, structures and sizes of identifiers, and shall have it revised as necessary or at least once in every three years;

c) shall lay down guidelines for the performance of duties stemming from Hungary's membership in the European Union, as well as other international commitments related to electronic communications and information technology;

d) shall provide for the enforcement of consumers' interests through the minister in charge of consumer protection, and shall provide, on its own accord, special support to specific consumer groups specified by law;

e) shall draw up a national plan for the allocation of frequency bands, and the revision thereof as necessary but at least once in every three years, including the protection of frequency bands assigned for use under the aegis of the NATO alliance;

f) shall regulate the organization, operation, guidance and financing of the authority responsible for the management of frequencies for non-civilian purposes, and determine the rules of frequency management for non-civilian purposes and the organizations to which it applies;

g) shall determine the fundamental requirements for the safety of electronic communications, the procedure for preparations for extraordinary periods of emergencies, as well as provide for the conditions necessary for the performance of tasks falling on the state administration system;

h) shall determine in the field of electronic communications the conditions necessary for the enforcement of national security requirements, and the rules for controlling compliance with their implementation;

i) shall carry out all other duties specified by law as relating to electronic communications.

(2) The Government shall, in accordance with what is contained in Section 36, consult the parties affected concerning any bills of legislation pertaining to electronic communications.

Duties of the Minister

Section 5.

(1) The minister in charge of electronic communications (hereinafter referred to as "Minister") shall, under this Act and the legal regulation providing for his/her scope of powers and authorities:

a) submit proposals - prepared by the National Communications Authority - to the Government regarding the

electronic communications policy, and provide for the implementation thereof;

b) provide for the preparation of bills of legislation on electronic communications;

c) work out concepts and programs - following consultation with the National Communications Authority - for the development of electronic communications activities and shall enforce the implementation thereof;

d) promote the improvement of electronic communications services in terms of quality by supporting standardization, research and development;

e) make preparations - following consultation with the National Communications Authority - for Government functions relating to electronic communications and information technology, provide for the implementation of international commitments, represent the Republic of Hungary in various international organizations concerned with electronic communications and information technology, and conclude international agreements on cooperation for which no governmental authorization is required;

f) maintain contact with the European Commission and the regulatory authorities of other Member States in connection with the issues under his competence. The Minister shall be authorized to transfer this competence in certain specific issues to the National Communications Authority;

g)-h)

i) define annually, together with the National Communications Authority, the duties relating to preparatory works;

j) decree the basic principles for market definition, market analysis and for laying down the obligations of service providers with significant market power;

k) discharge, in agreement with the minister in charge of taxation, the duties of official price regulation;

l) monitor the situation relating to universal electronic communications services (hereinafter referred to as "universal service") and shall take measures for the provision of these services, conduct the procedures for the selection of providers of universal services, enter into contracts with providers of universal services; and shall operate the Universal Electronic Communications Subsidy Fund;

m) participate, by virtue of specific other legislation, in the fulfillment of national security and defense related electronic communications duties;

n) designate the electronic communications service providers to take part in national defense and disaster relief operations, specify the duties connected with preparations for extraordinary periods of emergency situations;

o) coordinate the civil, governmental, national security, judicial, law enforcement and national defense activities to the extent they are related to electronic communications;

p) designate organizations in charge of the certification of conformity, testing and supervision of electronic communications services and electronic communications equipment as well as, unless otherwise provided by law, information technology products;

q) administer the concession contracts in effect;

r) provide for the operation of a statistical information system within his scope of powers and authorities;

s) regulate, within the framework of the national plan for the distribution of frequency bands, the use of frequency bands that can be allocated for civilian and for common purposes, comprising rules for the frequency management requirements for radio systems, frequency management requirements for radio equipment, and the conditions for band use relating to frequency authorization and frequency use;

t) fulfil, in agreement with the minister in charge of frequency management for non-civilian purposes, the ministerial duties concerning international commitments relating to frequency management for non-civilian purposes, exclusive of the commitments stemming from Hungary's membership in the North Atlantic Treaty Organization;

u) attend to other duties assigned to his sphere of competence by law.

(2) In the event of occurrence of an extraordinary period of emergency, and also during the aftermath, the Minister shall obtain a resolution to restrict or suspend electronic communications operations if so decided by the National Defense Council, the President of the Republic or the Government.

Section 6.

The Minister shall, in accordance with what is contained in Section 36, consult the parties affected concerning any bills of legislation pertaining to electronic communications.

Section 7.

Frequency management for non-civilian purposes shall be attended to - in agreement with the Minister - by the

minister placed in charge of frequency management for non-civilian purposes, unless otherwise prescribed by this Act.

Section 8.

Chapter III

DUTIES AND STRUCTURE OF THE NATIONAL COMMUNICATIONS AUTHORITY

The National Communications Authority

Section 9.

(1) A National Communications Authority (hereinafter referred to as "Authority") is a government agency. The Authority is governed by the Government and supervised by the Minister.

(2) The principle aim of the Authority - in observance of the objectives and basic principles laid down in Sections 2-3 - is to ensure that the electronic communications market remains effective and efficient for present and future considerations alike, to protect the interests of both those engaged in electronic communications activities and of the users, and to maintain fair and effective competition in the electronic communications sector, and to supervise the conduct of organizations and persons engaged in electronic communications activities for compliance with legal regulations.

(3) The Authority shall carry out its duties and obligations independently, along the guidelines laid down by law and by the Government's decisions.

(4) The Authority is a central budgetary agency of independent management, and shall cover its expenses, related to the performance of its functions, from its own revenues.

(5) The revenues of the Authority shall comprise a percentage of the frequency duties specified in the Budget Act, the fees charged for the reservation and use of identifiers and for official proceedings, and the supervision fees. These revenues shall be devoted to the efficient operation of the Authority at a high professional level. The Authority shall disclose its revenues in a report to be published each year, also indicating - as instructed in specific other legislation - the appropriation of these funds.

(6) Providers of electronic communications services shall be required to pay supervision fees intended to cover the operating expenses of the Authority. The fee shall be maximum 0.35 per cent of the previous year's net revenues of the electronic communications services provider from electronic communications services, or if the previous year's revenues cannot be established, the revenues received during the year prorated for the entire year. The rate of supervision fees shall be decreed by the Minister within the limits specified by law.

(7) The supervision fee shall be paid to the Authority quarterly, by the end of each quarter.

(8) If the revenues, regulated in this Act, of the Authority exceed the amount necessary to cover its operating expenses in a fiscal year in connection with discharging its duties conferred upon it by law, the surplus shall be credited, following the acceptance of the Authority's annual report, to the amount of the supervision fee payable for the next year in proportion to and in an amount not exceeding the amounts of supervision fees paid in the current year.

(9) The Authority's organizational units are the Council of National Communications Authority (hereinafter referred to as "Council") and the Office of the National Communications Authority (hereinafter referred to as "Office").

Section 10.

The Authority shall:

- a) express - once a year or as necessary - any request it may have in connection with legislative changes relating to electronic communications within its scope of authority, and shall partake in the preparation of bills of legislation within its scope of authority;
- b) hold public hearings;
- c)
- d) routinely analyze the electronic communications and the information technology market in connection with making decisions relating to regulatory measures, technological and tender concepts and for intensifying competition on the market;
- e) regularly evaluate the electronic communications market in the context of regulatory and communications policy-related decisions and analyses for methodological support, and to supply user-friendly information in the communications sector, and shall prepare comparative analyses of these;
- f) establish, in accordance with the provisions of this Act, the relevant markets, analyze the competition on these markets, and the effectiveness of competition, identify the service providers with significant market power on the relevant markets, and shall define the obligations conferred upon the service providers with significant market power;
- g) monitor compliance on the part of service providers with significant market power with their obligations, and shall take measures where necessary;
- h) administer, ex officio or upon request, the proceedings launched in connection with any infringement of electronic communications regulations or disputes arising out of any breach of contract;
- i) resolve matters relating to any price squeeze introduced in connection with network services;
- j) publish the records, data and information and decisions as instructed by law;
- k) exercise - within its scope of management - ownership rights on behalf of the Government related to radio frequencies and identifiers, and shall direct the management of radio frequencies and identifiers for civilian purposes;
- l) coordinate the duties in connection with defense, law enforcement, national security, and national defense activities related to electronic communications as specified in specific other legislation, the disclosure of related data and information, and shall operate an emergency service for the information technology and communications sectors;
- m) perform the regulatory functions related to the notification of electronic communications services, frequency management for civilian purposes, identifier management, keeping the records prescribed by law, the elimination of interference, overseeing the market, use of real properties, and authorization of electronic communications structures and building supervision;
- n) attend to civilian frequency management cases, which are not within the competence of the Government or the Minister;
- o) consult with the respective network operators concerning the installation, interconnection, development, and improvement of private networks in accordance with the law on private networks;
- p) oversee the activities of designated examination, control and certification bodies;
- q)
- r) attend to the duties prescribed by law in relation to the Universal Electronic Communications Subsidy Fund;
- s) attend to duties conferred under legal regulations related to information society services,
- t) partake in the preparation of international activities of the Government in connection with electronic communications, partake in carrying out the relevant international commitments, represent the Republic of Hungary in international organizations concerned with electronic communications, and maintain contact with the European Commission and the regulatory authorities of other Member States;
- u) attend to other duties conferred under legal regulations.

Section 11.

(1) The Authority and the authority responsible for the management of frequencies for non-civilian purposes (hereinafter referred to as "frequency management authorities") shall draw up technical plans within the context of the enforcement of radio telecommunications and radio spectrum policies concerning the regulation of:

- a) the redistribution or reallocation of frequency bands;
- b) the allocation of frequencies (channel spacing plans);
- c) conditions of use of radio applications;
- d) conditions of frequency use.

(2) The Authority shall carry out international frequency coordination in the interest of using radio frequencies free of harmful interference and for compliance with international commitments.

(3) The frequency management authorities shall perform radio monitoring, checking, reconnaissance, radio noise and interference testing and noise suppression activities based on national and international agreements, in the course of which they shall be empowered to carry out technical and traffic observation and record radio broadcasts in compliance with conditions laid down in another legal regulation.

(4) For the purpose of protection of communications and the effective use of frequencies free of any harmful interference, and to ensure electromagnetic compatibility (EMC), the frequency management authorities shall operate radio survey and radio noise suppression services.

Section 12.

The Authority shall, in connection with frequency management:

- a) publish the requirements and conditions concerning the use and allocation of radio frequency bands relating to the use of radio frequencies;
- b) publish the criteria for obtaining the rights for the use of radio frequencies, the procedural rules, and the information relating to fees and charges;
- c) publish the decisions concerning the granting of rights of use of radio frequencies and identifiers requested for the provision of services; and
- d) provide for maintaining the records of information referred to in Paragraphs a)-c), and the updating and development of the relevant database.

Section 13.

(1) The Authority shall notify the European Commission concerning the interfaces which have been regulated, but not notified according to the specific other legislation laying down a procedure for the provision of information in the field of technical standards and regulations.

(2) The Authority shall notify the European Commission concerning the types of interface offered by operators of public telecommunications networks.

(3) The Authority shall notify the European Commission where it ascertains that an apparatus, that has been declared compliant with the requirements for being placed on the market,

- a) causes serious damage to a network or harmful radio interference, or
 - b) causes harm to the network or its functioning,
- due to which the operator was authorized to refuse connection, to disconnect such apparatus or to withdraw it from service.

The Council

Section 14.

(1) The Council:

- a) is responsible for the implementation of legal regulations and government decisions pertaining to electronic communications;
- b) shall direct the National Communications Authority;
- c) shall attend to the duties stemming from the competencies referred to in Paragraphs b)-i) of Section 10;
- d) shall approve and monitor the implementation of the annual market surveillance plan;
- e) shall submit the Authority's annual budget proposal, and the annual and semi-annual budget expenditure report;
- f) make recommendations for the amendment of legislation pertaining to electronic communications.

(2) The Council is comprised of seven members. Six members of the Council are appointed by the Minister for five-year terms by recommendation of the special body made of persons appointed by the Minister.

(3) The member to chair the Council shall be appointed for a five-year term by the Prime Minister by recommendation of the Minister.

(4) Persons nominated for Council membership must have at least three years of professional experience in the field of communications and a degree of higher education. The Chairman of the Council must have at least five years of professional experience in the field of communications applicable to the cases falling within the Council's competence.

(5) If the mandate of any Council member terminates inside the term specified in Subsection (2), the Minister shall appoint a new member within two months from the date of termination for the period that remains from the original term referred to in Subsection (2).

(6) Following the expiry of the terms referred to in Subsection (2), and in Subsection (5), the term of any Council member and the Chairman may be renewed without restrictions.

(7) Above and beyond what is provided for in Subsections (1), (3) and (5) of Section 21 of Act XXIII of 1992 on the Legal Status of Civil Servants (CSA) governing conflict of interest, Members of the Council - and their close relatives fitting the definition contained in Paragraph b) of Section 685 of Act IV of 1959 on the Civil Code of the Republic of Hungary (Civil Code) - may not participate under the obligation of personal participation in any business association or cooperative. Moreover, they may not hold any share or an executive position, or be a supervisory board member in any economic organization engaged in communications activities, or in an economic organization that is in regular business relations with such organization.

(8) Members of the Council may not be instructed in respect of the procedures conducted and decisions made in an official capacity.

Section 15.

(1) Membership in the Council shall terminate:

- a) upon expiry of the term of appointment;
- b) upon resignation;
- c) upon death;
- d) upon being discharged by the Minister in accordance with Subsection (4).

(2) In addition to what is contained in Subsection (1) the mandate of the Chairman of the Council may also be terminated by dismissal.

(3) The Chairman of the Council may be dismissed if failing to carry out his/her assigned duties for reason within his/her control. The right of dismissal is exercised by the Prime Minister acting on the proposal of the Minister. The decision of dismissal shall be explained.

(4) The Minister shall discharge a Council member:

- a) who is unable to carry out his/her assigned duties for over 90 consecutive days;
- b) who fails to resolve the conflict of interest specified under Subsection (7) of Section 14, or within 30 days from the date the conflict of interest actually occurs;
- c) who was indicted in criminal proceeding and was found guilty by the court's final verdict, or who is found unworthy of the office for other reasons.

(5) Council members, for one year following termination,

a) may not engage in employment relationship or any other form of work related relationship with a business association,

b) may not establish regular economic ties, as the executive officer or owner of a business association, with a business association, and

c) may not acquire any share in a business association,

if any right or lawful interest of this business association was affected by a previous decision made on behalf of the Council. Following the termination of membership under Paragraph a) or b) of Subsection (1) the Council member shall be entitled to severance pay of twelve times the monthly remuneration in effect at the time of termination. If a Council member's time in office did not exceed three years, the restriction laid down in this Subsection shall apply for a period of six months following termination, with a severance pay of six months' remuneration.

(6) The provisions contained in Subsections (1) and (4)-(5) shall apply - with the exceptions set out in this Act - to the Chairman of the Council as well.

Section 16.

The Chairman of the Council shall:

- a) convene and chair the Council's sessions, and shall provide for the necessary preparations;
- b) make recommendations to the Minister concerning the Office's General Manager and shall exercise the employer's rights in respect of the General Manager, except for his appointment and dismissal;
- c) appoint the Representative of Consumer Rights in Communications and shall exercise the employers rights;

- d) exercise the employer's rights in respect of Council members, except for their appointment and dismissal;
- e) prepare the Authority's Organizational and Operational Regulations;
- f) represent the Authority, in particular in the relations with the European Commission and the regulatory authorities of other Member States and in the discussions referred to in Section 65;
- g) in order to furnish the market operators with information on the Authority's actions and management, publish the Authority's annual action plan and the key figures of its draft budget by 28 February of each year, and also the yearly analysis of its previous year's finances by 30 June;
- h) lay down the guidelines - together with the Minister - each year for technical preparations;
- i) notify the Minister concerning any developments likely to jeopardize the safety of communications, and shall make suggestions for the measures deemed necessary;
- j) proceed in cases involving international organizations when requested;
- k) annually prepare the agreement to be concluded with the consumer protection authority and with the competition authority, and shall sign it in the name of the Authority by decision of the Council;
- l) proceed in the second instance with respect to the regulatory cases of the Office.

The Office

Section 17.

- (1) The Office is headed by the General Manager appointed - upon recommendation by the Chairman of the Council - by the Minister for a five-year term.
- (2) The Office shall handle the cases referred to in Paragraphs a), k) and m)-u) of Section 10, and shall attend to the duties conferred upon it by law, or by the Chairman of the Council within the framework of this Act.
- (3) The Office shall extend technical support to the Council and to its members in discharging the duties of the Council.
- (4) The experts partaking in the preparation of cases presented to the Council shall be invited by the Chairman of the Council to attend the relevant sessions of the Council in an advisory capacity.
- (5) The General Manager shall not hold a membership in the Council.

Section 18.

The General Manager shall:

- a) direct the Office for organizational and professional considerations alike, and shall serve as a deputy for the Chairman of the Council in the management of the Authority;
- b) handle the cases referred to in Paragraphs j) and l) of Section 10;
- c) provide for the effective operation of the Authority in terms of organizational hierarchy;
- d) appoint and discharge his deputies, in agreement with the Chairman of the Council, and shall exercise employer's rights over his deputies and the employees of the Office;
- e) publish the official journal of the Authority in printed and in electronic format (on the official website), and shall provide for the publication of the information specified in this Act;
- f) be invited by the Chairman of the Council to attend the relevant sessions of the Council in an advisory capacity;
- g) ensure that the Office provides technical support to the Council, and to its members in discharging their duties to the extent and by the means defined by the Chairman of the Council;
- h) discharge the powers and duties conferred upon him/her by legal regulation or by the Chairman of the Council within the framework of this Act.

Authority Employees

Section 19.

- (1) The employees of the Authority are in a civil service relationship governed by the CSA, with the exceptions set out in this Act; - exclusive of the Chairman and members of the Council -the rate established in Subsection (1) of

Section 30/A of the CSA shall be 35%, and the rate of extra emoluments established in Subsection (1) of Section 44 for civil servants having secondary education shall be 35%.

(2)

Cooperation with the Economic Competition Office

Section 20.

(1) The Authority and the competition authority shall closely cooperate to enforce the protection of competition under uniform principles in the electronic communications market and to apply uniform construction in the justice system, such as in procedures:

- a) for defining the relevant markets of the electronic communications sector;
- b) for analyzing competition in the relevant markets;
- c) for the identification of service providers with significant market power and for defining the obligations conferred upon these service providers;
- d) for drawing up a methodology for the examination of price squeeze and for the examination of price squeeze.

(2) In the process of defining the relevant markets of the electronic communications sector, analyzing the competition on the relevant markets and identifying service providers with significant market power, the Authority shall pay special attention to the opinion of the competition authority and shall inform the competition authority if deviating from its opinion, along with the reasons indicated.

(3) The Authority and the competition authority shall ensure that their procedures, applied in the course of their cooperation, comply with the provisions of legal regulations on the protection of data and confidentiality, and that the requirements associated with business secrets are not prejudiced. Accordingly, the authority disclosing any data to its counterpart shall inform the data supplier about the data disclosed, and the receiving authority shall ensure the same level of protection concerning the data received.

(4) The Authority and the competition authority shall agree in writing concerning the details of their cooperation. This agreement shall be reviewed annually and shall be made available to the public, including the methodology achieved in result of their cooperation.

Cooperation with the Consumer Protection Authority

Section 21.

(1) The Authority and the consumer protection authority shall cooperate in matters affecting the electronic communications market and information society services to the extent where consumers are concerned.

(2) In their cooperation, the Authority and the consumer protection authority shall ascertain that the provisions contained in Subsection (3) of Section 20 are properly enforced.

(3)

(4) The Authority shall convey its decision to the consumer protection authority concerning its refusal to authorize any electronic communication equipment or any other electric devices emitting high-frequency signals or causing any other side effects from being placed on the market or requiring their withdrawal from the market.

(5) The Authority and the consumer protection authority shall agree in writing concerning the details of their cooperation. The agreement shall be reviewed annually. The Authority and the consumer protection authority shall make the agreement available to the public.

(6) The consumer protection authority shall have jurisdiction with respect to any infringement of the provisions of this Act pertinent to customer service procedures under Subsections (1) and (2) of Section 138, and to the disclosure of or making available the standard contract conditions in accordance with Subsections (2) and (3) of Section 130. The consumer protection authority shall proceed according to Act CLV of 1997 on Consumer Protection (hereinafter referred to as "CPA"). The aforementioned provisions are treated as consumer protection regulations in the application of the CPA.

Cooperation with the Authority Responsible for the Management of

Frequencies for Non-Civilian Purposes

Section 22.

- (1) The frequency management authorities shall cooperate to the extent required by the task on hand.
- (2) Cooperation shall, in particular, pertain to:
 - a) international activities;
 - b) coordination of frequencies between the frequency management authorities;
 - c) radio survey and radio noise suppression services;
 - d) disclosure of data.
- (3) In their cooperation, the frequency management authorities shall ascertain that the provisions contained in Subsection (3) of Section 20 are properly enforced.
- (4) The frequency management authorities shall agree in writing concerning the details of their cooperation. The agreement shall be reviewed annually.

Chapter IV

GENERAL PROVISIONS GOVERNING THE PROCEDURES OF THE AUTHORITY

Application of the General Rules of State Administration Procedures

Section 23.

Subject to the exceptions laid down in this Act, the procedures of the Authority relating to the control and surveillance of the market shall be governed by the provisions of the Act on the General Rules of Administrative Proceedings and Services (hereinafter referred to as “APA”).

Principles

Section 24.

- (1) In the course of the performance of its activities, the Authority shall enforce the principles of:
 - a) legality,
 - b) non-discrimination,
 - c) objectivity,
 - d) transparency,
 - e) proportionality,
 - f) publicity,
 - g) acting on solid grounds in a well-reasoned manner,
 - h) impartiality,
 - i) efficiency.
- (2) In its proceedings the Authority shall - within the framework of law - take full account of the Commission recommendations issued under Article 19(1) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services. If the Authority chooses not to follow a recommendation, it shall inform the Commission giving the reasoning for its position.

Electronic Documents and Instruments

Section 25.

(1) The Authority may use electronic documents, as defined in Act XXXV of 2001 on Electronic Signatures, in conveying its decisions, and shall accept electronic documents in the course of its proceedings.

(2) The Authority shall convey its decisions in electronic format to any service provider that has notified its electronic mail address; in this case a document shall be considered served at the time the electronic documents becomes accessible to the addressee, and when the Authority receives confirmation of delivery.

Exclusions

Section 26.

(1) Above and beyond what is contained in Sections 42 and 43 of the APA, no person shall participate in a decision making process whose relationship, as defined in Paragraph *a*) with the client referred to in Section 27, with the notifier referred to in Section 28, or with an organization controlling the client or notifier or being jointly controlled by them, prevailed within one year preceding the date of institution of the procedure, or whose relative:

a) is in employment or other work-related contractual relationship with or has membership in, the client or the notifier, or is a senior executive of the client or the notifier;

b) has an ownership share in the client or notifier;

c) is in employment or other work-related contractual relationship with a private individual, a legal person or unincorporated organization, or has membership in, or is a senior executive of, or has a participating share in a legal person or unincorporated organization which maintains regular business relations with the client or the notifier;

d) is in a work-related relationship with an organization which is the supervisory or a subsidiary body of the client or the notifier, or which granted support or an exclusive entitlement to the client or the notifier.

(2) Acting employees of the Authority and acting members of the Council shall notify, the General Manager and the Chairman of the Council respectively, if they should be excluded for any reason. The acting employees of the Authority and the acting members of the Council shall be subject to disciplinary action and financial liability in the event of their failure to make the above notification in due time.

(3) The client shall be entitled to disclose where there are grounds for exclusion during any stage of the proceeding, however, the grounds for exclusion may be cited once the Authority's proceeding is under way only if able to verify of having been informed of these grounds after the fact.

(4) If the client's motion for exclusion is manifestly unfounded, or if lodging another unsubstantiated attempt in the same proceeding for the exclusion of the same person, the client may be penalized in the resolution in which exclusion is refused.

(5) Decision for exclusion lies with the Chairman of the Council, or - if the Chairman is affected - by the plenary session of the Council held in the absence of the Chairman of the Council, and shall appoint the Authority's acting employee or the Council's acting member.

(6) If the acting employee of the Authority or the acting member of the Council has himself/herself reported the grounds for exclusion, he/she may not partake in the case until it is resolved. In all other cases they may proceed in the case, exclusive of taking part in adopting the final decision. This provision shall not apply in connection with any unsubstantiated attempt lodged by a client for the second time in the same proceeding for the exclusion of the same person.

(7) Where the grounds for exclusion were notified by a client and if exclusion was refused, the client shall have the right to appeal.

(8) In the event of exclusion of the acting employee of the Authority or the acting member of the Council, with the exception of what is contained in Subsection (6), the duration of the exclusion procedure shall not be included in the administrative time limits of official proceedings.

Client, Notifier

Section 27.

The term 'client' shall refer to any person against whom a proceeding has been launched ex officio, also the applicant and the person to whom the application pertains. In procedures concerned with records, authorizations and elimination of interference, 'client' shall have the definition as contained in the APA.

Section 28.

(1) In the event of any infringement of electronic communications regulations, or in connection with the occurrence of any event of import serving grounds for conferring or reviewing the obligations of service providers with significant market power, any person whose rights or lawful interests are affected, or any person whose rights afforded under electronic communications regulations have been prejudiced, or there is imminent danger of being prejudiced, and any non-governmental organization chartered for the protection of consumers interests may file a notice addressed to the Authority (hereinafter referred to as "notifier").

(2) The rights and obligations of clients shall not apply to notifiers. The notification shall contain the notifier's particulars, the grounds for the Authority's proceeding, or the actions or conduct in connection with which the violation of electronic communications regulations is alleged, as well as the circumstances verifying the conditions referred to in Subsection (1).

(3) The Authority shall weigh the notification and may decide to launch a proceeding ex officio. The Authority, if launching a proceeding ex officio, shall inform the notifier accordingly. If the Authority declines to act upon a notification, it shall so inform the notifier in writing. The refusal to launch a proceeding may be appealed.

(4) The notifier may request not to reveal his identity, or the fact that the proceeding was initiated ex officio upon notification. In this case the Authority shall not authorize the inspection of the notification.

(5) The Authority shall send its final decision adopted in conclusion of a proceeding to the notifier.

Confidentiality

Section 29.

(1) The employees of the Authority and any persons who are or were in a public servant relationship or in any other work-related legal relationship with the Authority, shall maintain strict confidentiality with respect to all personal data, state secrets, service and business secrets they obtained in connection with the activities of the Authority and the fulfillment of its duties, as well as any data, facts or conditions which the Authority is not compelled to make available to the public in line with the provisions of the relevant legal regulations, except for any disclosure or supply of data to other organizations as may be provided for in other legal regulations.

(2) The persons listed in Subsection (1) may not disclose illegally any data, facts or conditions they obtained in connection with the performance of their official duties, nor shall they be allowed to use or reveal such information to third persons.

Business Secrets

Section 30.

(1) Persons in the employment or other work-related contractual relationship with the Authority, participating in a proceeding, shall be entitled to have access to any related business secrets without restrictions.

(2) The client and other participants of the proceeding (such as the notifier) may request - citing the safeguarding of trade secrets - free access to documents for inspection or for making copies or notes to be limited, with the exception of documents and information which are considered public information or that cannot be classified as business secrets as laid down in other legal regulation. In this case the client or other participant of the proceeding must supply the same documents with business secrets removed.

(3) Any data or information, processed in any way or form and which the client is required by law to disclose, may not be classified as business secrets.

(4) In proceedings related to reference offers, the information contained in the reference offer that the notified operator is required by law to convey to third persons in the process of contracting (such as, in particular, the price, interconnection points or the terms and conditions for facility sharing or collocation) may not be classified as business secrets.

(5) Where it is justified in connection with enforcing the legal rights of the client who is a party to the proceeding, the Authority may instruct the client whose business secrets are affected to remove the classification of business secret effective immediately. If the client whose business secrets are affected fails to remove the classification of business secrets, and thus obstructs the conclusion of the case, the Authority shall issue a compulsory order to allow the other party access to business secrets to the extent necessary for the conclusion of the proceeding.

(6) The client whose business secrets are affected may contest the Authority's decision referred to in Subsection (5) at the Municipal Court of Budapest by lodging a suspensory appeal for upholding the classification of confidentiality. The court shall adopt a decision in a nonlitigious proceeding, upon hearing the parties if necessary, within 15 days. The decision of the Municipal Court of Budapest may not be appealed.

(7) Other parties to the proceeding may be authorized by the Authority, without having to lodge the formal request referred to in Subsection (2), to inspect the documents of the case, and to make copies and notes of them, if they have a legitimate interest to inspect the documents, and if it does not violate any confidentiality regulations, and it does not infringe upon the business secrets. Upon the notifier's request, the Authority shall permit access to the documents of the case - subject to the restriction contained in Subsection (2) - within 15 days from the operative date of the respective decision, to inspect and to make notes on the documents.

(8) If requested by a foreign authority, the reply it provides in compliance with a request shall be treated as business secrets to the extent specified, in due observation of what is contained in Subsection (3).

Clarification of the Facts

Section 31.

(1) In addition to what is prescribed in the APA, the Authority - in the process of discharging its duties conferred by law - shall be authorized, by causing the least amount of disturbance in the operations of the party affected:

a) to inspect documents related to electronic communications activities, whether or not they contain any business secrets, and may demand to have any information that is stored on data medium to be displayed in a format so that they can be read and copied, or to be allowed access to information in any other way;

b) to enter the premises, registered offices, commercial outlets and stores used in connection with electronic communications activities by natural or legal persons and unincorporated organizations to whom this Act applies;

c) to take samples and countersamples;

d) to make trial purchases;

e) to obtain business secrets;

f) to inspect to client's premises and to enter any area, including the survey of vehicles and any area used in business operations; furthermore, to order the client, the client's representative or agent (such as the auditor) or employees, including former agents and employees to supply data and/or information verbally or in writing, in the format prescribed by the Authority as suitable for comparison, and to request information in any other way or by any other means at the premises;

g) to make copies or extracts of documents and data carriers, and to confiscate them for maximum 8 days for the same purpose;

h) to conduct measurements and surveys;

i) to seize and/or impound means of evidence.

(2) If it is necessary in order to clarify the facts to interview other persons and organizations, apart from the client, such person or organization must comply and provide the information requested along with the documents that may have any bearings on the case.

(3) The Authority shall be authorized to receive the personal data of the client and other persons participating in the proceeding to the extent necessary in connection with the economic operations under review.

(4) The Authority, if the proceeding concerns any infringement of the law, shall - in due time - notify the client of being implicated or of the facts being investigated, so as to allow sufficient time for the client to make his opinion known.

(5) The release of any document, data or other information that may be used as incriminating evidence may not be

refused, however, the client or the person interviewed shall not be obligated to make a confession admitting to any illegal conduct.

(6) The officer of the Authority acting in an official capacity for clarifying the facts shall be required to verify his/her authorization for investigation by presenting his/her service badge or a letter of authorization prior to conducting any action, with the exception of trial purchases.

Section 32.

(1) The Authority, in the process of clarifying the facts, may - under justified circumstances - seize or impound the client's original documents, data carriers and any other physical evidence where any serious violation is suspected, and there is reason to believe that the documents or data carrier may be manipulated or destroyed.

(2) Any document, data carrier or other physical evidence that is the possession of the client may not be seized if it has any mark affixed or there is other evidence to indicate beyond doubt that it is not the property of the client, or it contains any data or information that does not pertain to the case on hand.

(3) The Authority shall record the seizure or impoundment in a resolution that may be contested at the Municipal Court of Budapest by lodging a suspensory appeal. The court shall adopt a decision in a nonlitigious proceeding, upon hearing the parties if necessary, within 15 days. The decision of the Municipal Court of Budapest may not be appealed.

(4) Seizure or impoundment shall be terminated effective immediately where it no longer serves the purposes of the case.

Penalties

Section 33.

(1) The Authority shall have powers to penalize any person for violations of electronic communications regulations and standard contract conditions within the framework laid down in this Section. The Authority shall determine the amount of penalty in light of the effect the infringement has on the electronic communications market, the number of end-users whose personal rights or property have been violated by the infringement and the extent of the injury, and the measure of pecuniary advantage the provider of electronic communications services or the frequency user has achieved by way of the infringement, and also with a view to dissuade the perpetrator and other persons from continued engagement in the conduct.

(2) The maximum amount of the penalty is set at:

a) 0.25 per cent of the perpetrator's revenues in the cases under Paragraphs a), b), d) and e) of Subsection (3) of Section 68;

b) five times the net purchase price of any electronic communications equipment that was placed on the market illegally;

c) ten times the applicable annual frequency fee affected by the infringement in the case of irregular frequency use;

d) 0.5 per cent of the revenues of any person violating the prohibition of price squeeze;

e) 0.5 per cent of the revenues of any person violating the obligations relating to the submission of reference offer-draft, to keep separate financial accounts and to supplying data for the cost accounting of network services, furthermore, for breaching or non-compliance with the obligations conferred upon service providers with significant market power by resolution; and

f) 0.1 per cent of the revenues of any person violating electronic communications regulations in connection with the cases referred to in Chapter V.

g) five per cent of the revenues of the infringer for any infringement of electronic communications regulations relating to broadcasting;

h) one per cent of the revenues of the infringer for any illegal use of radio frequencies or identifiers, or between 10,000 and 100,000 forints in the absence of revenues.

(3) The Authority - in the cases not mentioned in Subsection (2) - may impose a penalty

a) of 0.05 per cent of the revenues, or minimum 100,000 forints,

b) of 50 per cent of the frequency duty, if the proceeding pertains to frequency use, or minimum 20,000 forints

c) of one per cent of the revenues, if the proceeding pertains to disclosure of data in connection with broadcasting,

or minimum 100,000 forints

on the party involved in the proceeding, and must impose the penalty for repeat offense, for any infringement of the procedural regulations, such as, in particular, for disclosing any data or information that is false or misleading, for suppressing any information that is deemed essential for purposes of the case in question, failure to provide information in due time, and for withholding documents relating to electronic communications activities from inspection or obstructing the proceeding in any other way.

(4) In the event of any violation of the obligations laid down in this Act relating to the National Security Agency the penalty shall be 0.5 per cent of the revenues of the offender service provider.

(5) In the cases described in Subsections (2)-(4), the Authority may impose a penalty of between 50,000 and 3 million forints, and must impose the penalty for repeat offense committed by the executive officer of the offender organization.

(6) In the case of multiple violations the penalty may be imposed separately for each and every offense.

(7) For the purposes of this Section revenues shall be understood as the previous financial year's net revenues from electronic communications operations of the person implicated in the proceeding. If the previous financial year's net revenues cannot be established or if they are not communicated, the penalty shall be minimum 100,000 and maximum 10,000,000 forints.

Public Hearing

Section 34.

(1) The Authority shall hold a public hearing where it deems it necessary in connection with discharging its duties within the meaning of Paragraphs b)-d) of Section 1, or if the participation and opinion of the consumer organizations is desirable, or at least once in every six months, in an effort to provide a forum for the professionals concerned to express their opinion in relation to the preparation of legal regulations pertaining to electronic communications and the implementing decrees, and for laying down the groundwork for the proper enforcement and application of electronic communications regulations.

(2) The Authority shall publish a notice for the public hearing, including the date and place and the agenda, at least 30 days in advance.

(3) The Authority shall publish all preliminary information, excluding business secrets, relating to the agenda of the public hearing at least 15 days in advance.

Section 35.

(1) Recommendations, views and opinions may be presented verbally or in writing during or before the public hearing. The Authority shall post any electronic document concerned with the public hearing on its official website if received at least 5 days in advance.

(2) The Authority shall draw up a summary report on the public hearing that is to contain the comments and views presented during the hearing, except for the data that is classified as business secrets of the person presenting the opinion or recommendation. The Authority shall publish the summary report within 30 days following the hearing, and shall retain it in accordance with the provisions of specific other legislation.

(3) The Authority shall disclose the details of the public hearing.

Discussions with the Parties Interested in Issues of Key Importance

Section 36.

(1) The Authority, prior to adopting a resolution

a) concerning the definition of relevant markets, the identification of service providers with significant market power, and the obligations to be conferred upon service providers with or without significant market power under this Law, and the approval of the reference offer,

b) that, in the Authority's opinion, need to be discussed with the parties interested

shall disclose the draft of the resolution at least 30 days in advance, including any relating preparatory materials, excluding the data classified by the relevant parties as business secrets.

(2) Any person whose any right or lawful interest may be prejudiced by the resolution may present his views, opinion or comment (hereinafter referred to as "comment") concerning the proposed resolution in writing to the Authority, within 20 days from the date of publication referred to in Subsection (1).

(3) The Authority shall observe the comments received in connection with any draft resolution mentioned in Subsection (1) to the extent possible. The Authority may decide to hear the parties interested upon the justified request of a party affected by the resolution, or ex officio. In the preamble of the resolution the Authority shall indicate the comments observed and those ignored, and the reasons for ignoring them.

Appeal Procedures and Judicial Review of Resolutions

Section 37.

(1) Appeals against the decisions of the Office made on behalf of the Authority in the first instance shall be submitted to the Chairman of the Council, exclusive of the resolutions under Subsection (5) of Section 30 and Subsection (1) of Section 152.

(2) The party whose right or lawful interest is prejudiced by a decision passed on the second instance by the Chairman of the Council on the merits of the case may file for court action for judicial review in accordance with this Chapter.

(3) Execution of the decision shall not be suspended upon lodging a request for judicial review. Decision for the suspension of execution lies with the court, proceeding upon request or ex officio.

Chapter V

COUNCIL PROCEDURES

General Provisions

Section 38.

The Council's actions on behalf of the Authority shall be governed by the provisions contained in Chapter IV subject to the exceptions set out in this Chapter.

Composition, Quorum

Section 39.

(1) Unless this Act contains provisions to the contrary, the Council shall adopt its decisions in plenary sessions. The plenary session shall have a quorum when at least five members are present. The Council shall adopt its decisions by a simple majority, exclusive of the decisions concerning the definition of relevant markets, the identification of service providers with significant market power, and the obligations to be conferred by this Act upon service providers with or without significant market power, for which a two-thirds majority of the members present is required. In the case of a tie vote, the vote of the Chairman of the Council shall be decisive.

(2) Disputed cases shall be heard by a three-member council that adopt its decisions by a simple majority. If the Chairman of the Council is of the opinion that a particular case is of lesser importance, such cases of lesser importance shall be resolved by a single council member (hereinafter referred to as "acting council").

(3) The member assigned to present a case, and the members and chairman of the acting council shall be appointed

by the Chairman of the Council.

Commencement of the Procedure

Section 40.

(1) With the exception of hearing legal disputes and the procedures for the identification of service providers with significant market power or for the removal of such distinction, a procedure may be applied for or initiated within two months of the date of receiving notice of an event that gives rise to the procedure, or no later than within four months from the date of the occurrence of the event.

(2) Failure to adhere to the deadlines specified in Subsection (1) shall result in the forfeiture of rights. If, in the course of a pending procedure applied for or initiated by a party entitled thereto, the Council becomes aware of any violation of the law in addition to those already investigated in the procedure, it may proceed ex officio until the decision is adopted even if the latest event occurred more than four months before but no later than within one year, provided that it was committed by the same organization (person) already investigated.

Section 41.

(1) If the proceeding is initiated upon request, the petition shall indicate:

- a) the name and registered office (domicile) of the petitioner;
- b) name(s) and registered office(s) (domicile), known to the petitioner, of any possible interested party (parties) to the procedure;
- c) the subject matter of the case, and the number of the relevant electronic communications regulations;
- d) the date when the event giving rise to the procedure occurred, and the date when it became known to the petitioner;
- e) the measure to be taken by the Council according to the petitioner's request, and the reasons therefor.

(2) The petition shall have attached all evidence and other documents which are in the possession of the petitioner and that may be of import for purposes of the case in question, as well as proof of payment of the administrative service fee.

(3) If the petition fails to contain the information listed in Subsection (1), or if the administrative service fee prescribed in specific other legislation is not paid, the Council shall notify the applicant to submit any missing information or pay the fee within eight days.

(4) If the missing information referred to in Subsection (3) is not supplied or the fee is not paid, or if the petition has been submitted by a party not entitled thereto or after the prescribed deadline, the Council shall adopt a decision based on the information available, or shall dismiss the case.

Section 42.

(1) The Council shall initiate the proceeding ex officio upon approval of a notification, if the proceeding is requested in accordance with Subsection (2), or if any circumstance serving grounds for a proceeding is detected by the Council itself.

(2) The Council shall commence a proceeding ex officio if it is requested by

- a) the Minister,
- b) the chairman of the competition authority,
- c) the director of the consumer protection authority,
- d) the data protection commissioner
- e) the Chairman of the National Radio and Television Board,
- f) the European Commission,

if learning, in an official capacity, of any infringement of electronic communications regulations or of any circumstance where the identification of service providers with significant market power or the obligations conferred upon service providers with significant market power is to be reviewed.

(3) If, in the course of a pending procedure that was initiated by the entitled party within the deadline specified in Subsection (1) of Section 40, the Council becomes aware of any violation of the law in addition to those already investigated in the procedure, it may proceed ex officio before the decision is adopted. The new evidence shall be

made known to the parties affected in writing, or during the hearing, and they shall be given the opportunity to comment on this evidence as well.

Section 43.

(1) The Council's procedure shall be subject to the payment of an administrative service fee prescribed in specific other legislation. The administrative service fee charged for a proceeding initiated upon request shall be payable at the commencement of the proceeding.

(2) The Council shall send a copy of the petition or the document instituting the procedure to the parties involved in the case to notify them that the proceeding has commenced, and shall instruct them to present their comments and submit all available documents without delay, within 15 days at the latest.

Administrative Time Limits

Section 44.

(1) Unless prescribed in this Act to the contrary, the Council shall adopt a decision within forty-five days following the receipt of a petition submitted in compliance with this Act, or from the commencement of the procedure.

(2) Where any consultation with the parties involved is required the administrative time limit shall be 75 days.

(3) In justified cases, the time limit may be extended once by a maximum period of 15 days, of which the parties shall be notified before the expiry of the original deadline.

(4) The time limit prescribed in Subsection (1) of Section 57 shall exclusively apply to procedures for market definition, market analysis and for laying down the obligations of service providers with significant market power as contained in Sections 52-55.

(5)

Council Decisions

Section 45.

(1) In its decision, the Council:

- a) shall reject the petition if unsubstantiated;
- b) shall establish the fact of infringement;
- c) shall call upon the party who committed the violation to conduct itself in accordance with statutory provisions;
- d) shall define the relevant markets and identify the service providers with significant market power, and shall prescribe at least one obligation within the framework of this Act;
- e) may confer obligations within the framework of this Act upon service providers without significant market power;
- f) shall approve reference offers, define its contents, amend the contents of a previously approved reference offer, or may order the amendment of a reference offer;
- g) shall approve the implementation of other obligations conferred upon service providers with significant market power;
- h) shall impose penalties or measures within the framework of this Act as corresponding to the severity of the infringement;
- i) shall oblige the offender to bear the administrative service fee and the costs that may be incurred in connection with the procedure;
- j) may prescribe obligations in the event where a violation of the law has been established;
- k) where any contracting obligation applies on the basis of electronic communications regulations, shall prescribe the contents of the contract if the parties fail to reach an agreement as to the contents of the contract;
- l) may order provisional measures;
- m) shall dismiss the proceeding in the cases defined in Subsections (4)-(6) of Section 49 for lack of jurisdiction.

(2) In disputes over the prices of network services the Council may take the actions listed under Subsection (1) and may prohibit further use of the price in question, and may determine the legitimate price and order the service provider to charge this legitimate price.

(3) If the Council detects any circumstance indicative of any violation of other legal regulations, it shall notify the competent authority, such as in particular the competition authority and the consumer protection authority.

(4) The Council may also have recourse to more than one of the legal measures contained in Subsections (1) and (2).

(5) The decision shall be delivered to the parties concerned and other interested parties, and shall be published.

Judicial Review of Council Decisions

Section 46.

(1) The Council's decisions adopted in cases governed under this Chapter may not be appealed. The party whose right or lawful interest is prejudiced by a decision passed by the Council on the merits of a case, or whose decision for the refusal to launch a proceeding in accordance with Subsection (3) of Section 28 is prejudiced, may contest it at the Municipal Court of Budapest.

(2) Execution of the decision shall not be suspended upon lodging the statement of contest.

(3) The Council may publish its decision passed on the merits of a case also if a request for judicial review has been filed, however, this fact shall be indicated in the publication.

(4) The provisions of Chapter XX of Act III of 1952 on the Code of Civil Procedure (hereinafter referred to as "CPC") shall apply to the court procedures launched for the judicial review of a Council decision subject to the exceptions prescribed in this Act.

Section 47.

(1) The statement of contest shall be submitted to the Council within fifteen days of the receipt of the decision. The claimant shall declare in the statement whether it requires a hearing to be held.

(2) The Council shall forward the statement of contest, along with the file on the case and the declaration provided for in Section 331 of the CPC, to the court within five days of the receipt of the statement of contest. The Council shall declare in its statement whether it requires a hearing to be held.

Section 48.

(1) Persons who may not proceed for reasons defined in Subsection (1) of Section 26 shall be excluded from the proceeding and may not participate therein as a judge.

(2) The court shall deliver the statement of contest within eight days and simultaneously:

a) communicate, in writing, the Council's statement to the claimant;

b) call upon the interested parties involved in the remedy procedure, in respect of whom the Council's decision contains a provision, to make a statement, within the deadline specified, and inform them of the possibility of intervention.

(3) If the parties required no hearing, the court shall adjudge the case in chambers.

(4) These court proceedings shall have priority over other cases.

(5) The court may alter the Council's decision, and take the measures included in Paragraphs a)-h) of Subsection (1) and Paragraphs a)-b) of Subsection (2) of Section 45.

(6) The Council shall publish the court's decision in due observation of the right of the parties affected to the protection of personal data.

(7) In the judicial procedure instituted on the basis of an action for review of a decision passed in a case related to electronic communications, an appeal against the judgement of the court in the first instance may be submitted within eight days of the announcement of the decision.

Council Procedures in Legal Disputes

Section 49.

(1) A service provider whose right or lawful interest related to electronic communications as prescribed in electronic communications regulations or under contract governed by such regulations is violated by another service provider (hereinafter referred to as "legal dispute") may seek remedy, at his discretion:

- a) in court;
- b) at the Authority; or
- c) at the Arbitration Tribunal for Communications where there is an agreement between the parties for arbitration.

(2) The court, or the Arbitration Tribunal for Communications, shall forthwith notify the Authority when receiving a request (statement of claim) referred to in Subsection (1) for action in a legal dispute.

(3) The Council shall, upon request, attend to legal disputes arising in connection with any violation of electronic communications regulations.

(4) If a court proceeding under Paragraph a) or the proceeding of the Authority referred to in Paragraph b) of Subsection (1) is in progress or has been concluded by final decision, the parties to such dispute shall not institute any other proceeding in the first instance for the same subject under the same factual grounds, with the exception of the proceeding defined in Subsection (6).

(5) Where a proceeding has been initiated at the court and at the Authority by the same parties for the same subject under the same factual grounds, the Authority shall dismiss the case for lack of jurisdiction upon receiving notice from the court or a justified request from either party.

(6) If the parties have already entered into an arbitration agreement, or if one is concluded within fifteen days from the date an application is submitted to the Authority requesting the Council's action, the Authority shall terminate its proceeding upon the parties' request or ex officio.

Section 50.

(1) In addition to including what is contained in Subsections (1)-(2) of Section 41, the claimant may also include a motion to produce evidence in the petition.

(2) The Council shall forward the petition to the respondent immediately upon receipt, and shall prescribe a 15-day deadline to present any comments or evidence, or send them directly to the claimant.

(3) In cases of dispute the Council shall hold hearings which the parties concerned and other interested parties may attend in person or through their representatives, and at which they may make comments and introduce their documentary evidence before the hearing is closed.

(4) The hearing is set by the chairman of the acting council. The hearing shall not be public.

(5) The Council, if it sustains the motion to produce evidence, shall hear the evidence pro and contra. If no evidence is admitted, the reasons shall be expressly indicated in the final decision. If the evidence presented is inconclusive it shall be considered to the detriment of the party presenting them.

(6) If requested by the party demonstrating evidence, the Council may order the other party to supply specific data and information (including business secrets). If the supply of any data or information is requested as evidence, and the party affected fails to comply, if the evidence proves to be inconclusive it shall not be considered to the detriment of the party presenting them. In such cases the Council shall adopt a decision based on the evidence available.

(7) If the client is engaged in any conduct to obstruct the proceeding, in particular the evidencing procedure, in bad faith, the Council shall impose a penalty or take the measures necessary.

(8) If justified by the circumstances surrounding the legal dispute, in particular the demonstration of evidence, the Council may adjourn the session and immediately set the date and time for the next hearing, and announce it to the parties present.

(9) In cases in progress the Council may implement, upon request or ex officio, the provisional measures referred to in Paragraph a) of Subsection (5) of Section 68 if there is reason to believe that any infringement or injury of one's interests is imminent in the absence of the said provisional measures, as attributable to any serious violation of the provisions of this Act, in particular its basic principles, and if the advantages to be gained supersede the disadvantage obtained by the measure.

(10) The client may contest the Council's decision referred to in Subsection (9) for implementing provisional measures at the Municipal Court of Budapest by lodging a suspensory appeal for lifting the said provisional measures. The court shall adopt a decision in a nonlitigious proceeding, upon hearing the parties if necessary, within 15 days. The decision of the Municipal Court of Budapest may not be appealed.

(11) The Council shall administer legal disputes relating to reference offers or pertaining to contracts to be concluded for access or interconnection between a notified operator and a beneficiary service provider within or

without a reference offer subject to the exceptions set out in specific other legislation.

Section 51.

(1) If a legal dispute between the service providers concerns, apart from the Authority, the electronic communications regulatory authorities of other Member States, the Authority must obtain the opinion of the electronic communications regulatory authorities of other Member States involved in the legal dispute in question.

(2) In the process of legal disputes the Authority must cooperate when contacted by the electronic communications regulatory authorities of other Member States.

Market Definition, Identification of Service Providers with Significant Market Power and Imposition of Obligations

Section 52.

(1) The Council shall identify the relevant markets; analyze competition on relevant markets and the efficiency of competition, and if there is no effective competition, identify the service provider or service providers with significant market power on these relevant markets; and shall confer at least one of the obligations contained in Chapters XI-XIV upon this service provider or service providers with significant market power, that is justified by and most consistent with the restrictive practices revealed by the market analysis, or shall sustain - with possible alterations - at least one of the obligations conferred upon the service providers with significant market power on the strength of legal regulation prior to completion of the market analysis referred to above, or subsequently by decision of the Authority.

(2) Providers of electronic communications services shall be required to supply data and information for the purposes of market definition and market analysis. In the event of any failure to comply with the obligations of disclosure the Council shall impose the penalty referred to in Subsections (3)-(5) of Section 33.

(3) The Council shall carry out the market definition and market analysis in line with the principles decreed by the Minister, in observation of the relevant provisions of competition laws.

Section 53.

(1) Based on the findings of a market analysis, the Council shall identify a service provider as one with significant market power if it has a dominant position on a relevant market - where there is a lack of competition - and if either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say, a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.

(2) In the process of identification of service providers with significant market power the Council shall take into consideration that where a service provider has significant market power on a specific market, it may also be deemed to have significant market power on a neighboring (closely related) market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the service provider.

(3) Where, as a result of market analysis, the Council finds that any service provider with significant market power was not identified as such at the time of commencement of the market analysis, it shall withdraw the designation of such service providers as having significant market power.

(4) Where the markets of Member States of the European Economic Area are concerned, which includes the geographical area of the Republic of Hungary as established in a Decision of the European Commission, the Council shall carry out the identification of service providers with significant market power in cooperation with the electronic communications regulatory authorities of the Member States of the European Economic Area concerned.

Section 54.

(1) The Council, following the identification of service providers with significant market power, shall confer at least one of the obligations contained in Chapters XI-XIV upon these service providers - on the market where the

significant market power exists - , that is justified by and most consistent with the restrictive practices revealed by the market analysis, or shall sustain - with possible alterations - the obligations previously conferred upon the service providers with significant market power.

(2) Where the markets of Member States of the European Economic Area are concerned, which includes the geographical area of the Republic of Hungary as established in a Decision of European Commission, the Council shall confer, sustain or amend the obligations in cooperation with the electronic communications regulatory authorities of the Member States of the European Economic Area concerned.

Section 55.

(1) Where the Council withdraws its designation of a service provider as having significant market power, it shall also terminate the application of all obligations that were conferred upon the service provider by the Council on account of being designated as having significant market power, or on the strength of legal regulation that was in effect at the time of the initial market analysis and the commencement of the procedure for prescribing the obligations.

(2) The Council's decision on the amendment or withdrawal of any obligation of a service provider with significant market power may contain a clause to sustain the obligation to be amended or withdrawn for a transitional period of minimum thirty and maximum one hundred and twenty days.

Section 56.

If the Council - under exceptional and justified circumstances - intends to impose on service providers with significant market power other obligations for access or interconnection than those set out in Chapters XI-XIV, it shall submit this request to the European Commission for prior approval, including a detailed explanation. Between the time from when the draft resolution is sent until the European Commission's decision is adopted according to Subsection (5) of Section 65 the Council's procedure shall be suspended.

Section 57.

(1) The Council shall carry out a market analysis on relevant markets on a regular basis, no later than within two years from conclusion of the previous market analysis and the procedure for imposing the relevant obligations.

(2) If the Authority learns about any circumstance of significant importance in connection with the evaluation of competition on a relevant market, the Council shall carry out the analysis of the relevant market or markets without delay.

(3) The Council shall conclude the proceedings under Sections 36 and 52 and adopt a decision without undue delay where, as a result of this market analysis, it becomes necessary:

- a) to define a new relevant market or markets; or
- b) to withdraw the designation or relevant market from one or more markets; or
- c) to withdraw the designation of any service provider as having significant market power; or
- d) to impose, amend or terminate an obligation imposed on a service provider with significant market power.

Approval of Reference Offer

Section 58.

(1) The service providers required to publish a reference offer by decision of the Council or under legal regulation (for the purposes of Sections 58-61 hereinafter referred to as "notified operator") shall submit a draft version of the reference offer, subject to the content requirements laid down in specific other legislation, to the Council for approval.

(2) The following shall be enclosed with a reference offer-draft submitted to the Council:

a) information regarding the notified operator's network and other operational assets, and all other data and documents that may be necessary for the Council to determine as to whether the terms and conditions contained in the reference offer-draft, such as in particular the prices are in compliance with electronic communications

regulations;

b) model contracts for interconnection and access;

c) the standard form supplied by the notified operator for applications for contracting and for supplying the data and information necessary;

d) proof of payment of the administrative service fee.

(3) The data and documents enclosed according to Paragraphs a) and d) of Subsection (2) shall not comprise a part of the reference offer.

(4) The deadline for submitting the reference offer-draft shall be prescribed by the Council.

(5) If the service provider is subject to the obligation of accounting separation, the reference offer-draft shall be prepared - unless prescribed by the Council to the contrary - by a statement of accounting separation approved by the Council.

Section 59.

(1) The Council shall examine the reference offer-draft a notified operator has submitted for approval for the purposes of compliance with electronic communications regulations.

(2) If the Council finds that a reference offer-draft submitted for approval is incomplete, and therefore it cannot be considered, or it fails to comply with electronic communications regulations, or if the prescribed documents are not enclosed, it shall adopt a resolution to define the contents of the reference offer.

(3) If there is any doubt, the burden of proof to show that the reference offer-draft is in compliance with the relevant electronic communications regulations lies with the service provider.

(4)-(6)

(7) The Council shall publish its decision of approval and shall post the reference offer on its official website. The Council in its decision of approval shall indicate the date when the reference offer or certain parts thereof are set to enter into force. The service provider shall be required to post its reference offer after it is approved by the Council within five days on its official website.

(8) The Council, in justified cases, shall be entitled to order a reference offer to be amended ex officio.

(9)

Section 60.

(1) The procedures for the amendment of reference offers upon request shall be subject to the provisions on the approval of reference offers with the exceptions set out in this Section.

(2) The notified operator required to publish a reference offer shall indicate in its application for the amendment of the reference offer:

a) the reasons for amendment of the reference offer;

b) the sections to be amended and the contents of the amendment.

(3) The application for the amendment of a reference offer shall have attached the data and documents related to the amended sections of the reference offer, and the final version of the reference offer with the amendments incorporated.

(4) The provisions governing the amendment of reference offers by the service provider shall not apply regarding the procedure referred to in Subsection (8) of Section 59.

(5) The contracts concluded based on the original reference offer may be amended only after the amendments of the reference offer have entered into effect. The parties shall be required to apply the prices indicated in the amended reference offer after the amendments of the reference offer have entered into effect.

Section 61.

(1) If the Council declares in a resolution that a service provider previously treated as a notified operator is no longer subject to the obligation to publish a reference offer, effective as of the operative date of this resolution this service provider shall not be obligated to enter into a contract under a reference offer, regardless of whether it was requested by another service provider prior to the operative date of the resolution.

(2) The notified operator shall be entitled to cancel the contracts concluded on the basis of a reference offer on the day referred to in Subsection (1), or with a notice of at least ninety days for contracts concluded for an indefinite term. If more than six months remain from the term of a fixed-term contract, the notified operator may cancel these

contracts as well subject to a ninety-day notice.

Approval of Statements of Accounting Separation

Section 62.

(1) The notified operators required to keep separate financial accounts (hereinafter referred to as "accounting separation") shall submit to the Council its statement of accounting separation made out according to the structural and content requirements laid down in this Act and in specific other legislation for each calendar year, by the end of the sixth month following the closing date of the financial year.

(2) If the Council finds that a statement of accounting separation submitted for approval is incomplete, and therefore it cannot be considered, or it fails to comply with electronic communications regulations, or if the prescribed documents are not enclosed, it shall order the notified operator concerned to make the necessary corrections within the prescribed deadline. Past the deadline for corrections the Council shall decide whether or not to approve the statement of accounting separation.

(3) If there is any doubt, the burden of proof to show that the statement of accounting separation and the relating documents are in compliance with the relevant electronic communications regulations lies with the service provider.

(4) The Council shall have powers to demand additional information from the service provider to substantiate the data contained in the statement of accounting separation.

(5) The Council shall refuse to approve the statement of accounting separation and shall inform the notified operator with detailed reasons included if:

a) the statement of accounting separation fails to comply with the relevant electronic communications regulations;
or

b) it finds that the cost distribution methodology submitted enclosed with the statement of accounting separation is non-conforming.

(6) Where Subsection (5) applies, the service provider shall submit a new statement of accounting separation within the time limit prescribed by the Council, or within thirty days at the latest. In the event of failure to comply with this obligation the Council shall impose a penalty.

Price Squeeze Control Procedure

Section 63.

(1) The Council shall launch a price squeeze control procedure upon request or ex officio, or if initiated by the persons listed under Paragraphs a)-c) of Subsection (2) of Section 42.

(2) The Authority shall examine the data and information it has requested by resolution to determine as to whether the prices charged by a service provider for network services can be considered to constitute a price squeeze.

(3) If the Council finds that there is price squeeze, it shall examine as to whether the price charged for network services is in line with the costs for providing the service. The burden of proof to show that the price corresponds with the costs lies with the service provider.

(4) If there is a price squeeze, yet the price charged for network services is consistent with the costs incurred in providing the network services, the Council shall refer the case to the competition authority to investigate whether the price of a must-carry subscriber services is established in violation of the provisions contained in Section 21 of Act LVII of 1996 on the Prohibition of Unfair Market Practices and Restraint of Trade (hereinafter referred to as "UMPA"). The Council shall cooperate with the competition authority in its proceeding.

(5) Where the new evidence the Council has received is insufficient to verify that the price charged the network services governed in Subsection (1) of Section 116 is consistent with the costs of providing such network services, the Council shall:

a) establish the mandatory minimum of the difference between the price of the network services and the price of the must-carry subscriber services, and order the service provider to reduce the price of the network services accordingly; and

b) order the service provider to amend - within fifteen days - the reference offer in which the price causing the

price squeeze is quoted, or shall amend the reference offer by resolution to contain the legitimate price within fifteen days following the original deadline if the service provider fails to comply within the deadline specified; and
c) shall impose penalties or measures within the framework of this Act or as prescribed in specific other legislation as corresponding to the severity of the infringement.

Procedures for Imposing Obligations Irrespective of Market Power

Section 64.

(1) The Council may impose obligations on service providers without significant market power only from those listed under Chapter XI.

(2) For any ex officio proceeding for the imposition of obligations under Subsection (1), for the amendment, extension or withdrawal of such obligations the provisions for the imposition of obligations on service providers with significant market power shall apply, with the exception that the Council is not obligated to perform market definition or market analysis.

(3) If the proceeding is conducted upon request, the provisions governing legal disputes shall be applied.

Consulting the European Commission and the Electronic Communications Regulatory Authorities of Other Member States

Section 65.

(1) Following consultation with the parties concerned, if the draft measure is likely to affect trade between Member States the Council shall submit its draft measure to the European Commission and the communications regulatory authorities of other Member States, including a detailed explanation, concerning:

- a) the definition of relevant markets;
- b) the identification of service providers with significant market power and the imposition, amendment, extension or withdrawal of obligations;
- c) the imposition or withdrawal of obligations with respect to service providers without significant market power.

(2) If the European Commission or an electronic communications regulatory authority of another Member State provides a comment on the Authority's draft measure within thirty days of receipt, the Authority shall take this comment into consideration in adopting the draft measure.

(3) If the European Commission raises any objection in connection with the draft measure the Council has submitted, if it aims at

- a) defining a relevant market which differs from those defined by the European Commission, or uses the designation relevant market, or
- b) deciding whether or not to designate a service provider as having significant market power or to withdraw such designation, and
- c) it would affect trade between Member States,

and the Commission has indicated that it considers that the draft measure would create a barrier to the single market or if it has serious doubts as to its compatibility with Community law, then the Council shall not adopt the draft measure for a further sixty days from the receipt of the European Commission's objection.

(4) If the European Commission has taken a decision within the period referred to in Subsection (3) requesting the Council, accompanied by a detailed and objective analysis, to withdraw the draft measure, or it supplies specific proposals for amending the draft measure, the Council shall comply with the decision of the European Commission.

(5) If the European Commission's decision is against the draft measure the Council has drawn up in accordance with Section 56, the Council shall proceed to comply with the European Commission's decision. If the European Commission consents, the Council shall adopt the draft measure drawn up in accordance with Section 56 without any changes in the contents that was sent to the European Commission.

(6) In exceptional circumstances, where the Council considers that there is an urgent need to act in order to safeguard competition and protect the interests of consumers, it may adopt provisional measures in the cases referred to in Subsection (1). The provisional measures may be implemented effective immediately. In this case the Council

shall, without delay, communicate those measures, with full reasons, to the European Commission and the electronic communications regulatory authorities of other Member States. A decision by the Council to render such provisional measures permanent shall be made within fifteen days from the date of receipt of the comments and objections under Subsections (2)-(5).

Chapter VI

PROCEDURES OF THE AUTHORITY

Records

Section 66.

- (1) The Authority, in the exercise of its official authority, shall keep official administrative records.
- (2) The authority shall keep records:
 - a) on providers of electronic communications services and of the services they provide;
 - b) on notified interfaces necessary for the performance of electronic communications activities or for the provision of services on electronic communications networks;
 - c) on information necessary for the control of universal electronic communications service providers;
 - d) on the sharing of electronic communications structures by several service providers;
 - e) on the individual licenses specified in specific other legislation;
 - f) on the register of building inspectors and construction superintendents;
 - g) on the reference offers and network contracts submitted to the Authority;
 - h) on unidentified numbers (electronic records);
 - i) on radio equipment placed in the domestic market that makes use of radio frequencies or frequency bands whose use is not harmonized throughout the Community;
 - j) on other data and information to be recorded under statutory provision.
- (3) All information contained in official administrative records are public, except where access to official administrative records is expressly restricted by law.
- (4) The Authority shall also keep records within the scope of its duties conferred upon it by legal regulation of data by instruction of the General Manager, in due observation of the regulations governing the protection of personal data, confidentiality, and access to information of public interest.

Market Surveillance

Section 67.

- (1) The Authority shall carry out market surveillance within the framework of its supervisory control powers to promote the effective operation of the electronic communications market, the protection of the interests of providers and of electronic communications services, to sustain fair and effective market competition in the electronic communications sector and to achieve all other objectives set out in this Act.
- (2) In the course of its market surveillance activities the authority shall monitor the operation of the electronic communications market and compliance with the provisions of the relevant legal regulations, and with what is contained in the Authority's decisions and in the subscriber contracts, and shall analyze its findings.
- (3) In the course of its market surveillance activities in respect of price squeeze control, the Authority shall regularly monitor the prices charged for network services and for must-carry subscriber services by service providers with significant market power.
- (4) The authority may also involve in the performance of such activities other organizations or persons authorized under other legal regulations.

(5) The Authority shall prepare an annual market surveillance plan building on its experiences and observations from the previous year by December 1st of the year previous to the year to which the plan pertains, and shall post on its official website within fifteen days. The market surveillance plan shall be approved by the Council. The plan may be reviewed at the end of the first six-month period to assess the latest observations, and may be amended, if necessary, upon the Council's approval. The Authority shall post the amended market surveillance plan on its official website within fifteen days from the date of approval.

(6) The Authority shall record its findings concerning the implementation of the market surveillance plan in a report, including the results of the market surveillance, the findings of the analysis referred to in Subsection (2), and the amendments of legal regulations proposed on the basis of these findings, and shall publish this report within fifteen days.

(7) The Authority may conduct market surveillance ex officio or upon request, irrespective of whether or not it is scheduled in the market surveillance plan or the supervisory plan.

Section 68.

(1) Where the market surveillance reveals any infringement, the Authority shall apply sanction progressively, as consistent with the severity of the infringement.

(2) The Authority shall order any operator, service provider, vendor or distributor engaged in any infringement to cease such illegal conduct within thirty days. In justified cases the Authority may extend this deadline by maximum fifteen days, or reduce it in the case of repeat offenders.

(3) In the course of its market surveillance activities the Authority may apply sanctions in the following cases of infringements:

a) non-compliance with electronic communications regulations, notifications of service providers, standard contract conditions;

b) illegal use of radio frequencies or identifiers, or if used without authorization or in deviation of the authorization;

c) placing electronic communication equipment or any other electric devices emitting high-frequency signals or causing any other side effects on the market, or their distribution or operation in violation of regulations;

d) failure to comply with any notification requirement;

e) failure to comply or inadequate compliance with disclosure obligations.

(4) In the event where a service provider refuses to comply with the Authority's notice, the Authority shall have powers to take the following measures in accordance with the APA, this Act and specific other legislation:

a) order the perpetrator to pay the costs of the proceeding if found guilty in an official supervisory proceeding the Authority has conducted ex officio;

b) impose a fine in an amount prescribed by law;

c) order the electronic communications operator or distributor or vendor to disclose the information prescribed by the Authority;

d) take the measures described in Subsection (5);

e) order the service provider to credit or repay extra charges in the event of its failure to comply with the obligation set out in Subsection (6) of Section 138; or

f) apply other sanctions prescribed by legal regulations.

(5) The Authority shall have powers to take the following measures:

a) determine the conditions of the performance of specific activities;

b) adopt a cease and desist order;

c) make public the information obtained according to Subsection (1) of Section 31 in justified cases specified in this Act;

d) publish its resolution on establishing an unlawful conduct in a daily newspaper of nationwide circulation at the cost of the offender, particularly if it serves the prevention or reduction of serious detriment;

e)

f) seize or confiscate, under the procedure governed in specific other legislation, any equipment or instrument that has been used for illegal activities or without proper authorization.

(6) In the event of any serious or repeated violation of obligations, if the sanctions under this Section did not achieve sufficient results, the Authority shall have powers to suspend or prohibit the related electronic communications activities, or may suspend or withdraw the individual licenses granted for the use of radio frequencies and identifiers.

(7) The Authority shall publish its decisions. A decision may be published regardless of any request filed for the

judicial review of the decision. Where an appeal has been lodged against a decision that has already been published, it too shall be published together with the ruling adopted in the judicial review proceeding.

(8) In the course of market surveillance activities, the Authority may order the provisional measures defined in Paragraphs a) and b) of Subsection (5) for the protection of human lives, health, physical integrity, or for the protection of the environment and public safety, or for the prevention of dangers posing significant threats to a broad range of consumers, or that directly jeopardize the operations of other service providers and users. The Authority may cancel the provisional measures when they are no longer required, under other circumstances the provisional measures shall remain in force until the operative date of the ensuing decision.

(9) In the course of market surveillance activities, the Authority may order the immediate execution of its decisions made for the protection of human lives, health, physical integrity or the environment, or for the prevention of dangers posing significant threats to a large number of consumers.

Individual Licenses

Section 69.

(1) Rights of use of radio frequencies may be obtained - under the circumstances prescribed in legal regulation - by decision of the Authority (frequency assignment and radio license). Frequency assignments and radio licenses for civilian purposes, and rights to use a radio frequency in the case of auctions and tenders shall be granted by the Authority, and frequency assignments and radio licenses for non-civilian purposes by the authority responsible for the management of frequencies for non-civilian purposes. The procedure of the authority responsible for the management of frequencies for non-civilian purposes shall be governed by the relevant provisions of this Act, unless otherwise prescribed by law.

(2) In its proceedings for the granting of rights to use a radio frequency the Authority shall use objective, transparent, proportionate and non-discriminatory treatment in deciding whether or not to grant the rights to use a radio frequency. The detailed rules for the procedures relating to rights and authorizations to use a radio frequency are contained in specific other legislation.

(3) The administrative time limit for the procedures relating to rights to use a radio frequency shall be forty-two days. Where authorizations may be obtained by way of auction or tender this time limit may be extended by not more than eight months.

(4) The regulatory frequency management procedure regulated in this Act may be suspended until technical inspections necessary for coming to a decision in a certain matter are concluded and the international coordination is completed.

(5) In order to maintain the effective and proper use of the radio frequency spectrum, to suppress any parasitic noise, and for public health considerations defined by specific other legislation, the Authority may restrict or forbid the use of certain frequencies.

(6) In granting rights to use a radio frequency the applications of public service broadcaster shall be granted priority if it pertains to the public service obligations imposed upon the public service broadcasters.

(7) The frequency management authority shall refuse any application for the right to use a radio frequency if:

a) fulfillment of the application is not possible for technical reasons or frequency management purposes;

b) the assignment of a frequency would create harmful radio frequency interference with any existing or planned frequency use;

c) the applicant has overdue frequency fee payment liabilities toward the authority.

(8) If requested by the holder of right to use a radio frequency, the right to use a radio frequency shall be withdrawn. Further details of withdrawal shall be decreed by the Minister.

(9) The detailed regulations relating to rights to use a radio frequency allocated for transmission, frequency assignments and radio licenses are laid down in specific other legislation.

Section 70.

(1) In the course of the management of identifiers, uninterrupted and clear access to services, equal opportunities for all market operators, and the effective use of identifiers, asserting the interests of both users and service providers, shall be ensured.

(2) The subsequent acquisition of the exclusive right of use of subdomains of the allocated identifiers (reservation

permit), and use of reserved identifiers within defined subdomains or as individual identifiers (assignment permit) shall be permitted by the authority.

(3) The Authority shall decide with regard to the resource and time requirement of service provision.

(4) The authority shall control the use of identifiers; the rules of licensing and control procedures are laid down in specific other legislation.

Prevention of Interference

Section 71.

(1) Electronic communication equipment, high-frequency equipment or any other electric devices (machines, devices, wires, vehicles or other means) emitting high-frequency signals or causing any other side effects, as well as any apparatuses containing electric or electronic parts or components (hereinafter referred to collectively as "electric or electronic equipment"), which are capable of causing electromagnetic disturbance, or which are susceptible to electromagnetic disturbance, shall be operated so as not to cause any interference with the operation of other electric or electronic equipment, otherwise found to be normal in terms of susceptibility to interference.

(2) The operator of any equipment which interferes with the operation of communications apparatus shall be liable to prevent or to eliminate such interference.

(3) The authority shall request the operator of the electric or electronic equipment causing interference to eliminate such interference. Should the operator fail to suppress the interference regardless of the authority's warning within a period of time as may be technically required, the authority may decree the installation of an anti-interference device, relocation of the equipment or prevention of the interference in any other way.

(4) The decree mentioned in Subsection (3) shall be appropriate even if the electric or electronic equipment causing interference has acceptable noise emission characteristics and is lawfully used, with the exception if the interference can be eliminated at no cost at all or at low cost through relocation of the electric or electronic equipment affected by the interference though normally susceptible to interference, or through modification to the accessories thereof.

(5) The costs of eliminating the interference shall be covered by the owner of the electric or electronic equipment causing the interference if the said equipment does not conform to specifications or is used unlawfully, or by the operator of the electric or electronic equipment subject to interference if the said equipment fails to have normal interference susceptibility characteristics.

Chapter VII

Arbitration Tribunal for Communications

Section 72.

(1) The Council shall establish the Arbitration Tribunal for Communications.

(2) The competence and procedures of the Arbitration Tribunal for Communications shall be governed by Act LXXI of 1994 on Arbitration (hereinafter referred to as "Arbitration Act") subject to the exceptions set out in Subsections (3)-(6) of this Act.

(3) The Arbitration Tribunal for Communications shall hear the legal disputes referred to in Subsection (1) of Section 49 of this Act if the parties have entered into an arbitration agreement submitting to binding arbitration and if they are able to freely dispose over the subject of the proceeding.

(4) In the cases referred to in Subsection (3) the Arbitration Tribunal for Communications shall have exclusive jurisdiction, including those deemed international under Section 47 of the Arbitration Act; where any other arbitration tribunal is indicated to have jurisdiction it shall be replaced by the Arbitration Tribunal for Communications. Exclusivity applies only in the case of arbitration tribunals seated in the territory of Hungary.

(5) The exclusive jurisdiction of the Arbitration Tribunal for Communications conferred under this Section shall not apply to any individual contracts concluded before the entry of this Act into force stipulating the jurisdiction of

the Arbitration Tribunal of the Hungarian Chamber of Commerce and Industry. The legal dispute arising in connection with such contract shall remain to be submitted for arbitration to the Arbitration Tribunal of the Hungarian Chamber of Commerce and Industry, unless there is an agreement between the parties to the contrary.

(6) Members of the arbitration board of the Arbitration Tribunal for Communications shall be appointed by the Council for fixed terms, based on the General Manager's recommendation. Members of the Council and other employees of the Authority may not be appointed to participate in the arbitration board of the Arbitration Tribunal for Communications.

(7) The Arbitration Tribunal for Communications is vested with legal personality and it is seated in Budapest.

(8) The legal personality of the Arbitration Tribunal for Communications shall become effective as on the day of publication of its charter document in the Authority's official journal. Publication shall be ordered by the Minister upon receipt of notice from the Arbitration Tribunal for Communications, with which the charter document must be attached.

(9) The Arbitration Tribunal for Communications also has authority to conduct conciliation procedures according to Act LV of 2002 on Mediation.

Section 73.

(1) The Arbitration Tribunal for Communications' charter document shall specify:

- a) the tribunal's organizational structure;
- b) the rules for the appointment of members of the executive panel;
- c) the rules for the tribunal's representation;
- d) the powers and authorizations of the executive panel;
- e) the amount of founders' contribution.

(2) The Arbitration Tribunal for Communications shall derive its funding from:

- a) founders' contributions,
- b) arbitration tribunal fees charged,
- c) earnings on assets,
- d) other revenues.

(3) The Arbitration Tribunal for Communications consists of the arbitration board, the executive panel of minimum three and maximum five members selected from among the board members, and the Financial Department.

(4) The executive panel shall function as the supreme body of the Arbitration Tribunal for Communications. The rules for the appointment and operation of the executive panel are laid down in the charter document and other regulations of the Arbitration Tribunal for Communications.

(5) The Arbitration Tribunal for Communications shall be represented vis-a-vis third parties and in front of the court and other authorities by members of the executive panel, or by the persons they authorize in accordance with the regulations of the Arbitration Tribunal for Communications.

(6) The Arbitration Tribunal for Communications will develop its own regulations. The rules of procedure, that is to contain the provisions concerning costs and charges, shall be published.

(7) The assets of the Arbitration Tribunal for Communications may not be diversified and may be used as governed in the charter document solely in connection with conducting arbitration procedures and for improvements.

(8) The activities of the Arbitration Tribunal for Communications shall be limited to functions of arbitration and the related administration; the Tribunal may not engage in economic or business activities.

(9) The Arbitration Tribunal for Communications shall invest its liquid assets exclusively in government securities. The only real estate the Arbitration Tribunal for Communications may purchase is for its main offices.

(10) The State Audit Office shall audit the books of the Arbitration Tribunal for Communications.

(11) The reporting and accounting obligations of the Arbitration Tribunal for Communications shall be laid down in specific other legislation.

Chapter VII/A

National Council of Communications and Information Technology

Section 73/A.

(1) The National Council of Communications and Information Technology (hereinafter referred to as "NHIT") is comprised of eleven members created to participate in the execution of the Government's duties relating to information technology and communications.

(2) Three members of the NHIT shall be appointed and removed by the Prime Minister upon the minister's recommendation. A decision on their dismissal shall also fall within the competence of the Prime Minister upon the minister's recommendation.

(3) The remaining eight members of the NHIT - including the chairperson of the NHIT - must have at least five years experience in the field of communications and/or information technology.

(4) The President of the Republic shall have powers to appoint the chairman of the NHIT, pending the consent of the Prime Minister.

(5) Members of the Council shall be delegated by the following entities:

a) three members by the National Radio and Television Board;

b) one member by the Information Society Reconciliatory Forum;

c) one member by the Hungarian Academy of Sciences;

d) one member by the Association of Technical and Scientific Societies;

e) one member by the telecommunications trade organizations, jointly.

(6) The NHIT is subject to the law only, and its members cannot be instructed in their official capacity.

(7) Members of the NHIT shall be appointed for a term of four years.

(8) The provisions contained in Sections 34-37 of Act I of 1996 on Radio and Television Broadcasting shall also apply to members of the NHIT subject to the following exceptions:

a) the chairperson and members of the NHIT may not be engaged with any organization that is involved in communications, programming services, newspaper publishing and/or distribution or in frequency management as an executive employee, member of the board of directors, the supervisory board, or the board of trustees, and may not be engaged in employment with any such organization under contract, and may not be the owner (member, shareholder);

b) the members of the NHIT appointed by the Prime Minister may be public servants;

c) vacant positions must be filled by the body so authorized within thirty days;

d) grounds for exclusion shall also include, in addition to what is contained in Subsection (5) of Section 37 of Act I of 1996 on Radio and Television Broadcasting, where a member of NHIT is engaged in any conduct that is unbecoming;

e) any decision relating to conflict of interest, dismissal or expulsion may be adopted subject to two-thirds of the vote of the members of the NHIT.

(9) The provisions set out in Paragraph *a)* of Subsection (8) relating to conflict of interest - apart from the restriction applied to close relatives - shall remain in force for six months after the termination of membership.

(10) The members of the NHIT may not pursue political activities and may not make political statements and may not undertake any position in a political party.

Section 73/B.

(1) The NHIT shall make assessments and present recommendations on behalf of the Government.

(2) The NHIT shall present its recommendations to the Government as regards the info-communication sector (information technology-communications-media):

a) concerning the program for creating the information society, the dissemination of the information culture and strategic decisions relating to the information society;

b) for laying down guidelines relating to research and development; and

c) in connection with the perspective of people in general and the dissemination of culture; furthermore

d) for laying down regulations for the communications market, and equal treatment to all players of the market;

e) for ensuring harmony between Government and civil frequency management;

f) concerning the Hungarian position to be presented at universal and regional conferences on radio communications.

(3) The NHIT shall assess:

a) the definition of the general principles of frequency use, and the drafts of government decrees and decrees adopted by ministers in connection with a national plan for the allocation of frequency bands;

b) any modification of the allocation of radio frequencies for civil and other purposes, and any dispute between the two ministers concerned on the subject of frequency management;

c) the tenders submitted for the office of the director of the authority and the annual account of the authority;

d) any motion and decision related to communication and information technology if requested by the Government or a member of the Government;

e) the strategic policies concerning the regulation of the infrastructure of the information society and the program for creating the information society.

(4) The chairperson of the NHIT shall have authority to invite the representative of bodies concerned in the use of certain specific frequency bands, and in the services provided through them in an advisory capacity.

(5) The NHIT shall have a quorum when more than half of its members are in attendance. The NHIT shall adopt its decisions by a simple majority, and in the case of a tie vote the vote of the chairperson shall be decisive.

(6) The NHIT shall establish the rules of its operation itself.

(7) The State Audit Office shall oversee the financial management of the NHIT. The NHIT shall report once a year to the relevant committee of Parliament concerning its activities.

PART III

REGULATIONS RELATED TO ELECTRONIC COMMUNICATIONS SERVICES AND ACTIVITIES

Chapter VIII

CONDITIONS FOR THE COMMENCEMENT OF ELECTRONIC COMMUNICATIONS SERVICES

Authorization to Provide Electronic Communications Services

Section 74.

(1) Any natural or legal or unincorporated organization shall be entitled to operate in the Republic of Hungary an electronic communications network and to provide services through an electronic communications network subject to compliance with the conditions laid down in this Act and in specific other legislation.

(2) Providers of electronic communications services are authorized to operate electronic communications networks, to provide electronic communications services on electronic communications networks, and to apply to the Authority for individual licenses for the use of radio frequencies and identifiers, or for authorization for the construction of electronic communications structures.

(3) Where, according to specific other legislation, the right of use of radio frequencies in connection with the provisions of specific services is not contingent on individual licensing, the service may be provided freely.

(4) With the exceptions contained in Subsection (5), providers of electronic communications services shall establish the prices they intend to charge for electronic communications services within the framework of electronic communications regulations.

(5) Of the electronic communications services, the ceiling

a) of the prices of universal electronic communications services,

b)-c)

shall be decreed by the Minister in accordance with the provisions of Act LXXXVII of 1990 on the Establishment of Prices.

Special Conditions of the Commencement and Provision of Certain Electronic Communications Services

Section 75.

If the operator of an electronic communications network wishes to operate a wire (cable) broadcasting network, the operator shall establish a separate economic organization for this purpose if:

- a) it is controlled by the State or benefits from special rights, and
- b) it is dominant in a substantial part of the European common market in the provision of public electronic communications networks and publicly available telephone services, and
- c) it operates a wire (cable) broadcasting network which has been established under special or exclusive right in the same geographic area.

Notification of Electronic Communications Services

Section 76.

(1) Providers of electronic communications services shall notify the Authority for the purpose of registration of their intention to provide electronic communications services, indicating the proposed date of commencement.

(2) The notification shall contain the following information:

- a) the notifier's name (corporate name) and address (registered office);
- b) company registration number, and other official registration and identification codes prescribed in specific other legislation;
- c) name of the notifier's representative and the name (corporate name) and address (registered office) of the person appointed to communicate with the Authority;
- d) an indication and brief description of the electronic communications services, or the electronic communications network if the notifier operates an electronic communications network; the geographical area where the services are provided;
- e) proposed date for starting the provision of services.

(3) The Authority shall enter the notifier, based on the information supplied in the notification, into the register of electronic communications networks and providers of electronic communications services, and shall send a confirmation of registration within eight days from the date of registration along with a certificate - if requested by the communications service provider in writing - indicating the service provider's authorization to engage in the activities specified in Subsection (1) of Section 74.

(4) The Authority shall register the service provider under the class determined according to the description the service provider has supplied according to Paragraph d) of Subsection (2) by the system of classification adopted and published by the Authority for the organization of electronic communications networks and electronic communications services.

(5) The Authority shall refuse to admit an electronic communications service provider if the information supplied in the notification is insufficient for the identification of the service provider or the services it intends to provide, and shall order the service provider to re-submit the notification within eight days.

(6) Providers of electronic communications services shall notify the Authority of any changes in the information supplied in the notification, as well as the termination of the provision of electronic communications services within three days.

(7) The register maintained by the Authority shall be treated as public information and shall be published and made available to the public accordingly.

(8) The Authority shall forthwith send a copy of the notice referred to in Subsections (1) and (6), following registration, or forward it if it was sent by way of electronic means, to the National Security Agency. The National Security Agency shall be entitled to request information from the notifier concerning the technical specifications of the electronic communications services in question, and the notifier shall comply with such request within thirty days.

Commencement of Electronic Communications Services

Section 77.

(1) After the notification is sent the electronic communications service provider may begin to provide electronic communications services.

(2) If the service provider did not indicate in the notification the exact date of starting to provide electronic communications services, the date of actual commencement shall be conveyed - under the same rules applicable to notification - to the Authority for registration in writing within thirty days. In the event of failure to comply with this obligation the Authority shall impose a penalty.

(3) If this Act lays down additional requirements to be satisfied in connection with specific electronic communications services before starting to provide electronic communications services, the service provider shall be allowed to begin the provision of these only upon satisfying those conditions.

(4) The fees for the notification and registration procedures, for the procedure for granting individual licenses for the use of radio frequencies and identifiers, for which the service providers are generally liable, and also the regulatory procedures aimed at the control of individual obligations shall be paid by the entities engaged in electronic communications activities under the conditions laid down in specific other legislation.

Termination of the Provision of Electronic Communications Services and Dissolution of Electronic Communications Service Providers

Section 78.

In the event of the dissolution or death of an electronic communications service provider, or upon the termination of electronic communications services, the Authority shall cancel the electronic communications service provider from the register of electronic communications networks and services, and shall withdraw its authorization for the use of the identifier issued to such service provider, and shall make these actions public.

Section 78/A.

(1) If abolishing the provision of electronic communications services the provider of electronic communications services shall notify the Authority at least sixty days in advance, including an indication of the replacement provider of electronic communications services mentioned in Subsection (2).

(2) The provider of electronic communications services shall take measures to find a replacement provider of electronic communications services who is able to provide identical electronic communications services in the same geographical area to take over the data retained with a view to discharge the obligation described in Subsection (1) of Section 159/A.

(3) Where a provider of electronic communications services fails to comply with the obligation described in Subsection (2), or if unable to secure the services of a replacement service provider for the taking over of the data retained, the Authority shall take immediate action to designate a replacement provider of electronic communications services.

(4) In the event of the death of a natural person acting as a provider of electronic communications services, the Authority shall appoint the replacement provider of electronic communications services.

(5) The provider of electronic communications services, if undergoing liquidation or dissolution proceedings, shall forthwith notify the Authority accordingly, not later than the day of publication of the final decree of liquidation or the day of notification of the competent court of registry concerning dissolution. The Authority shall be entitled to request progress information from the liquidator or receiver. If the provider of electronic communications services fails to notify the Authority before the closing balance sheet is submitted concerning the actions described in Subsection (2), the Authority shall proceed to appoint the replacement provider of electronic communications services.

(6) In accordance with Subsections (3)-(5), the Authority shall:

a) first attempt to find a replacement from among the service providers providing identical electronic communications services in the same geographical area,

b) failing this, from among the service providers providing identical electronic communications services,

c) failing this, from among other providers of electronic communications services which are liable to retain data according to Section 159/A to take over the data retained and to process such data in accordance with Section 159/A.

(7) The costs for the transfer of data as specified above shall be covered by the provider abolishing the provision of electronic communications services.

(8) The provider of electronic communications services transferring the data files shall be liable to ensure that the data transferred are complete, of good quality and properly updated, whereas the provider of electronic communications services taking over the data files shall be responsible for safeguarding the data files received according to Section 159/A, and for complying with data requests.

Placing Electronic Communications Equipment on the Market

Section 79.

(1) Electronic communications equipment conforming to the basic requirements provided for in Subsections (1)-(3) of Section 80 may be freely placed on the market if they satisfy all other conditions stipulated in specific other legislation.

(2) The manufacturer of any radio equipment that makes use of radio frequencies or frequency bands whose use is not harmonized throughout the Community shall notify the Authority before placing these on the domestic market. This notification may also be submitted by the manufacturer of radio equipment established outside of Hungary, or its representative, if there is no Hungarian importer. A list of radio equipment that makes use of radio frequencies whose use has been harmonized is contained in specific other legislation laying down the rules for the use of frequency bands.

(3) Radio equipment falling within the sphere of non-civilian frequency management may be placed on the market as governed in relevant other legislation subject to the exceptions contained therein.

Section 80.

(1) Electronic communications equipment may not endanger the life, health, physical integrity and safety of users and other persons (basic safety requirements), and they shall be required to meet electromagnetic compatibility (EMC) requirements, as well as the requirements set out in legal regulations for the protection of health and on environmental protection.

(2) Above and beyond the provisions of Subsection (1), radio equipment shall either be designed by the manufacturer or applied by the user so as to efficiently use the radio spectrum and satellite orbits allocated to terrestrial and space radiocommunication, in addition to avoiding harmful radio interference.

(3) In respect of radio equipment or electronic communications terminal equipment included in certain classes, as defined in specific other legislation, one or more requirements listed below may be prescribed. According to these requirements, any given equipment shall be so constructed that:

a) it interworks via electronic communications networks with other apparatus and that it can be connected to interfaces of the appropriate type throughout the Member States of the European Economic Area;

b) it does not harm the electronic communications network or its functioning nor misuse electronic communications network resources, thereby causing an unacceptable degradation of service;

c) it incorporates safeguards to ensure that the personal data and privacy of the user and of the subscriber are protected;

d) it supports certain features ensuring avoidance of fraud;

e) it supports certain features ensuring access to emergency services;

f) it supports certain features in order to facilitate its use by users with a disability.

(4) Conformity of radio equipment and electronic communications terminal equipment with basic requirements shall be certified by a declaration of conformity issued upon a conformity assessment procedure prescribed in legal regulation.

(5) Existence of the declaration of conformity and documents originated in the course of, or prescribed by, the conformity assessment procedure (in particular, technical documentation and certificate of conformity issued by an accredited certification body), and conformity with the basic requirements shall be controlled by the authority within the framework of a market surveillance procedure.

Section 81.

High-frequency equipment and electric or electronic equipment shall be constructed so that the electromagnetic interference they cause remain below the level that would interfere with use of electronic communication equipment

and other electric and electronic equipment in normal circumstances.

Notification of Interfaces

Section 82.

(1) The operator of an electronic communications network or the service provider is required to notify the authority of the specifications of subscriber and network interfaces used in connection with the performance of electronic communications activities or for the provision of services, and shall make them available to the public.

(2) The interface shall be notified before the commencement of services.

(3) Where an interface conforms with national, European or international standards or standardized documents, the notification shall contain a reference to the applied document and shall indicate any options available; in other cases the notification shall have attached the technical specifications of the interfaces as prescribed in another legal regulation.

(4) The authority shall register the notified interface specifications; the register shall be considered public information.

Authorization of Construction Works on Electronic Communications Structures

Section 83.

(1) Unless otherwise prescribed by legal regulation, the installation, occupancy, continuation, remodeling and dismantling of electronic communications structures shall be subject to authorization. With the exception of antennas, antenna support structures and the accessory objects, these authorizations are granted by the Authority.

(2) Unless otherwise provided by legal regulation, authorization is not required for construction works on an electronic communications structure used by a business association or private individual exclusively for own purposes, or through which the internal electronic communications traffic of a closed group of users is handled, and the structure does not go beyond the boundaries of the business association's or private individual's own parcel of land.

Rights of Use of Radio Frequencies and Identifiers

Section 84.

(1) In the cases defined in legal regulation, installation of radio equipment, radio stations, radio networks and radio telecommunications systems shall be subject to frequency assignment; the operation of radio equipment, radio stations and radio telecommunications networks shall be subject to radio license for the duration laid down in specific other legislation.

(2) No individual license is required for the operation of radio equipment that makes use of radio frequencies or frequency bands whose use has been harmonized.

(3) The use of frequencies shall be in conformity with the legal regulations governing the national allocation of frequency bands and the regulations on band utilization - except for experimental operations and those which do not exceed a period of thirty days, and the testing of radio equipment that has already been placed on the Hungarian market but cannot normally be used in Hungary - and with the public health regulations, emission and noise suppression regulations laid down in specific other legislation.

(4) In connection with the right to use a radio frequency granted under Subsection (6) of Section 69, the public service broadcaster must comply with the public service obligations imposed in connection with the overall available and quality of public service programming. This means that, in particular, broadcasting must be provided continuously and in a specific quality in specific reception areas to which the broadcasting rights pertain, according

to the terms and conditions laid down in the authorization granting the right to use a radio frequency.

(5) Rights to use a radio frequency may be transferred in the cases and under the conditions laid down in specific other legislation.

(6) Rights to use a radio frequency for civilian purposes shall be subject to payment of a fee charged at the time the frequency is assigned and also during its use, as specified in legal regulation.

(7) Fees for the rights of use for radio frequencies shall be imposed so as to reflect the need to ensure the optimal use of these resources. The fees shall be imposed to ensure that they are objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and shall take into account the objectives of frequency management.

(8) Where the rights to use a radio frequency are withdrawn due to the amendment of the relevant legislation or the modification of an international commitment promulgated by law, the holder shall be entitled to compensation charged to the central budget; it shall, however, not include lost profits.

(9) In the case of succession of title, a frequency may continue to be used subject to a notification to be submitted to the Authority within thirty days of the date of succession. The authorities may refuse to acknowledge such notification if the conditions for the withdrawal of the radio license prevail.

Section 85.

(1) The State shall not have exclusive control over the Internet Protocol, electronic mail addresses and domain names.

(2) The use of identifiers - apart from what is contained in Subsection (1) - is subject to assignment authorization. Identifiers and their domains shall be assigned subject to prior reservation.

(3) For the reservation and use of identifiers a fee shall be charged. The related procedure - specified in legal regulation - shall be subject to the payment of an administrative service fee prescribed in specific other legislation.

(4) The amount of the fees for the reservation and use of identifiers shall be decreed by the Minister by the formula contained in Subsection (7) of Section 84.

Chapter IX

GENERAL RULES FOR THE PERFORMANCE OF ELECTRONIC COMMUNICATIONS ACTIVITIES

General Rules

Section 86.

(1) Providers of electronic communications services, within the framework of cooperation relating to the operation of public electronic communications networks and the interconnection of and access to these networks shall be required:

a) to operate the electronic communications networks with a background supported by common technical facilities so as to allow, in the cases defined in other legal regulations or international agreements, the establishment of interconnection either directly or by the insertion of appropriate interface units, network components, elements, equipment and services, capable of operating as a single unit. In the interest thereof, electronic communications operators shall cooperate in good faith and on a non-discriminatory basis, and shall mutually provide access to all technical data required in the process;

b) to cooperate in working out the technical, contractual and economic background for the joint use of electronic communications structures and installations;

c) to ensure the safety of electronic communications networks and protection against unauthorized access;

d) to work together with other service providers in any extraordinary period of emergency as instructed in specific other legislation;

- e) to observe the regulations on compulsory facility and property sharing;
- f) to observe the statutory provisions on environmental protection, on the protection of life, health and physical integrity, and the regulations on electromagnetic emissions;
- g) to pay special attention to the protection of consumers in the process of cooperation.

(2) Operators of public telecommunications networks shall be entitled to negotiate in good faith concerning the interconnection of networks, and must enter into negotiations when so requested by other service providers.

(3) Service providers shall be permitted to use any business secrets they have obtained in the course of negotiations of network contracts only for the purposes of these negotiations, and shall not be authorized to convey such business secrets to other persons or divisions, if the conveyance of these business secrets would result in unfair advantages.

Separation of Activities

Section 87.

(1) Providers of electronic communications services engaged in any activities in other sectors under exclusive or special rights shall keep separate accounts for the costs, expenses and revenues on the activities associated with the provision of electronic communications services, as if these activities were carried out by another business entity.

(2) Universal service providers shall keep separate accounts for the costs, expenses and revenues on the activities associated with the provision of universal services, and also for the assets and liabilities.

Scope and Common Provisions on Network Contracts

Section 88.

(1) Providers of electronic communications services shall enter into network contracts under the terms and conditions laid down in electronic communications regulations.

(2) Network contracts shall be made in writing and shall contain provisions on:

- a) the subject and purpose of the contract;
- b) the services to be provided, and the quality and time limits agreed upon;
- c) the price;
- d) the maintenance of the operability of networks;
- e) the interoperability of services;
- f) termination and the expiry of contracts concluded for a fixed period, and the notice period for contracts concluded for an indefinite period;
- g) the procedure for meeting the requirements of data protection in the course of provision of services;
- h) the sanctions in connection with any breach of contract;
- i) the method of assuming responsibility for services provided to third parties, and the extent thereof.

(3) Any network contract between a provider of electronic communications services and any affiliate or parent of or under joint management with, the provider of electronic communications services, shall be submitted to the Authority - for information purposes - within 15 days from the date of conclusion of the contract.

(4) The parties shall, in the course of discharging the contract, properly inform each other concerning the merits of the contract planned for the upcoming six-month period, also including amendments.

(5) Concerning the nullity of a network contract and the liability relating to the network contract, the relevant provisions of the Civil Code shall be observed, unless this Act contains provisions to the contrary.

(6) Electronic communications service providers shall be liable for damages caused to the users by late performance or lack of conformity in discharging network contracts, with the exception of lost profits.

(7) The term of limitation for claims arising from electronic communications network contracts shall be two years.

Multiplexing Service Contract

Section 89.

(1) Multiplex technical service providers shall provide services under reasonable and fair terms and conditions and in due observation of the principle of equal treatment.

(2) If the contract between the parties is not concluded within thirty days of the offer, either party may initiate the proceedings specified in Sections 49-51 to settle the dispute. The Authority shall have powers to draw up the contract in accordance with market conditions.

Facility Sharing

Section 90.

(1) Service providers holding title or the right of use of electronic communications structures may be compelled to negotiate a contract for the sharing of facilities or property (including physical collocation) when it is required by a service provider that is deprived of access to viable alternatives because of the need to protect the environment, public health, public security or to meet town and country planning objectives. This obligation shall not apply to sections of buildings designated for use by customers.

(2) Service providers holding title or the right of use of electronic communications structures shall not be subject to contracting obligation if any of the following circumstances exists:

- a) fulfillment of the offer prevents the existing structure from being safely or normally used;
- b) the beneficiary fails to assume the verified costs necessary for the establishment and operation of facility sharing;
- c) facility sharing imposes serious harm to reasonable private interests originating from other legal relations;
- d) unable to comply with the request for facility sharing due to reasons connected to the normal use of electronic communications structures or electronic communications apparatuses, or if physical collocation is not available.

(3) If an electronic communications structure undergoes reconstruction for the purpose of facility sharing as referred to in Subsection (1), costs of the reconstruction shall, with the exception of the verified costs of the reasonable renovation, be borne by the beneficiary user. Costs of facility sharing shall be apportioned between the parties consistent with the amount of use.

(4) If a service provider holding title or the right of use of electronic communications structures is exempted from contracting obligation in accordance with Paragraph d) of Subsection (2) of this Section, the beneficiary service provider making an offer for facility sharing may initiate the making of the structure suitable for joint use. The parties shall come to an agreement concerning the distribution of costs of works made in order to be able accommodate facility sharing in the percentage of their interests.

(5) If the parties fail to reach an agreement concerning the offer for facility sharing, and the costs and maintenance, the provisions for the settlement of legal disputes shall apply.

Analogous Use of Identifiers

Section 91.

(1) Service providers shall, in the interest of operating their networks in an integrated system of identifiers, use identifiers in the technical subsystems of their networks assigned thereto in the NPAI.

(2) Service providers shall, for operating their networks in an integrated system of identifiers, accept reasonable identifier extensions, carried out within each other's spheres of interests, within the framework of the NPAI, and facilitate their realization using their own means in a non-discriminatory fashion.

(3) All disputes arising in connection with the obligation of cooperation referred to in Subsection (2) shall be settled according to the provisions for the settlement of legal disputes.

Cooperation in Covert Investigation and Covert Information Gathering Operations, and During Extraordinary Periods of Emergency and in the

Interest of National Defense

Section 92.

(1) Electronic communications service providers shall be required to cooperate with organizations authorized under specific other legislation by another act to conduct covert investigations and covert information gathering operations. Providers of electronic communications services shall operate facilities in their electronic communications systems so as not to prevent or block covert investigations and covert information gathering operations.

(2) At the request of the National Security Agency made in writing, providers of electronic communications services are required to come to an agreement with the National Security Agency within the time limit prescribed in specific other legislation concerning the application of the means and methods of covert investigation and covert information gathering operations.

(3) Providers of electronic communications services are required to inform the National Security Agency directly, concerning any activities, services, products, or any changes therein, to which the notification requirements prescribed under Subsections (1) and (6) of Section 76 do not apply, which, however, have the capacity to effect or influence the functioning of covert investigation and covert information gathering operations through the conditions, means, methods and procedures the providers of electronic communications services are required to provide.

(4) Providers of electronic communications services shall be required to ensure, at the time of commencement of providing the service as provided for in specific other legislation, the applications and means of access to the equipment and areas of operations, and the names of contact persons, concerning the consignments and messages forwarded through its electronic communications network and the data and information processed by the service provider to be obtained for the purposes of covert investigations and covert information gathering operations. In addition to the above, service providers shall also provide, when so requested by the National Security Agency, the means of access up to the exit point for the purposes of covert investigations and covert information gathering operations to the extent necessary as permitted by the technical characteristics of the service.

(5) Providers of electronic communications services shall be required to install the technical means necessary to comply with the requirements set out in Subsection (4) in connection with electronic communications services, such as a basic monitoring subsystem, with access terminated at the exit point, for the National Security Agency within six months from the date of receipt of notice concerning the basic requirements in terms of technical means. All costs for the installation of a basic monitoring subsystem shall be borne by the service provider.

(6) Providers of electronic communications services shall supply - upon individual requests - information to agencies authorized to conduct covert investigations and covert information gathering operations, by way of direct electronic data link, via a platform installed by the provider of electronic communications services in compliance with the technical specifications supplied by the National Security Agency. If the electronic data link installed is unable to support access to the data requested, the provider of electronic communications services shall supply the data in question in writing or - if so requested - on electronic data medium. Providers of electronic communications services shall supply data to agencies authorized to conduct covert investigation and covert information gathering operations that did not request an electronic data link in writing or on electronic data medium. All costs and expenses incurred in connection with data supply facilities shall be covered by the providers of electronic communications services, and all data shall be supplied by the providers of electronic communications services free of charge.

(7) In the cases defined by legal regulation, electronic communications service providers shall cooperate with operators of private networks.

(8) For the elimination of breakdowns induced by reasons attributable to technical and traffic conditions, natural disasters and other reasons, service providers shall have contingency plans, with content defined in specific other legislation and reviewed and updated on a regular basis, for response to emergencies and operating difficulties, and shall also have reserves in the quantities and of the composition required to fulfil the responsibilities prescribed by legal regulations on preparations.

(9) In the interest of working out and executing action plans applicable in the event of extraordinary emergency situations, electronic communications service providers shall cooperate, in a manner defined in specific other legislation, with each other and with the competent agencies.

(10) Electronic communications service providers shall be entitled to compensation with respect of their justified costs incurred in connection with the measures taken according to the action plans or services provided according to the relevant legal regulations in the course of extraordinary periods of emergency and in the interest of national

defense.

Space-Segment

Section 93.

Space-segment suppliers shall be authorized to verify that the satellite earth station network for use in connection with the space segment of the supplier in question is in conformity with the published conditions for access to such person's space segment capacity.

Chapter X

COMPLIANCE WITH CERTAIN CONDITIONS OF THE PROVISION OF ELECTRONIC COMMUNICATIONS SERVICES BY THIRD PARTIES

Sharing of Property or Facilities

Section 94.

(1) Town and country planning and development, road and public utilities construction and rehabilitation projects, and the implementation and renovation of other buildings and structures shall be executed so as to accommodate the installation of electronic communications facilities as provided for in specific other legislation.

(2) As a general principle, electronic communications equipment shall be installed on public land or by way of sharing existing electronic communications assets and facilities or in facilities owned by other public utility service providers.

(3) Electronic communications facilities may be installed on public land owned by the local self-government if no state-owned public land is available for such purpose, or if the installation on the latter is not possible for technical reasons or subject to prohibitive provisions of a legal regulation. The local self-government may refuse consent for the facilities to be installed on public land it controls or to grant permission for use of the land only if granting consent is likely to cause injury to the interest of the municipality or its population of extraordinary proportions, or if granting permission for the use of land is prohibited by statutory provision.

(4)

Section 95.

(1) If the installation of electronic communications structures required for publicly available electronic communications services is not possible on public land or by way of sharing existing electronic communications facilities, and failing an agreement between the public utility service provider or the owner (operator, user) of the private land and the service provider, the electronic communications structures in question may also be installed under the provisions set out in this Section using the facilities of the public utility service provider as the first choice, or using private land (affected real property) as the second choice.

(2) Upon the service provider's request, the Authority may adopt a resolution to grant rights of way or other right of use and to restrict the owner of the affected real estate property for reasons of public policy embodied by the publicly available electronic communications services if the service provider is able to verify:

a) to have taken every reasonable step to reach an agreement with the owner of the affected real estate property,

b) that it is not possible to install the electronic communications equipment on public land or by way of sharing existing electronic communications facilities, or in connection with private property, using the facilities of other public utility service providers due to environmental protection, public health, public security and building regulations and to the unique nature of electronic communications networks.

(3) A decision relating to the request referred to in Subsection (2) may be adopted as part of the procedure for the authorization of installation of an electronic communications structure.

(4) The Authority shall notify the owner of the affected real estate property concerning the opening of the proceedings.

(5) The resolution of the Authority shall specify:

- a) the publicly available electronic communications service for the benefit of which the restriction was imposed;
- b) the particulars of the rights of way or other right of use, such as the entitlement of the authorized representative of the electronic communications service provider in question to enter the affected property for checking the electronic communications equipment, and for maintenance and (emergency) repair purposes;
- c) the location of the electronic communications equipment and the type of installation;
- d) the technical specifications of the electronic communications equipment that may be installed on the electronic communications structure, and the related limit values specified in the relevant environmental protection, public health, public security and building regulations.

Section 96.

(1) Apart from state-owned public land and the owners of electronic communications structures involved in the sharing of facilities, the owner of the real estate property affected shall be entitled to compensation corresponding to the measure of restriction. In addition to the foregoing, the owner shall also be eligible to enforce the rights afforded in Subsection (2) of Section 108 of the Civil Code.

(2) The service provider on whose behalf the electronic communications structure is installed shall be required to restore the original state of the environs when the building work is done. The owner of another public utility installation, private property or public land owned by the competent local government used for the installation of communications facilities may agree with the developer so that the environs be restored to a higher standard relative to the original state.

(3) The electronic communications equipment shall be installed on real properties so as to cause the least amount of disturbance under the given circumstances to the owners of the adjoining real properties in exercising their rights, within the limits specified by environmental protection, public health, public security and building regulations. In such case, the disturbance resulting from the installation and operation of the facility shall not be considered as unnecessary disturbance as defined in the Civil Code.

Section 97.

(1) Where the removal or relocation of a lawfully installed structure is necessary, such work shall be carried out at the expense of the party on whose behalf it is carried out. A structure shall be considered as having been lawfully constructed if a continuation permit was issued for it according to the provisions of Section 48 of Act LXXXVIII of 1997 on the Formation and Protection of the Built Environment.

(2) If the relocation entails modernization or improvement of an existing structure, the related costs shall be allocated to the parties interested in proportion to their interests.

Section 98.

Developers of electronic communications structures shall be entitled to use waterways, canals, natural lakes, and the beds and channels thereof and also the airspace of the country for electronic communications purposes.

Public Obligations of Land Owners Related to the Protection of Electronic Communications

Section 99.

(1) In the interest of the operation of electronic communications, land owners shall be required to remove the trees, bushes, branches and roots which may endanger such operation. Costs incurred by such removal shall be borne by the electronic communications service provider affected.

(2) Land owners shall be requested in writing by the electronic communications service provider concerned to fulfil the obligation included in Subsection (1). In the event of the land owner's failure to comply within 15 days from the date of receipt of the relevant notice, the Authority may, at the service provider's request, order the landowner in question to carry out such work.

PART IV

OBLIGATIONS OF ELECTRONIC COMMUNICATIONS SERVICE PROVIDERS

Chapter XI

OBLIGATION TO BE IMPOSED UPON PROVIDERS OF ELECTRONIC COMMUNICATIONS SERVICES

Section 100.

(1) Unless otherwise provided for in this Act, the Authority may not impose obligations on service providers without significant market power other than the obligations defined in this Chapter, nor shall they extend such obligations.

(2) To achieve connection between subscriber access points, the subscriber access service provider shall be required, as decreed by the Authority, to interconnect its network with the network of another service provider. Accordingly, the Authority may impose on the service provider the obligations specified in Sections 104, 106 and 107, or other obligations specified in this Act.

(3) To the extent that is necessary to ensure accessibility for end-users to digital radio and television broadcasting services, the Authority shall be able to impose obligations on service providers- to the extent laid down in specific other legislation - to provide access to other service providers to the other facilities referred to in the Authority's resolution under fair, reasonable and non-discriminatory terms.

(4) In the event of the service provider's failure to comply, the Authority shall issue a compulsory order upon request or ex officio to the service provider.

Section 101.

The Authority, when imposing the obligations referred to in Section 106, may lay down technical or operational conditions to be met by the provider and/or beneficiaries of such access, where necessary to ensure network integrity.

Chapter XII

OBLIGATIONS OF SERVICE PROVIDERS WITH SIGNIFICANT MARKET POWER ON THE WHOLESALE MARKET

Transparency

Section 102.

(1) The Authority may impose obligations for transparency in relation to interconnection and/or access, requiring service providers with significant market power to make public specified information, such as accounting information, technical specifications, network characteristics, terms and conditions for supply and use, and prices.

(2) Where a service provider with significant market power has obligations of non-discrimination, the Authority may require that service provider to submit the network contracts to which this obligation pertains to the Authority within eight days from the date of signing.

Section 103.

(1) The Authority, in order to ensure transparency, may require the service provider to publish a reference offer, which shall be broken down into components as ordered, and may specify the precise information to be made available, the level of detail required and the manner of publication.

(2) Where - subsequent to the date specified in Section 168 - a service provider has obligations concerning unbundled access to the twisted metallic pair local loop by order of the Authority or as required by this Act, the service provider with significant market power shall be required to publish a reference offer containing at least the elements set out in specific other legislation.

(3) The service provider required to publish a reference offer (for the purposes of this Section hereinafter referred to as "notified operator") shall be bound to this reference offer in the form it was published containing the conditions specified by law, or by the Authority on the strength of a market analysis with respect to any service provider requesting interconnection and/or access (for the purposes of this Section hereinafter referred to as "beneficiary service provider"), and may not deviate from it in the network contract even with the consent of the beneficiary service provider.

(4) The notified operator shall provide the services contained in the reference offer to the beneficiary service provider under

- a) transparent,
- b) non-discriminatory,
- c) and fair conditions, and
- d) broken down into components according to market needs as specified by legal regulation, or by the Authority based on the findings of a market analysis.

(5) Detailed regulation concerning reference offers are laid down in specific other legislation.

Obligation of Non-Discrimination

Section 104.

(1) The Authority may impose obligations of non-discrimination to service providers with significant market power in relation to interconnection and/or access.

(2) Obligations of non-discrimination shall ensure, in particular, that the service provider with significant market power:

- a) applies equivalent conditions in equivalent circumstances to other service providers providing equivalent services; and
- b) provides services and information to others under the same conditions and of the same quality as it provides for its own services, or those of the service providers it controls.

(3) Within the meaning of this Act it shall, in particular, be deemed a violation of the principle of non-discrimination where the service provider with significant market power:

- a) stipulates the provision of network services under technical specifications that only one or very few service providers are able to satisfy;
- b) sets the prices of network services - including any discount on business volume - allowing only one or very few service providers to benefit from the best available terms and conditions with regard to tariffs and prices;
- c) applies undue terms and conditions in its contracts with subscribers, whereby the change in the relation between the subscriber and the service provider endangers any current or future agreement the subscriber has with other providers of electronic communications services for electronic communications services;

d) the contracts with subscribers contain any clause to preclude the use of services provided by other electronic communications service providers.

Obligation of Accounting Separation

Section 105.

(1) The Authority may - in addition to what is contained in Section 87 - impose obligations by resolution on service providers with significant market power for accounting separation in relation to specified activities related to interconnection and/or access.

(2) In connection with accounting separation, the Authority may require a service provider with significant market power to make transparent its wholesale prices and its internal transfer prices, as well as other data and information to ensure compliance where there is a requirement for transparency, non-discrimination and for avoiding price squeeze.

(3) The Authority may - within the framework laid down in specific other legislation - specify the format and accounting methodology the service provider with significant market power is required to use concerning accounting separation, as well as the contents of statements.

(4) The statement of accounting separation shall be reviewed each year by an auditor that is independent from the service provider at the expense of the service provider with significant market power, and who shall certify if in conformity with electronic communications regulations. The certificate of the auditor shall be made public.

(5) The Authority shall have the power to use the data contained in the statement of accounting separation without restriction to the extent required for its duties, or may supply them to the competition authority to the extent necessary, of which the service provider affected shall be informed at the same time.

Obligations Relating to Access and Interconnection

Section 106.

(1) Service providers with significant market power are required to meet (technologically and economically) reasonable requests for access to, and use of, specific network elements and associated facilities, in accordance with the obligation imposed by the Authority.

(2) The Authority may impose the obligation referred to in Subsection (1), in particular, in situations where the Authority considers that denial of access, withdrawal of earlier access or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market at the level of subscriber services, or would not be in the subscribers' interest.

(3) The Authority, when imposing the obligation contained in Subsection (1), may, in particular, require the service provider:

a) to give third parties access to specified network elements and/or facilities, including unbundled access to the local loop and bit-flow access;

b) to negotiate in good faith with the parties requesting access;

c) not to withdraw access to services and/or facilities already granted;

d) to provide specified network services on a wholesale basis for resale by third parties, such as in particular voice transmission wholesale service over the internet and flat-rate voice transmission wholesale service over the internet;

e) to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services;

f) to provide collocation or other forms of facility sharing, including electronic communications structures;

g) to provide specified services needed to ensure interoperability of end-to-end services to end-users, including access to facilities for intelligent network services or roaming on mobile radiocommunication networks;

h) to provide - under proper safety and application requirements - access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;

i) to interconnect networks or network facilities.

(4) The Authority shall decree the detailed rules for compliance with the obligation set out in Subsection (1), and

may impose compulsory technical and operational criteria for the notified operator and for the beneficiary service providers alike, as are necessary to ensure network integrity.

(5) When the Authority is considering whether to impose the obligations referred in Subsection (1), it shall take account in particular of the following factors:

- a) 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;
- b) the feasibility of providing the access proposed, in relation to the capacity available;
- c) the initial investment by the facility owner, bearing in mind the risks involved in making the investment;
- d) the need to safeguard competition in the long term;
- e) where appropriate, any relevant intellectual property rights;
- f) the provision of pan-European services.

(6) The terms and conditions of contracts of interconnection and/or access, and the related rules of procedures concerning the relevant offers and negotiations are contained in specific other legislation.

(7) Service providers with significant market power may not render the availability of access to network services or facilities contingent upon the use of other services or facilities which are not required for the network services in question.

Common Provisions for Facility Sharing and Collocation

Section 107.

(1) A service provider that is designated by the Authority as having significant market power (for the purposes of this Section hereinafter referred to as "notified operator") on which the Authority has imposed the obligation of facility sharing and collocation shall - in addition to the obligations set out in Section 90 - supply the information prescribed in this Section to the beneficiary, and to cooperate with the beneficiary service provider according to the following rules.

(2) The following shall be supplied in connection with collocation services:

- a) information on the notified operator's relevant sites;
- b) collocation options at the sites indicated under the previous Paragraph (including physical collocation, distant collocation and virtual collocation);
- c) in connection with virtual collocation, equipment characteristics and restrictions, if any, on equipment that can be collocated;
- d) conditions of entering the property and admission to areas where the equipment, network components, exchanges and servers are located;
- e) the rules for the installation, maintenance and repair of the beneficiary's or the notified operator's equipment used by the beneficiary service provider;
- f) safety standards;
- g) conditions for beneficiary service providers to inspect the sites where collocation has been refused due to objective technical reasons, and the rules for seeking remedy;
- h) conditions for access to information systems, such as in particular, conditions for access to notified operator's operational support systems, information systems or databases for pre-ordering, provisioning, ordering, maintenance and repair requests and billing;
- i) the rules of cooperation between the parties concerning collocation and facility sharing, and their rights and obligations relating to mutual data protection and data disclosure.

(3) Property sharing shall be accomplished by selecting the option that can be implemented at the lowest cost.

(4) Notified operators shall supply, for the beneficiary service provider's equipment, the following at the expense of beneficiary service provider:

- a) electricity,
- b) connection to the notified operator's network.

(5) Requirements may be imposed with respect to the equipment used by the beneficiary service provider only for the following purposes:

- a) protection of life and health;
- b) to avoid electromagnetic incompatibility;
- c) compliance with the notified operator's interface specifications;

- d) compliance with the notified operator's cable network characteristics;
- e) equipment configuration to best accommodate the space available under property sharing;
- f) fire regulations.

(6) The regulations on access and interconnection related to property sharing, in particular the rules for the apportioning of costs shall be laid down in specific other legislation.

(7) If the service provider is required to publish a reference offer, the requirements contained in this Section shall be indicated in the reference offer.

Cost Orientation and Price Control

Section 108.

(1) The Authority, in order to promote efficiency and sustainable competition and maximize consumer benefits, and - in situations where a market analysis indicates that a lack of effective competition means that the operator concerned might sustain prices at an excessively high level, or apply a price squeeze - shall impose the following obligations on service providers with significant market power for the provision of specific types of interconnection and/or access:

- a) obligations for cost orientation of prices;
- b) obligations concerning cost accounting and pricing systems, and obligations relating to price controls; and
- c) the possibility of using a cost accounting system different from what has been used by the service provider to control the cost-efficiency of services.

(2) The Authority, when imposing the obligations referred to in Subsection (1), shall take into account the investment made by the effective service provider, the reasonable rate of return on adequate capital employed, taking into account the risks involved, and may also take account of prices available in comparable competitive markets, including to weight the prices charged by service providers being in similar situation with the service provider with significant market power affected.

(3) Where an operator has an obligation referred to in Paragraph a) of Subsection (1), the burden of proof of cost orientation shall lie with the notified operator. For the purpose of calculating the cost orientation of efficient provision of services, the costs of providing the services shall be taken into consideration only to the extent not to exceed the reasonable rate of return on investment expected by the service provider, including the risks involved.

(4) In relation to the case referred to in Paragraph c) of Subsection (1), the Authority shall ensure that a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs, as well as the rules applicable for the duration of allocation.

(5) The Authority may order the service provider to change its prices, or may determine the price the service provider is allowed to charge for the network services it provides based on the service provider's subscription charges, or the prices for network services.

Chapter XIII

OBLIGATIONS OF SERVICE PROVIDERS WITH SIGNIFICANT MARKET POWER IN THE RETAIL MARKETS

Obligations Relating to the Prices of Subscriber Services

Section 109.

(1) Where, as a result of a market analysis, the Authority determines that a given retail market it has identified is not effectively competitive, and it concludes that obligations imposed under Sections 102-108 or Section 111 would not result in the achievement of the objectives set out in this Act, it shall impose the following regulatory obligations

on service providers identified as having significant market power on that retail market so as to protect the interests of end users and subscribers and to promote effective competition:

- a) to refrain from charging excessive prices;
 - b) to refrain from setting unduly low prices - by which to inhibit market entry or restrict competition - in comparison to the prices charged by competitors as are based on a higher degree of efficiency;
 - c) to refrain from showing undue preference to specific end users and subscribers; or
 - d) to refrain from unreasonably bundling services.
- (2) The obligations imposed under Subsection (1) must be proportionate with the intended objective.
- (3) The Authority may impose on service providers which are identified as having significant market power and are subject to retail tariff regulation the obligation to implement appropriate accounting systems, including the principles, the format and accounting methodology to be used, as well as the contents of statements.
- (4)

Minimum Set of Leased Line Services

Section 110.

(1) The Authority may impose obligations, set out under specific other legislation, on service providers identified as having significant market power in a leased line market concerning the minimum set of leased line services.

(2) The Authority's resolution referred to in Subsection (1) may contain provisions concerning transmission capacity and technical characteristics relating to the minimum set of leased line services.

Carrier Selection

Section 111.

(1) Service providers identified as having significant market power on any market that has been defined as relevant by the Council shall be required to enable their subscribers - as provided for in specific other legislation - to access and use the services of any interconnected provider, including internet service providers, of publicly available fixed telephone services on a call-by-call basis or by means of pre-selection.

(2) The Authority, as a result of market analysis and in connection with imposing the obligations, may compel service providers identified as having significant power on markets other than those referred to in Subsection (1) to comply with the obligation of carrier selection subject to conditions contained in Subsection (1), or otherwise, as described by the Authority. The Authority may impose the obligations set out in this Section based on the criteria specified in Subsections (2) and (5) of Section 106.

(3) Subscriber access service providers subject to the obligation to permit carrier selection shall provide the possibility of carrier selection in accordance with Subsection (4), in the form of:

- a) carrier selection by call origination; or
- b) carrier selection by call termination.

(4) Any beneficiary service provider that is entitled to enter into a network contract with a subscriber access service provider shall be given the option in relation to all interconnection points offered by the subscriber access service provider to select as to whether to conclude an interconnection contract with the subscriber access service provider for the carrier selection version contained in Paragraph a) or b) of Subsection (3), or both versions of carrier selection. If for either call direction the service providers have entered into an interconnection contract for both versions, subscribers shall have the option to use either version of carrier selection.

(5) As regards Paragraph b) of Subsection (3), where the call is completed through a carrier service provider retail prices shall be established under the principle of non-discrimination, whereby the difference between the price of the access and/or interconnection service provided by the carrier service provider and the prices charged for local calls completed to the same destination without the involvement of a carrier shall be incorporated into the retail price when the interconnection or access contract enters into force, or as of the first day of the month following the operative date of the access or interconnection service charges as modified by the parties. If this obligation is breached the carrier service provider may file for legal action. The Authority shall monitor compliance with this

obligation in the framework of market surveillance.

(6) Service providers identified as having significant market power on any relevant market shall charge prices for network services in relation to carrier selection on the basis of cost-orientation.

(7) Service providers shall enable carrier selection under the terms and conditions laid down in the subscriber contracts in the course of concluding and discharging their network contracts.

(8) In the cases of carrier selection, subscriber access service providers shall be authorized, under an agreement with the carrier service provider, to bill to and collect from, subscribers the prices charged by the carrier service provider.

(9) The subscriber contracts of service providers required to provide carrier selection may not contain any clause to restrict or limit carrier selection.

(10) The costs of carrier selection, as pertaining to any one carrier service provider or subscriber, shall be borne by the carrier service provider, and the costs of making the necessary changes in the network of the subscriber access service provider for providing carrier selection shall be borne by the subscriber access service provider.

Chapter XIV

MISCELLANEOUS PROVISIONS RELATING TO SERVICE PROVIDERS IDENTIFIED AS HAVING SIGNIFICANT MARKET POWER

Special Regulations Aimed to Promote Use of the Internet

Section 112.

(1) Service providers identified as having significant market power in a given market for internet access via fixed public telephone networks (for the purposes of this Section hereinafter referred to as "notified operator") shall be required to publish a reference offer for the provision of voice transmission wholesale service over the internet and flat-rate voice transmission wholesale service over the internet at prices set on the basis of cost-orientation.

(2) Notified operators shall be required to provide flat-rate voice transmission wholesale service over the internet as referred to in Subsection (1) only at such a place and up to such a time, where and as long as the notified operator is unable to provide broadband services to the subscribers.

(3) When calculating the prices for regular and flat-rate voice transmission wholesale service over the internet notified operators shall use a cost accounting system taking into consideration the differences inherent in these services by comparison to call origination wholesale services over fixed public telephone networks (in particular in comparison to longer completion time in the case of voice transmission wholesale service over the internet), and also taking into account the necessary derogation and additional provisions.

Section 113.

(1) Notified operators, in connection with the completion of internet calls of subscribers, shall be required to cooperate with those providers of electronic communications services that have concluded network contracts with the internet service providers for the transmission of subscriber internet calls (for the purposes of this Section hereinafter referred to as "carrier service provider"), and with the internet service provider, whereas:

a) subscriber internet calls shall be transmitted to the internet service provider's network access point by the carrier service provider selected by the subscribers by way of the carrier service provider contracting voice transmission wholesale service over the internet, or flat-rate voice transmission wholesale service over the internet from the notified operator (call origination model); or

b) in connection with subscriber internet calls directed toward the internet service provider, the notified operator - regardless of whether a carrier service provider has been selected - must turn over the call to the carrier service provider that is liable to transmit the subscribers' internet call to the internet service provider's network access point under contract with the internet service provider, and that is receiving regular and flat-rate voice transmission

wholesale service over the internet from the notified operator (number translation model).

(2) If internet access is provided by the carrier service provider, the provisions contained in Subsection (1) shall apply mutatis mutandis, exclusive of the agreements between carrier service providers and internet service providers.

(3) In the cases defined under Subsection (1), the price of subscriber calls is made up of the price charged by the notified operator for the internet call and the tariff component that is due to the carrier service provider. The retail prices for flat-rate voice transmission wholesale service over the internet shall be determined by the carrier service provider and its partner internet service provider; there is no direct relation between the flat-rate fee payable to the notified operator and the retail price. The carrier service provider and the internet service provider - if not the same - shall agree on the allocation of the carrier service provider's share of the proceeds on a commercial basis.

(4) If the carrier service provider receives voice transmission wholesale service over the internet or flat-rate voice transmission wholesale service over the internet from the notified operator, the notified operator shall be authorized, under an agreement with the carrier service provider, to bill to and collect from, subscribers the charges due to the carrier service provider, or the charges due to internet service provider that is party to network contract with the carrier service provider.

Section 114.

(1) Notified operators shall apply the models described in Subsection (1) of Section 113 and Subsection (3) of Section 113 in connection with its business divisions, and any affiliate or parent service provider of or under joint management with the notified operator, and shall ensure that internal transfer prices and the prices charged to third persons for network services are set on the basis of cost-orientation. In the application of this Subsection, carrier service provider shall mean to be understood as the division that is liable to transmit the call to the internet service provider's network access point or to the division that provides internet services.

(2) Where the parties' agreement concerning the transmission of subscriber internet calls differs from what is contained in Subsection (1) of Section 113, the notified operator shall be required to meet reasonable requests for interconnection and/or access services at prices similar to those charged to its own business divisions, and any affiliate or parent service provider of or under joint management with the notified operator, and shall ensure that internal transfer prices and the prices charged to third persons for network services are set on the basis of cost-orientation.

Section 115.

The provisions of Section 168 shall also apply to the obligations specified under Sections 112-114.

Obligation to Avoid a Price Squeeze

Section 116.

(1) Service providers identified as having significant market power on a relevant market shall set the prices charged for network services provided on this market so as to avoid a price squeeze, taking into consideration the prices of must-carry subscriber services.

(2) A service provider that is required to publish a reference offer shall, when reducing the prices of must-carry subscriber services by itself or by any affiliate or parent service provider of or under joint management with the service provider, reduce the prices quoted in the reference offer to the same extent as in compliance with the obligation set out in Subsection (1), and shall notify the Authority accordingly, and shall make it available to the public by the same procedure used for reference offers.

(3) Subsection (2) shall not apply where the price reduction concerns not more than 10 per cent of the subscribers of must-carry services to which the price reduction applies, or if the net revenues weighted by the must-carry subscriber services of the service providers identified as having significant market power, or any affiliate or parent service provider of or under joint management with the service provider provided during the previous year, calculated by the reduced prices, differs by less than 5 per cent from the net revenues from the must-carry subscriber services provided during the previous year to which the price reduction pertains.

(4) Where the prices of must-carry subscriber services are reduced in accordance with Subsection (2), the service provider liable to publish a reference offer shall, at the same time when announcing the price reduction, notify the

Authority and shall send an elaborate analysis of the foreseeable effects the price reduction is likely to induce, along with all related data and information for checking the prices quoted in the reference offer for compliance with the provisions of Subsection (3).

(5) For the purpose of calculating the cost of efficient provision of network services, the costs of providing the services shall be taken into consideration only to the extent as not to exceed the reasonable rate of return on investment expected by the service provider, including the risks involved.

PART FIVE

PROVISIONING OF USERS WITH PROPER SUPPLIES AND IMPLEMENTATION OF OTHER OBJECTIVES OF PUBLIC INTEREST IN ELECTRONIC COMMUNICATIONS

Chapter XV

PROVISION OF UNIVERSAL ELECTRONIC COMMUNICATIONS SERVICES

Description of Universal Electronic Communications Services

Section 117.

Universal electronic communications services shall include the following services provided at an affordable price:

- a)* connection to a telephone network at a place designated according to the residence, registered office or business location of end-users at a fixed subscriber access point which permits the placing and receiving of national and international calls, and also other forms of communication, such as facsimile and data, to access emergency services, as well as internet access, at a rate of at least 9600 bit/s and maximum 10⁻⁴ bit error rate;
- b)* operation of one public telephone station per one thousand inhabitants or in settlements with a population of less than one thousand, as well as at least 3 per cent of all compulsory public telephone stations must be fit to accommodate the hearing-impaired and disabled persons;
- c)* national directory services;
- d)* access to directory subscriber information.

Section 118.

(1) Universal service providers shall enable subscribers to block outgoing calls to specific numbers or specific types of numbers free of charge upon request made to the service provider.

(2) Universal service providers shall be subject to contracting obligation pertaining to the universal service referred to in Paragraph a) of Section 117 - with the exceptions specified by legal regulation - for providing one access point to each user who has a residence, registered office or business location in the geographical area specified in the universal service contract subject to an application for universal services made out in the format specified by legal regulation.

(3) Consumers with low incomes or with special social needs, as specified in legal regulation, may be provided support from the central budget for accessing universal electronic communications services. The conditions for such support are laid down in specific other legislation.

(4) Service providers shall be relieved from the obligation to conclude a subscriber contract, and to provide services, if:

- a) the applicant has past due payments exceeding 3 months in connection with the use of universal electronic communications services from any universal service provider; or
- b) the applicant's previous subscriber contract has been terminated due to reasons defined in legal regulation within a period of less than six months preceding.

Universal Service Providers, Designation of Universal Service Providers

Section 119.

(1) Universal service providers to provide one or more of the service components specified in Section 117 shall be designated by the Minister.

(2) The Minister shall designate universal services providers with a view to ensure that universal services are available throughout the entire country and that it results in the least distortion of competition on the electronic communications market, and that the components of universal services specified in Section 117 are provided by a service provider demonstrating the most cost-effective means at the lowest net avoidable cost.

(3) The Minister shall ensure that, in the process of designating a universal service provider and in awarding the relevant contract, the services are provided at an affordable price. Where, in order to keep the prices of universal services at an affordable level, the universal services provider provides a tariff package to subscribers by assuming a portion of the costs of the universal services, the service provider shall not be eligible to apply for compensation under Subsection (1) of Section 121 for recovering such costs.

(4) The Minister shall designate another universal service provider:

- a) if the scope of universal services changes significantly, and the procedure for the amendment of the contract proves unsuccessful;
- b) if the former universal service provider does not satisfactorily provide the services stipulated in the universal service contract; or
- c) the former universal service provider wishes to terminate its universal service operations, or if the contract is terminated for other reasons.

Section 120.

(1) The Minister shall conclude a universal service contract with the designated universal service provider, in which the parties shall agree on:

- a) the subject matter of universal services;
- b) the geographical location where universal services are to be made available and the relevant conditions;
- c) the duration of providing universal services;
- d) financial, quality and other conditions of providing the universal service;
- e) the rules for the amendment of the contract;
- f) the rules for the termination of the contract and the results of termination;
- g) the amount of penalty payable upon any lack of conformity, and any other type of sanctions;
- h) the powers conferred upon the Minister, or any authority acting under authorization on his behalf, in monitoring compliance with the provisions of the contract.

(2) The Minister shall make public the universal service contract.

Financing of Universal Services

Section 121.

(1) Universal service providers shall be eligible for compensation according to Section 122, or as laid down in the universal service contract, in order to recover the reasonable and verified costs of providing universal services under non-commercial conditions laying extra burdens upon them as compared to the estimated costs and revenues of services provided under commercial conditions. The amount of compensation may not exceed the net avoidable cost of the universal service.

(2) Any universal service provider applying for compensation in accordance with Subsection (1) shall submit the accounting statement specified in specific other legislation, that is to contain the net avoidable costs of the universal services provided and audited by an independent auditor, to the Minister and the Authority by 15 June of the year following the year to which it pertains. The Minister shall make available the audited statement to the public as instructed by specific other legislation.

(3) The Minister shall consider the request for compensation, taking into account the statement referred to in Subsection (2), and decide as to whether the provision of the universal service imposes unreasonable extra burden on the universal service provider.

Section 122.

(1) In order to reduce the financial burdens originating from the provision of universal services a Universal Electronic Communications Compensation Fund (hereinafter referred to as "Fund") may be created. The detailed rules on the creation of the Fund, its operation, the resources to be allotted to it, the exercise of supervision over it, the uses of the Fund and its termination, shall be laid down by the Government.

(2) The Fund is vested with legal personality and it is seated in Budapest. The Fund shall be managed by the Minister.

(3) The equity capital of the Fund may not be distributed, its own assets, revenues and incomes may not be subject to the payment of corporate tax, local taxes or dues, its financial means may not be withdrawn or used for purposes other than those defined in Subsection (7). Payments into and disbursements from, the Fund shall not give rise to any value added tax liability.

(4) Financial and accounting control over the Fund shall be exercised by the State Audit Office.

(5) Payments to the Fund shall be made before 15 August of the year following the year to which it pertains. Disbursements shall be made by 30 September of the year following the current year. In the event of non-payment the Fund shall allow a one-month grace period, after which it shall proceed to collect the payment as due.

(6) In order to meet financing requirements, electronic communications service providers shall pay - regardless of technology used - a contribution to the Fund in proportion to their net annual sales revenues from the provision of telephone services, internet services via fixed public telephone services provided within the framework of universal services and the associated supporting services, as calculated by the Authority in accordance with specific other legislation. The amount of contribution shall not exceed 0.5 per cent of the net annual sales revenues of the service provider in question. The service providers whose net sales revenues, calculated in accordance with the above-specified procedure, remain below the annual limit decree by the Minister shall be exempted from paying any contribution into the Fund, as well as any newly incorporated business association, that were established inside of the two-year period between the date of foundation and the date of payment liability.

(7) Revenues of the Fund may exclusively be used for supporting the provision of universal services as well as covering the extraordinary expenses necessary for the provisional measures taken as a consequence of exiting the market and the operational costs of the Fund; no other use shall be permitted. A statement on revenues and on their allocation shall be published annually by the Minister subject to the content requirements laid down in specific other legislation.

(8) The Fund shall be legal successor of the Universal Telecommunications Subsidy Fund.

Control of Universal Services, Changes in and Termination of Services

Section 123.

(1) In respect of the performance of their activities and compliance with their contractual obligations, universal service providers shall be supervised by the Authority on a regular basis. The Authority shall notify the Minister of any breach of contractual obligations. Universal service providers shall be required to disclose all data concerning the fulfillment of their obligations to the Authority on an ongoing basis. Data evaluating the fulfillment of obligations by the service providers shall be public information.

(2) Where a universal service provider fails to meet the quality specifications in conformity with the contract for any extended period of time, the Authority may appoint an independent expert to survey them, and may compel the service provider to cover the costs of this survey.

(3) In the event of a universal service provider's failure to comply with its contractual obligations, the Minister

shall take steps to have another universal service provider designated; however, until the contract with the new service provider is concluded the defaulting service provider shall continue to provide the services.

(4) In the case of the termination by the service provider of a contract concluded for the provision of universal services, the period of notice shall be at least one year.

(5) With the exception of the cases referred to in Paragraphs b) and c) of Subsection (1) of Section 136, the suspension of the provision of universal services by the service provider shall be subject to the prior written consent of the Minister, and the users concerned shall be given proper and timely information thereof.

(6) If the scope of universal services or the related legal requirements undergo any changes, the contracting parties shall review the universal service contract accordingly.

Section 124.

The detailed regulations concerning the designation procedure and the provision of universal services, the principles for the calculation of net avoidable costs, and the regulations for the compensation and recovery of financial burdens relating to universal services shall be decreed by the Minister.

Cooperation of Universal Service Providers in the Field of Telegram Services

Section 125.

(1) Universal service providers providing universal electronic communication services and business associations designated as universal postal service providers in accordance with the provisions of specific other legislation shall be required to provide domestic telegram services.

(2) Universal electronic communications service providers and the designated universal postal service provider shall make domestic telegram services accessible to all in accordance with the detailed conditions laid down in specific other legislation.

(3) The service providers identified in Subsection (1) shall, in the interest of the provision of domestic telegram services, cooperate with each other on a contractual basis (telegram service contract).

Chapter XVI

PROVISIONS CONCERNING THE INTERESTS AND RIGHTS OF SUBSCRIBERS

Representative of Consumer Rights in Communications

Section 126.

(1) The Representative of Consumer Rights in Communications (hereinafter referred to as "Representative") is an officer of the Authority.

(2) Any subscriber, end user or non-governmental organization representing consumers may contact the Representative if in their opinion subscribers or end users have suffered any injury, or if there is imminent danger thereof, due to the actions of a service provider, distributor or vendor, or their failure to take action, or due to the products or services they supply, or if their rights afforded under electronic communications regulations or in the subscriber contract have been violated.

(3) The Representative shall have powers to proceed *ex officio* where it is necessary to protect the rights of subscribers and end users granted in electronic communications regulations irrespective of whether or not a complaint has been filed according to Subsection (2).

(4) The Representative shall investigate all complaints he has received, and shall select the measure he deems most

appropriate within the meaning of this Section. The Representative, in response to a complaint:

a) shall inform the complainant of his/her rights and obligations laid down in electronic communications regulations or in the subscriber contract, and of actions and remedy available;

b) shall advise the service provider to cease the infringement of electronic communications regulations of the subscriber contract, or to take the measures necessary;

c) request the Authority to take action ex officio;

d) request other competent authorities to initiate the appropriate procedure, and to inform the notifier accordingly.

(5) The Representative shall arrange the complaints in an orderly fashion and shall present a case summary to the Authority containing recommendations for official action in cases that concern a large number of subscribers or deemed to be of import for other reasons.

(6) The Representative, when acting in an official capacity, may request data and information and explanation from any service provider, distributor or vendor as it may be related to the violation of the rights of subscribers and end users contained in electronic communications regulations.

(7) Any request made to a service provider by the Representative for data and information or explanation shall be satisfied within the time limit prescribed by the Representative, or within fifteen days maximum.

(8) The Representative shall inform the complainant concerning his findings and measures he has taken, if any.

(9)

Subscriber Contracts

Section 127.

(1) The provision of subscriber services shall be fixed by the service provider and the subscriber or the applicant (hereinafter referred to as "Parties") in a subscriber contract, consisting of standard contract conditions and the individual subscriber contract.

(2) The relevant provisions of the Civil Code shall apply to subscriber contracts subject to the exceptions and addendum contained in this Act.

(3) Service providers shall be allowed to derogate in the standard contract conditions from the provisions of this Act if such derogation is expressly permitted under this Act.

(4) By way of derogation from what is contained in this Act and in the standard contract conditions, the Parties may fix the conditions of the individual subscriber contract to the benefit of the subscriber by mutual agreement.

(5) Conditions included in the subscriber contracts in connection with the protection of consumers, service quality and rights and obligations of the contracting Parties are laid down in specific other legislation.

Section 128.

(1) Subscribers may use a particular service at any time during the life of the contract and connect an electronic communications terminal equipment conforming to the basic requirements to the subscriber interface installed in the network.

(2) Providers of electronic communications services may not render the availability of subscriber services - including the case defined in Subsection (3) - contingent upon the use of other subscriber services or which are not essential for the subscriber services in question, or upon the purchase or use of other services or products which are not essential for the subscriber services in question.

(3) Based on subscriber contracts concluded in conformity with the relevant legal regulation and the provisions of standard contract conditions, electronic communications service providers shall be entitled to resell and re-invoice, in a way stipulated in those contracts, goods and services bought in their own names along with electronic communications services provided by them, and shall be authorized to realize their countervalue in respect of the subscribers, in their bills for electronic communications services or to the debit of prepaid claims.

(4) Electronic communications service providers shall clearly indicate:

a) the possibility of resale of goods and services in the subscriber contracts; and

b) the fact once such resale has actually taken place in the bills issued by them.

Conclusion of Subscriber Contract

Section 129.

(1) A subscriber contract may be executed in writing, verbally or by implicit conduct, such as by way of using the subscriber services. Service providers providing publicly available subscriber services shall draw up the subscriber contracts in accordance with their standard contract conditions. Providers of subscriber services shall not be subject to any contracting obligation apart from what is contained in Subsection (2) of Section 118.

(2) In the case of internet access via public telephone networks the subscriber contract shall be deemed to have been executed by implicit conduct between the subscriber originating the call and the service provider who is a party to a network contract with the internet service provider for the transmission of calls directed to the internet service provider.

(3) Where a subscriber contract is executed in writing, the service provider shall provide to the subscribers at the time of signing the contract the individual subscriber contract, a summary of the standard contract conditions and, at the subscriber's request, a copy of the standard contract conditions. If the subscriber contract is concluded by other means the service provider shall be required to inform the subscribers as to the means of obtaining or accessing the standard contract conditions.

(4) Where a subscriber contract is executed in writing, the subscriber - if a natural person - shall indicate at the time of signing the contract as to his/her intention to use the subscriber services as a private subscriber or otherwise. If the subscriber contract is concluded by means other than writing the service provider shall be required enable the subscriber to make the above-specified statement in a simple way and without any cost to the subscriber. Other aspects of the statement, such as the time limit, are governed in the service provider's standard contract conditions.

(5) Subscribers shall be allowed to withdraw or alter the statement referred to in Subsection (4) during the life of the subscriber contract in observance of the rules laid down in the standard contract conditions.

(6) An individual subscriber contract executed in writing shall indicate the following, if they are feasible due to the characteristics of the service:

a) the name and address of the electronic communications service provider, customer service and user assistance information as to how they can be reached, business hours, website address;

b) the subscriber's name and address, place of abode, or registered office;

c) if the subscriber is a natural person, the subscriber's birth name, and place and date of birth;

d) if the subscriber is not a natural person, the subscriber's company number or other registration number, and the subscriber's bank account number;

e) the subscriber's consent for processing his/her data other than those referred to in Subsection (2) of Section 157, and for using his/her data in the data file for purposes other than what is contained in this Act;

f) the term of the contract;

g) the timeframe within which to commence the service, or to install the connection;

h) the rates of service charges and other related costs, payment terms and conditions;

i) stipulations for termination of the contract and indication as to the paragraphs of the standard contract conditions on contract suspension and restriction or limitation of services;

j) an indication as to the paragraphs of the standard contract conditions laying down consequences for any breach of contract, in particular subscriber's rights in connection with any violation of contractual obligations concerning quality and the suspension of services, refund procedures, and the amount of penalty payable to the subscriber;

k) procedures for requesting customer assistance and filing complaints in connection with billing, an indication as to the paragraphs of the standard contract conditions on customer assistance and billing complaints, information concerning the provision of maintenance services;

l) rules of contract amendment, subscriber's rights in connection with any contract amendment;

m) information as to whether the subscriber has the right to seek remedy at the competent authority in the event of a legal dispute, and an indication as to the paragraphs of the standard contract conditions indicating the name and address of the competent authorities;

n) the location where the subscriber's terminal equipment is installed - if applicable - and the subscriber's phone number. If the individual subscriber contract is executed in writing, the contracting Parties shall indicate the location where the subscriber access point, also marking the service provider's point of liability, is installed. The subscriber access point generally means the point commonly indicated by the subscribers, that can be installed outside the subscriber's premises only if expressly requested by the subscribers;

o) the statement and information concerning the pre-selection of a carrier service provider;

p) a statement concerning any request for itemized billing;

q) information as to where the standard contract conditions can be obtained, and the subscriber's statement that he/she understands and accepts the conditions of the contract.

(7) If the subscriber is a natural person and has limited legal capacity, and the contract is for post-paid services, it shall also contain the data of the subscriber's legal representative in accordance with what is contained in Paragraphs b)-c) of Subsection (6) above.

(8) Providers of electronic communications services are required to record the data - for the purposes defined in Subsection (1) of Section 159/A - the particulars specified in Paragraphs b)-d) of Subsection (6) also if the subscriber contract is concluded by means other than writing, if they are feasible due to the characteristics of the service.

Standard Contract Conditions

Section 130.

(1) A provider of electronic communications services providing subscriber services shall draw up standard contract conditions relating to the subscriber services. The standard contract conditions shall be fixed in writing.

(2) The service provider shall have the standard contract conditions, the full version and a compendium, posted in its customer service department and also on its official website. The service provider shall provide to the subscribers a copy of the standard contract conditions and a compendium of the standard contract conditions free of charge.

(3) The standard contract conditions - including all amendments - must be published at least thirty days before the effective date of the amendments, and shall be posted in the service provider's customer service department and on its official website free of charge, and shall be sent to the Authority as well. The obligation conferred under this Subsection, apart from having the amendment sent to the Authority, shall not apply where the amendment of the standard contract conditions is obtained for the sole purpose of the introduction of a new service, and where the amendment does not concern the standard contract conditions pertaining to services already provided.

(4) The Authority shall regularly inspect the standard contract conditions for compliance with statutory provisions on electronic communications within the framework of market surveillance.

Section 131.

The standard contract conditions of subscriber services shall inter alia include the following:

- a) the name and address of the service provider;
- b) customer service information (address, phone number, business hours), and website address;
- c) a description of the service provider's subscriber services;
- d) the procedure for the conclusion of subscriber contracts, the terms and conditions for using subscriber services, any restrictions for accessing the service in terms of time and geographical location;
- e) the deadline for the installation and configuration of a subscriber access point through which the service will be provided (parameter), in the case of mobile radio telecommunications the deadline for connecting the terminal equipment to the network termination point from the date of application;
- f) the quality of service parameters, interpretation of quality parameters and the methodology for controlling their implementation;
- g) a list of data of subscribers required for the subscriber contract, operative date of the subscriber contract, the shortest contract period;
- h) reasons for the amendment of the subscriber contract and the conditions for the amendments to take effect, the service provider's right to modify the contract by unilateral decision, subscriber's rights when the contract is amended by decision of the service provider, procedure for the notification of subscribers when the contract is amended by unilateral decision, types of amendments subject to compensation and the amount payable, time limits for relocation and transfer;
- i) circumstances under which the subscriber service can be suspended, maximum period of suspension that may be requested by the subscribers, types of suspension subject to compensation and the amount payable;
- j) restrictions in the subscriber services, such as restrictions in terms of calls initiated or received by the subscribers, circumstances and conditions for compromising the quality or other features of the subscriber services;
- k) termination of the subscriber contract and the grounds for termination, indication of the deadline within which the subscribers are allowed to meet payment obligations without the service provider terminating the contract;
- l) contact information for customers filing any complaints, agreed troubleshooting parameters, recording quality complaints;
- m) customer service procedures, handling subscribers calls and complaints (billing complaints, processing

requests for compensation and other claims). Contact information for the customer service shall be clearly displayed on the front page of the standard contract conditions;

n) subscribers' rights in the event of any lack of conformity in providing the subscriber services, amount of compensation payable to subscribers, degree of discount granted to subscribers where the defect cannot be corrected temporarily or for any extended period of time, settlement of disputes arising out of or in connection with, subscriber services;

o) conditions for the interconnection of subscribers' terminal equipment;

p) types of data the service provider is authorized to process, the purpose and duration of storing and forwarding them, safety procedures in data transmission, data security requirements, and the rights and obligations of subscribers' and users in connection with data processing;

q) prices of subscriber services, including one-off charges, recurrent charges and traffic charge clearly expressed and quantified, billing periods, discounts and free services, conditions for the repayment of discounts upon the loss of eligibility, billing methods and payment terms and conditions, and regulations for the prepayment of charges when so requested by the subscribers;

r) in the case of telephone service providers, the detailed rules relating to porting numbers;

s) detailed rules concerning carrier selection in harmony with the interconnection contracts enabling carrier selection;

t) name of the supervisory organ, address and phone number;

u) information for obtaining a copy of the standard contract conditions.

Amendment of Subscriber Contracts

Section 132.

(1) Amendments of individual subscriber contracts shall be subject to the provisions governing the execution of subscriber contracts. The standard contract conditions may contain clauses allowing the amendment of individual subscriber contracts according to Subsection (2) below.

(2) Service providers shall have the right to amend subscriber contracts by unilateral decision in the following cases:

a) upon the occurrence of conditions stipulated in the individual subscriber contract or in the standard contract conditions, however, the amendment may not result in significant changes in the terms and conditions of the contract unless otherwise provided by law or electronic communications regulations;

b) if justified by changes in the relevant legislation or by decision of an authority; or

c) if justified by substantial changes in the circumstances of concern.

(3) Substantial amendment shall mean, in particular, any modification affecting the conditions for using the service or the quality of service parameters.

(4) If the service provider has the right in the cases specified in the standard contract conditions to modify the standard contract conditions by unilateral decision, the subscriber must be notified as specified in this Act at least thirty days before the changes are set to take place, including information as to the subscribers' right to cancel the contract. In this case subscribers shall be entitled to terminate the contract with immediate effect within eight days following receipt of the notification of the amendments.

(5) If the amendment contains numerous provisions to the disadvantage of subscribers, they shall be entitled to cancel the subscriber contract within fifteen days from the date of notice without any further consequences. On the other hand, subscribers shall not be entitled to avoid the contract under such circumstances if having committed to use the services for a specific period of time and if having concluded the subscriber contract in light of the benefits stemming from such commitment, and the amendment does not affect the benefits received. If the amendment affects the benefits received and the subscriber terminates the subscriber contract, the service provider may not demand from the subscriber to repay the value of the benefit falling in the period subsequent to the termination of the contract.

(6) The service provider shall not be required to observe the notification deadlines referred to in Subsections (4) and (5) in connection with any amendment of the standard contract conditions, where the amendment of the standard contract conditions is obtained for the sole purpose of the introduction of a new service, and the amendment does not concern the standard contract conditions pertaining to services already provided, or if the only result of the amendment is the reduction of a retail charge.

(7) The service provider shall lay down the detailed conditions for the amendment of the standard contract conditions within the framework of this Section in its standard contract conditions.

(8) Failure to make a statement as required shall be treated, with the exception of the cases defined in specific other legislation, as acceptance by an implicit conduct, if it is so agreed between the Parties in the individual subscriber contract. In the event of a dispute the burden of proof to show that the subscriber has in fact been notified in the manner and at the time prescribed by law lies with the service provider.

Section 133.

The service provider shall be authorized to modify the individual subscriber contract only when the subscriber (or his/her heir if the subscriber is deceased) has so requested, and only in accordance with the standard contract conditions, if the account is conveyed to another due to succession or other reasons (transfer).

Termination of Subscriber Contracts

Section 134.

(1) Subscribers shall have the right to terminate a subscriber contract that has been concluded for an indefinite period subject to a maximum 8-day notice without further implications.

(2) With the exception of what is contained in Subsections (6)-(7), the service provider shall be required to give a minimum 60-day notice when terminating a subscriber contract.

(3) The service provider shall convey its notice of termination of the subscriber contract in writing, by registered mail with recorded delivery, with the exception if the subscribers cannot be notified due to the absence of the necessary information in consequence of the unique characteristics of the service. In the latter case, the service provider may notify the subscribers concerning the termination in the ways conveyed under Subsection (2) of Section 144.

(4) If the contract is terminated on account of any breach on the subscriber's part, and the subscriber ceases the infringement during the notice period, the subscriber contract shall not be terminated upon the service provider's notice. If this is the case, the service provider shall so inform the subscriber without delay.

(5) The notice of termination sent by the service provider shall specify:

- a) the reasons for which the contract is being terminated;
- b) the notice period, and the last day of the notice period; and
- c) the information referred to in Subsection (4) having been conveyed to the subscriber, if the contract is terminated on account of any breach on the subscriber's part.

(6) The service provider shall be authorized to terminate a subscriber contract under the conditions laid down in Subsections (3)-(5) in the event of any breach of the subscriber contract with a 15-day notice if:

- a) the subscriber obstructs or jeopardizes the service provider's network to function properly, and if the subscriber fails to comply with a notice to cease such conduct within three days, in spite of being duly notified of the legal consequences;
- b) the subscriber fails to comply with the service provider's request to grant entrance for conducting surveys and inspections on the subscriber's premises in connection with any system error that has been reported or detected by the service provider, and to make the necessary repairs; or
- c) the subscriber of universal services sells the subscriber services to third persons following receipt of notice to cease such actions or suffer the legal implications indicated;
- d) the subscriber uses the service unlawfully or for unlawful purposes.

(7) The service provider shall be allowed to terminate a subscriber contract under a 30-day notice, if the subscriber remains in default with any payment due past the second legal notice that is sent fifteen days following the first notice. The service provider may not terminate the contract if the amount of the debt outstanding does not exceed the subscriber's monthly service charge, or if it does not exceed 5,000 forints in the absence of a monthly service charge or if the monthly service charge is more than 5,000 forints, or if the subscriber does not agree with the amount demanded and is seeking remedy at the Authority or at another organization vested with powers to adjudge legal disputes, provided that the subscriber continues to pay undisputed service charges, as well as any other fees falling due and if undisputed.

(8) The subscriber contracts between the subscribers and the subscriber access service provider shall terminate

simultaneously with the operative date of a contract concluded with another service provider for unbundled access to the local loop, of which the service provider shall notify the subscribers fifteen days prior to the date of termination.

(9) Where a service provider provides subscriber services under contract concluded with another service provider for unbundled access to the local loop, the subscribers shall be notified without delay in the event the contract for unbundled access to the local loop is terminated.

(10) The service provider shall be authorized to request a security instead of terminating the contract or to restrict - in accordance with Section 137 - access to or the use of some services. If the subscriber fails to eliminate the reason, upon which the restriction was imposed, within thirty days, the restriction shall not prevent termination if the conditions for termination exist.

(11) Other aspects of the termination of subscriber contracts, which are not mentioned in Subsections (1)-(9), shall be regulated by the service provider in the standard contract conditions.

(12) The service provider - at the request of another service provider - shall terminate the subscriber contract if the service provider's electronic communications network is used by another service provider, or it collects charges on behalf of another service provider, and:

- a) the conditions referred to in Subsections (6) and (7) are satisfied; and
- b) the third service provider is not authorized or is unable to restrict or terminate the service.

(13) Where a subscriber contract pertains to broadcasting services, the service provider shall have the right to terminate the contract with a 15-day notice if the subscriber continues to receive broadcast signals without entitlement following receipt of legal notice, or if unlawfully re-transmits program signals to third persons, or if engaged in the unlawful descrambling of encrypted program signals.

Suspension of Services

Section 135.

(1) The service provider shall comply with a subscriber's request for suspension of the subscriber services where it is possible in light of the characteristics of the service.

(2) The service provider may stipulate in the standard contract conditions the maximum period of suspension which, however, cannot be less than six months for private subscribers.

(3) If the subscriber service has been suspended at the subscriber's request, any charges the subscriber may be required to pay must be discounted, justified and reasonable, as indicated in the subscriber contract.

Section 136.

(1) Subscriber services may also be suspended:

a) for reasons of network reconstruction, rehabilitation, replacement and maintenance, which may not exceed one day in a calendar month, subscribers must be notified at least fifteen days in advance if there are no technical means available to present any other economically feasible way to implement such works without the suspension of services;

b) for any unforeseeable and unavoidable external reasons (act of God);

c) in the protection of the interests of the Republic of Hungary in the fields of national defense, national security and public safety (as regards in particular antiterrorist measures and the fight against drug trafficking) as prescribed by law.

(2) If suspension is implemented for reasons within the service provider's control, not including the regular maintenance operations specified in the standard contract conditions, or if the reason for suspension lies beyond the control of both Parties, no payment for suspension shall be demanded from the subscribers for the duration of suspension. If the length of suspension exceeds forty-eight hours in a given calendar month, the service provider shall refund a monthly service charge.

(3) No refund shall be paid if suspension is due to an act of God, provided that the service provider is able to verify to have taken every reasonable step to eliminate the suspension in due time.

(4) Other instances of suspension and the applicable conditions, such as where the service provider charges a fee for suspension, shall be governed in the standard contract conditions.

Restriction of Services

Section 137.

(1) The service provider may impose restrictions in the subscriber services, such as restrictions in terms of calls initiated or received by the subscribers (calls targeted for the subscriber's access point), circumstances and conditions for compromising the quality and other features of subscriber services, of which the subscriber affected must be duly notified, in the following cases:

a) the subscriber obstructs or jeopardizes the service provider's network to function properly, such as in particular if the subscriber connected terminal equipment that does not have a certificate of conformity to the subscriber access point, or a terminal equipment fitted with the wrong interface;

b) the subscriber of subsidized universal services sells the subscriber services to third persons without the service provider's consent, or uses them for the purposes of network services;

c) the subscriber has unpaid bills, as indicated in the payment advice, or outstanding debts at least thirty days past overdue, and the subscriber did not provide any financial security to the service provider as specified in the standard contract conditions to guarantee future payment of such overdue charges.

(2) Telephone service providers shall continue, regardless of any restriction of other services:

a) to allow the subscriber to receive incoming calls;

b) to forward emergency calls;

c) to forward calls to the service provider's customer service;

d) to forward calls to the customer assistance center.

(3) A broadcaster shall be authorized to restrict access to its services if the subscriber receives broadcast signals without proper entitlement, or if unlawfully re-transmits program signals to third persons, or if engaged in the unlawful descrambling of encrypted program signals.

(4) The service provider shall reinstate the services at the subscriber's request - except for the case under Subsection (4) of Section 118 - if the grounds for restrictions no longer exist. The service provider shall be entitled to charge a reasonable fee as stipulated in the subscriber contract for reinstating the service.

Processing Subscribers Notices and Complaints Submitted to Service Providers

Section 138.

(1) Electronic communications service providers supplying subscriber services shall be required to run customer services to settle subscriber and user notices, examine and remedy their complaints, and provide information to their subscribers and users, with telephone and, if possible, internet access, and/or in premises open to the customers if the number of subscribers exceeds one thousand.

(2) The service provider shall inform subscribers, by way of posting in the customer service department, on the official website, and also in the subscriber contract:

a) as to the ways for making notices and filing complaints in connection with subscriber services at the service provider, the various consumer protection agencies, or at the competent authorities;

b) as to the time limit for investigating complaints received by the customer service, and the time and manner for notifying the subscribers concerning the findings of the investigation;

c) as to the consumer protection agencies and organizations, the authority or court to which the subscribers may turn to seek remedy in connection with any disputes arising out of or in connection with subscriber services.

(3) If the subscriber disagrees with any charge the service provider has billed for, the service provider shall record the respective notice (billing complaint) without delay and shall not be authorized to terminate the subscriber contract under Subsection (7) of Section 134 before the investigation is completed.

(4) If the subscriber lodges the complaint before the payment due date and the service provider does not dismiss the complaint within five days, the payment due date for the item contested shall be extended by the time it took to investigate the billing complaint.

(5) The service provider using a closed billing system, as it is verified by a certification body designated by the

Minister, shall be authorized to terminate the subscriber contract under Subsection (7) of Section 134, even if the subscriber lodges the complaint referred to in Subsection (3) before the payment due date. The payment due date shall not be extended by the length of time used for the investigation of the billing complaint even if the service provider does not dismiss the complaint within five days.

(6) If the service provider accepts the complaint, the amount contested - including interest - shall be credited in full in the subscriber's next monthly invoice where service charges are paid monthly, or within thirty days from the date the decision was adopted, or the amount contested - including interest - shall be refunded in full to the subscriber. The interest payable to the subscriber on the amount credited or refunded shall be calculated by the same rate the service provider charges to the subscriber for any late payment, or higher.

(7) If the subscriber does not agree with the amount demanded by the service provider, the burden of proof to show that the network is effectively protected for unauthorized access and that its billing system is closed, and also that the amount disputed was calculated and billed properly lies with the service provider. Until proven to the contrary, the service provider is not required to evidence the integrity of its billing system if it has been attested by a certification body designated by the Minister.

(8) Other aspects of the procedure applicable to subscriber's complaint shall be defined in the service provider's standard contract conditions in due observation of Section 17/A and Section 17/C of the CPA.

(9) At the subscriber's request the service provider shall ensure, in compliance with data protection regulations, that subscribers have access to the records containing sales and billing information until these data are deleted, at no extra cost to the subscribers.

Quality Requirements for Subscriber Services

Section 139.

Service providers shall define the quality of service parameters for subscriber services in their standard contract conditions in accordance with what is contained in Paragraphs e) and f) of Subsection (1) of Section 131 and in specific other legislation. Service providers shall make public the information concerning the fulfillment of quality parameters subject to requirements laid down by law relating to content, form and method, to enable the subscribers to obtain comprehensive, transparent, comparable, user-friendly and appropriately updated information.

Section 140.

(1) The service provider shall charge for calls made through the telephone network to the customer service at the lowest available rate.

(2) Subscriber access service providers shall provide access to its customer service free of charge, technical service conditions permitting, if called from within its own network.

(3) Subscribers may report any malfunction in the subscriber services to service provider's user assistance center, to which the service provider must provide access either through its customer service or directly, under the same conditions as for reaching the customer service.

Section 141.

(1) Service providers shall record system error reports, the results of troubleshooting and the corrective measures using a system with facilities for retrieving information, by sound recording or other electronic means, and to retain these records for one year in due observation of data protection regulations.

(2) Service providers shall confirm the receipt of a system error report to subscribers, and shall keep records of these confirmations as well, along with the records referred to above. These records shall indicate:

- a) the subscriber's name or other identification information;
- b) the subscriber's phone number or other identification information;
- c) a description of the error reported;
- d) the date and time the report was received (year, month, day, hour);
- e) the steps taken to isolate the problem and the results;
- f) the cause of the error;
- g) a description of the measures taken, including the date and time (year, month, day, hour), and the results (also if

unsuccessful, including the reasons);
h) the manner and time of notifying the subscriber affected.

Itemized Billing

Section 142.

(1) With the exception of pre-paid subscriber services, service providers shall enclose an itemized statement with the invoices made out to subscribers indicating the charges payable by the subscribers in a breakdown specified in specific other legislation. Calls which are available free of charge to the subscribers, including the numbers designated by the Authority as "non-identifiable phone numbers", may not be displayed in the subscribers' invoices or in the attached statement.

(2) Service providers, if requested by the subscriber, shall supply another statement with the invoices that contains information broken down further than the one referred to in Subsection (1) (itemized call listing), containing sales and billing information used for making the invoice.

(3) The service provider shall be liable to provide the invoice attachments referred to in Subsections (1) and (2) in electronic format or printed to private subscribers, and in electronic format to other subscribers for no extra charge to the subscribers.

Liability for the Fulfillment of Subscriber Contracts

Section 143.

(1) Providers of electronic communications services shall be liable for any loss or damage caused to subscribers due to non-conformity with the terms and conditions of subscriber contracts.

(2) The term of limitation for claims arising from subscriber contracts shall be one year from the date when the lack of conformity referred to in Subsection (1) did in fact take place.

(3) Providers of electronic communications services shall be liable to pay a penalty of an amount established in specific other legislation for any breach of subscriber contracts.

Provision of Information to Subscribers

Section 144.

(1) Where any part of the standard contract conditions or any other type of information (hereinafter referred to as "disclosure of information") is ordered by legal regulation to be posted at the service provider's customer service department, the service provider shall proceed according to the following:

- a) the information shall be posted in the customer service area, or failing this, on its official website; and
- b) the information shall also be conveyed verbally by the call center.

(2) Where communication to subscribers is prescribed by law, the service provider shall comply with the following means:

- a) sending notice directly to the subscribers in writing (by mail);
- b) by electronic mail;
- c) by other electronic means; or
- d) depending on the sphere of subscribers to be notified, by public announcement published in a national or county daily newspaper at least on two occasions, and simultaneously posting the announcement in the customer service department as well.

(3) The service provider may use the means of communication referred to in Paragraphs b)-c) of Subsection (2) if able to record by some permanent means that:

- a) the subscriber has received the information conveyed verbally; or
- b) the information was conveyed in an electronic document according to Point 12 of Section 2 of Act XXXV of

2001 on Electronic Signatures to subscribers who have provided prior consent on the acceptance of electronic communication.

(4) The service provider may use the means of communication referred to in Paragraph d) of Subsection (2) only if conveying the information referred to in Subsection (1) of Section 136 and Subsection (4) of Section 132 of this Act.

(5) The Authority, in order to enable subscribers and end users to make an informed assessment in possession of adequate information concerning service quality, prices and rates, for comparing services and to improve the freedom of choice in making decisions, may prescribe that communications service providers provide the Authority with information concerning the quality of and access to their services, including prices, and also to make such information available to the public.

(6) The Authority shall publish data for comparison based on the information received from communications service providers.

Emergency Call Number

Section 145.

(1) Telephone service providers must ensure access to its subscribers and customers to emergency services, including the single European emergency call number ("112") free of charge from any telephone, including public pay telephones, without the use of any means of payment.

(2) In the interest of allowing emergency services to carry out their tasks as effectively as possible, telephone service providers shall provide - in accordance with specific other legislation - access for operators of emergency services to calling line identification and location data even if calling line identification presentation is restricted or without the prior consent of the users or subscribers concerned for releasing caller location information.

Directory Assistance

Section 146.

Telephone service providers shall ensure that subscribers are able to have access to any nationwide directory assistance services, and shall supply subscribers' names, part of their postal addresses conveyed to the service provider for publication and telephone numbers to such directory assistance service providers, subject to prior approval of the subscribers concerned. The information above shall be supplied to the directory assistance service providers referred to in Paragraph c) of Section 117 free of charge. The information disclosed may only be used for universal directory assistance services.

Section 147.

Directory assistance may be provided

- a) according to territory, covering
 - aa) the entire country, or
 - ab) a specific area,
- b) according to the phone number, covering
 - ba) the telephone numbers of all telephone service providers, or
 - bb) telephone numbers of specific service providers.

Access to Non-Geographic Numbers

Section 148.

(1) Telephone service providers shall be required to ensure that end-users from other Member States of the

European Economic Area are able to access non-geographic numbers within their territory where technically and economically feasible.

(2) Subscribers with non-geographic numbers may choose for commercial reasons to limit access to calling parties located in specific geographical areas.

Tone Dialing and Calling Line Identification

Section 149.

To the extent technically and economically feasible, telephone service providers shall provide tone dialing and calling line identification facilities to subscribers for end-to-end signaling throughout the network.

Number Portability

Section 150.

(1) Subscriber access service providers shall be required to allow their subscribers:

a) to retain their geographical numbers in the case of telephone services at fixed locations when switching from one provider of subscriber access services to another without changing the geographical location where the services are used;

b) to retain their non-geographical numbers in the case of services accessed through non-geographic numbers, when switching from one service provider to another;

c) to retain their mobile phone numbers in the case of mobile radio telephone services, when switching from one mobile telephone service provider to another

(hereinafter referred to as "ported numbers").

(2) Subscriber access telephone service providers (transferor service provider) whose subscriber decides to change service providers and ports his/her phone number to another telephone service provider (transferee service provider) shall agree with the transferee service provider concerning number portability, if the transferee makes an offer in accordance with the legal regulations on interconnection contracts.

(3) The charges for calls made to ported numbers shall be established on the basis of calls actually completed and on service charges. The calling party shall be enabled to determine in advance in which network his/her call is going to terminate and the rates the operator of that network charges.

(4) The costs of routing calls and signals and the extra costs charged for the transmission of calls and signals shall be borne by the service provider on whom the obligation of call and signal routing has been conferred under specific other legislation.

(5) The identifier usage fee the service provider is liable to pay in connection with ported numbers shall be the same as the usage fee for non-ported numbers.

(6) The transferor service provider shall have the right to charge a one-off fee for porting numbers that shall be paid by the transferee service provider to the transferor service provider. The fee charged may not exceed the justified and reasonable costs of porting numbers. The transferee service provider shall be authorized to charge this one-off fee, in full or in part, to the subscriber whose number is being ported.

(7) The transferee service provider shall provide for the ported number to be registered in the list of telephone subscribers and in the directory, as instructed by the subscriber concerned.

(8) The detailed rules for number portability are laid down in specific other legislation.

Chapter XVII

DATA PROCESSING

Disclosure of Data

Section 151.

(1) All persons engaged in electronic communications activities may be compelled by decision of the Authority to furnish all data related to electronic communications services and activities which is necessary for the use of services, for the implementation of network services to the extent necessary for the Authority to discharge its duties, even if such data are classified as business secrets.

(2) Sufficient time shall be allowed to comply with data disclosure requirements. If data is requested for the purposes of market definition or market analysis, it shall be supplied within thirty days.

(3) In the event of a service provider's failure to comply with any obligation of data disclosure in due time, and for supplying incomplete or false information to the Authority, the Authority may impose the sanctions specified in Subsection (3) of Section 33.

(4) Service providers shall make the data specified in legal regulation available to the public.

(5) In respect of the disclosure of data according to Subsections (1)-(3), the data provider shall be held responsible for the appropriateness, timeliness, authenticity, correctness, verifiability and validity of the content of such data.

(6) The Authority may supply the data referred to in Subsection (1) to the competition authority, of which the data provider affected shall be informed. The competition authority shall use the data received from the Authority only in connection with its duties specified in this Act.

Section 152.

(1) The Authority may impose the obligation of data disclosure by resolution on the persons to whom this Act applies to the extent necessary for discharging its duties, and for surveys, analyses and evaluation carried out at the Minister's request to assist the Minister in his duties. The data requested shall be supplied within the deadline specified.

(2) The Authority shall inform the data providers concerning the processing and use of the data it has requested, indicating the legal objective of data processing in the notice conveyed to impose the obligation of data disclosure.

(3) The Authority may use the data supplied by service providers engaged in electronic communications activities for the ministry directed by the minister within the framework of the National Statistical Data Collection Program for market research, analyses and evaluations.

(4) The Authority may convey to the Minister, to the extent necessary to discharge his duties:

a) data processed in connection with market surveillance operations;

b) data processed in connection with market survey, market analysis and market assessment operations.

(5) The Authority shall comply with any request received from the minister relating to the supply of data in accordance with this Act and other legal regulations, and the further processing of any data supplied under this Act and other legal regulation, or for making analyses using such data, without undue delay, and shall notify the service provider affected accordingly.

(6) In connection with market analysis and market assessment operations using the data supplied under obligation in accordance with Subsections (1) and (3)-(4), or the data forwarded, the Authority may not conduct any market surveillance, and may not use this data for any other purpose to the detriment of the data provider. The Authority shall so inform the data provider in the notice conveyed to impose the obligation of data disclosure.

(7) The decision referred to in Subsection (1) may be appealed, upon which the decision shall be suspended. The court shall adopt a decision in a nonlitigious proceeding, upon hearing the parties if necessary, within 15 days. The decision of the Municipal Court of Budapest may not be appealed.

Provision of Information to the European Commission and the Electronic Communications Regulatory Authorities of Other Member States, and to International Organizations for Electronic Communications

Section 153.

(1) The minister and the Authority shall promptly comply with any communication received from the European Commission requesting information under the scope of this Act, and shall notify the data subjects concerning the information supplied.

(2) In connection with the disclosure of information referred to in Subsection (1), the minister or the Authority may request the European Commission that the information provided should be withheld from the authorities of other Member States.

(3) If the request referred to in Subsection (2) is to be made on behalf of the data provider, the minister or the Authority shall decide upon weighing all applicable circumstances whether or not to forward the request.

(4) If the information requested under Subsection (1) concerns any data that the provider of that data has classified as business secrets, the data provider affected shall be notified at least three days before the data in question is released.

(5) The minister and the Authority shall reply to requests received from international organizations active in the field of electronic communications concerning data and information on the local electronic communications sector following consultation among one another.

Protection of Personal Data

Section 154.

(1) Service providers shall be authorized to process the personal data of end-users and subscribers, to the extent required and necessary for their identification for the purpose of drawing up contracts for electronic communications services, to define and amend the contents of these contracts, to monitor contractual performance, billing charges and fees as contracted and for enforcing any related claims.

(2) Service providers shall be authorized to process personal data in connection with billing charges for electronic communications services, to the extent required and necessary for calculating and billing charges, such as in particular the data relating to the date, the duration and place of the service to which it pertains.

(3) In addition to the identification and other personal data referred to in Subsections (1) and (2) of this Section, service providers may also process the type of personal data which is technically essential for the provision of services.

(4) Service providers must use in their operations for providing electronic communications services only the type of electronic communications apparatuses which have sufficient facilities to ensure that personal data is processed only where it is absolutely necessary in terms of the provision of services and for the implementation of other objectives specified in this Act.

(5) Service providers shall delete any personal data from its records that is used for purposes other than what is defined in Subsections (1)-(3) of this Section immediately upon gaining knowledge of such unlawful data processing.

(6) The provision of electronic communications services may not be rendered contingent upon the user providing consent for processing his/her personal data for purposes other than what is defined in Subsections (1)-(3) of this Section.

(7) In addition to the information to be communicated according to the Act on the Protection of Personal Data, service providers shall enable the end-users to have access to information concerning the type of personal data the service provider is processing and the objectives at any time before and during the use of the electronic communications services.

Section 155.

(1) Service providers shall take appropriate technical and organizational measures - jointly with other service providers if necessary - in order to block any unauthorized attempt to intercept, store or monitor communications transmitted and any related traffic data and to prevent any unauthorized or accidental access to communications transmitted and any related traffic data (privacy of communications).

(2) Service providers must use in their operations for providing electronic communications services only the type of electronic communications apparatuses which have sufficient facilities to ensure the privacy of communications.

(3) Service providers shall be authorized to obtain and store communications transmitted on their network only to the extent absolutely necessary for the provisions of services for technical reasons.

(4) Information obtained via electronic communications networks may be stored on electronic communication terminal equipment, or accessed, only upon the end-users' and subscribers' prior consent granted in possession of clear and comprehensive information about implications.

(5) The investigating authorities and the Protective Service of Law Enforcement Agencies (hereinafter referred to as "investigating authorities"), and national security agencies may monitor, intercept and store communications by virtue of another act, and the frequency management authorities when exercising their powers conferred under Subsection (3) of Section 11, or may otherwise intrude communication for surveillance purposes.

(6) Service providers shall inform the competent national security agency - with the exception of data disclosure and inspection as specified in Section 42 of Act CXXV of 1995 on National Security Agencies - concerning any request it has received for information relating to the protected telephone numbers of the agencies classified as State secrets.

(7) In the event of any alleged threat of murder or physical violence or blackmail, the user or subscriber threatened may authorize in writing the investigating authority to tap into the telephone conversations, electronic communications, e-mail messages and any other form of communications by virtue of the provisions of specific other legislation on his/her end terminal to investigate and to identify the persons involved in such communications within the period of time set in the user's authorization.

Section 156.

(1) Service providers shall take appropriate technical and organizational measures - jointly with other service providers if necessary - in order to safeguard security of their services.

(2) The technical and organizational measures shall be sufficient - with regard to best practices and the costs of the proposed measures - to afford a level of security appropriate to the risk presented in connection with the services provided.

(3) In case of a particular risk of a breach of the security of services in spite of the technical and organizational measures taken, the service provider must inform the subscribers concerning such risk and of the measures the subscribers may take to enhance the level of protection.

(4) In case of the occurrence of an event effecting or jeopardizing the security of services, where a previously unknown risk of a breach of the security appears in consequence, the service provider shall promptly inform the subscriber concerning such risk, and of the measures the subscriber may take to enhance the level of protection, and the estimated costs involved. The service provider shall provide this information to the subscriber free of charge. The requirement to inform subscribers of particular security risks does not discharge the service provider from the obligation to take appropriate and immediate measures to restore the normal security level of the service.

(5) Above and beyond the obligations of service providers conferred under this Act relating to the protection of personal data, the privacy of communications transmitted over the service provider's network and the security of services, the detailed regulations concerning the processing of personal data, the special requirements for the protection of privacy of communications and messages transmitted over public networks, and the conditions for the indication of identifiers and call forwarding are laid down in specific other legislation.

(6) Where the provision of a value added service requires that traffic or location data are forwarded, the service provider must inform the subscribers or users concerning the type of data required, the purpose and duration of data processing, and as to whether or not the data is to be forwarded to third persons.

(7) Providers of electronic services shall be authorized to process traffic or location data - exclusive of the data processing operations described in Subsections (9)-(10) - only upon the prior consent of the subscribers or users to whom the data are related, and only to the extent and for the duration as it is necessary for the provision of value added services.

(8) Users and subscribers shall have the right to withdraw their consent referred to in Subsection (7) at any time.

(9) Providers of electronic communications services shall be required to comply with any request for location information - exclusive of traffic data - in connection with specific subscribers or users, if made by the investigating authority, the public prosecutor, the court or the national security service pursuant to the authorization conferred in specific other legislation, to the extent required to discharge their respective duties.

(10) In the case described in Subsection (8) of Section 3 of Act LXIII of 1992 on the Protection of Personal Data and Access to Information of Public Interest (hereinafter referred to as "DPA"), providers of electronic communications services shall be required to comply with any request for location information - exclusive of traffic data - in connection with specific subscribers or users, if made by a body authorized under specific other legislation to obtain such data.

Traffic and Billing Data

Section 157.

(1) With the exceptions set out in Subsection (2) of this Section and in Subsection (1) of Section 159/A, traffic data relating to subscribers and users processed and stored by the provider of electronic communications services while providing such services must be erased or made anonymous when it is no longer needed.

(2) Electronic communications service providers shall be authorized to process the following data for subscribers and users for the purposes of billing for calls, collecting the related charges and for keeping the subscriber contracts up to date:

- a)* the data referred to in Paragraphs *b)-d)* of Subsection (6) of Section 129;
- b)* the telephone number or other identifier of the subscriber terminal;
- c)* the address of the subscriber and the type of terminal equipment;
- d)* total units chargeable for the billing period;
- e)* calling and called subscriber numbers;
- f)* the type of calls or other services, their direction, start time, the duration of conversations or the size of data transmitted, the International Mobile Equipment Identity (IMEI) of the network and cell providing the service and of the telephone set used for making use of the service provided in the case of mobile radio telephone networks, and for IP networks the identifiers used;
- g)* the date of call or other services provided;
- h)* data connected with the payment of charges or charges in arrears;
- i)* events of the termination of a subscriber contract if terminated with debts outstanding;
- j)* data relating to other, non-electronic communications services, in particular to the billing of charges therefor, that may be used by subscribers and users in the case of telephone services;
- k)* data the service provider has obtained in connection with the unlawful use of subscriber terminal equipment, or any attempt to do so, for accessing subscriber services in the electronic communications network, in particular when such equipment has been barred by its rightful owner.

(3) The data referred to in Subsection (2) may be processed for the purposes mentioned in Subsection (2) until the term of limitation established by Subsection (2) of Section 143 for claims arising from subscriber contracts.

(4) Providers of electronic communications services may use the type of data referred to in Subsection (2) for marketing purposes subject to the subscriber's prior consent. Providers of electronic communications services shall provide the possibility to users or subscribers to withdraw their consent at any time.

(5) Where another act so provides, providers of electronic communications services shall be authorized to process personal data relating to subscribers and users, as defined in specific other legislation, solely for the purpose and within the time limit set out in this Act, and any data processing operations under this Act must be terminated within the time limit prescribed in this Act for the objective in question.

(6) Providers of electronic communications services shall conduct data processing operations, where authorized or prescribed in this Act and other acts for different purposes, structurally separated. Separation may be accomplished:

- a)* by way of using different data processing systems for each function, where data is physically separated according to the purpose for which they were obtained;
- b)* by way of using a logical data processing system, where all data is stored in a common database, however, access to such data is restricted according to the purpose for which they were obtained.

(7) Providers of electronic communications services shall erase without delay, within not more than thirty days:

- a)* from the physically separated data processing system, all data upon the expiry of the time limit prescribed for the specific purpose of processing in question;
- b)* from the logically separated data processing system, all data upon the expiry of the time limit prescribed for the purpose of processing in question.

(8) Within the framework of proceedings for insider trading, market manipulation and unauthorized provisions of services, and also in connection with the enforcement of regulations relating to company takeovers, of the data specified under Subsection (2), the subscriber's surname and forename, birth name, residence address, place of abode, the telephone number or other identifier of the subscriber terminal, calling and called subscriber numbers, and the date of call or other services provided may be disclosed to the Hungarian Financial Supervisory Authority.

(9) The data referred to in Subsection (2), to the extent required for the purpose of data processing, may be transferred - within the time limit prescribed in Subsection (3) for retaining data - to:

a) the persons involved in billing operations, management of claims and management of sales, and in client information on behalf of the provider of electronic communications services;

b) the bodies authorized under legal regulation to settle disputes arising in connection with billing and sales;

c) court bailiffs governed by the Act on Judicial Enforcement;

d) the body authorized under specific other legislation to obtain such data in the case described in Subsection (8) of Section 3 of the DPA.

(10) Providers of electronic communications services shall be required to disclose or make available the data in their possession according to Subsection (2) upon request made by the investigating authority, the public prosecutor, the court or the national security service pursuant to the authorization conferred in specific other legislation, to the extent required to discharge their respective duties.

Section 158.

(1) In order to prevent any evasion of the obligation to pay charges and other obligations following from the contract, or in the event where the conditions specified in Subsection (4) of Section 118 exist, electronic communications service providers shall have the right to transfer to or receive from, other electronic communications service providers data for the identification of subscribers, from the data legally processed in accordance with Section 157, along with the reasons for such data transfer as laid down in Subsection (3), or to raise a joint data bank with corresponding data content in order to refuse to contract with certain subscribers.

(2) Service providers shall be able to forward the data referred to in Paragraphs b)-f) of Subsection (6) of Section 129 for the purpose defined in Subsection (1).

(3) Subscriber data may be forwarded or recorded in the data bank if the conditions specified in Subsection (4) of Section 118 exist, and if:

a) a contract was terminated by the service provider on account of overdue charges, or the availability of the service for use by a subscriber was fully or partially suspended; or

b) judicial or public proceedings were instituted by the service provider against a subscriber on account of outstanding debts, or if the subscriber's place of abode is unknown; or

c) the service provider was misled or an attempt was made to mislead by an applicant or subscriber with the intention of causing damage thereto (in particular when the documents of subscriber identification are obviously false, fraudulent or invalid).

(4) Service providers shall promptly inform the subscribers concerned of the data transfer.

(5) In respect of the management of the joint data bank and the duration of such management, the provisions of Subsection (3) of Section 157 shall apply. Data may be used exclusively for the purposes defined in Subsection (1).

(6) Where the grounds for lawful processing or forwarding of data no longer exist, the service provider shall take measures to have the subscriber's data erased from the joint data bank, and shall notify all previously notified service providers and the subscriber concerned of having the data erased.

(7) Data included in the data bank may be requested by:

a) the electronic communications service provider only for the purpose defined in Subsection (1);

b) the bodies or authorities mentioned in Subsections (8)-(10) of Section 157,

c) any consumer so as to find out the data contained in the data bank relating to him/her.

(8) The parties concerned shall agree in writing as to the creation of a joint data bank, the commissioning of the data manager or data processor, and the rights and obligations thereof.

Section 159.

(1) Prior to the conclusion of a subscriber contract, the applicant shall be expressly and clearly informed of:

a) the processing of his/her data as mentioned in Subsections (9)-(10) of Section 156, Subsections (2) and (8)-(10) of Section 157 and in Subsection (1) of Section 159/A;

b) the cases where data used may be transferred, and the electronic communications service providers to which such data transfer may take place;

c) the decisions that electronic communications service providers may make on the basis of those data;

d) the legal remedies the applicant may have recourse to;

e) the manager and processor of the joint data bank and the place of data processing and management (address).

(2) The subscribers shall be informed without delay of any changes in the conditions mentioned in Paragraphs b)-e) of Subsection (1).

Obligation to Retain Data for Reasons of Law Enforcement, National Security and Defense

Section 159/A.

(1) Electronic communications network operators and providers of electronic communications service shall be required - for the purpose of compliance with any request made by the investigating authority, the public prosecutor, the court or the national security service pursuant to the authorization conferred in specific other legislation, with a view to discharge their respective duties - to retain the data generated or processed by the service provider in connection with the provision of electronic communications services relating to the subscribers or users of such electronic communications services:

a) the data specified in Paragraphs *b)-d)* of Subsection (6) of Section 129 related to fixed network telephony and mobile telephony services, internet access, internet telephony, internet mail services, or the combination of these;

b) in connection with fixed network telephony and mobile telephony services, internet access, internet telephony, internet mail services, or the combination of these, the telephone number allocated to the terminal equipment of the user or subscriber or to the subscriber access point, or the user ID or any technical identifier fixed in the subscriber contract or otherwise assigned to the subscriber or user by the provider of electronic communications services;

c) in connection with fixed network telephony services, fixed internet access services, or the combination of these, the address where the terminal equipment of the user or subscriber or the subscriber access point is installed, and the type of equipment;

d) in connection with fixed network telephony and mobile telephony services, internet access, internet telephony, internet mail services, or the combination of these, the telephone numbers of the users and subscribers participating in the communication, their technical means of identification, user IDs, type of electronic communication services involved, and the data necessary to identify the date, time and duration of a communication;

e) in connection with fixed network telephony and mobile telephony services, or the combination of these, in cases involving call forwarding or call transfer, the subscriber or user number or numbers to which the call is routed;

f) in connection with mobile telephony services, concerning the equipment used at the time of communication, the International Mobile Equipment Identity (IMEI) of the calling and the called party, and the International Mobile Subscriber Identity (IMSI) of the calling and the called party;

g) in connection with mobile telephony services, the location label (cell ID) and network identifier at the start of the communication, and the data identifying the geographic location of cells by reference to their location labels (cell ID) during the period when the service was provided;

h) in connection with internet mail services and internet telephony services, or the combination of these, the data referred to in Paragraph *d)* of the intended recipient(s) of the communication;

i) in connection with internet access, internet mail services, internet telephony services, or the combination of these, type of the electronic communication service, the date and time of the log-in and log-off by the subscriber or, together with the IP address allocated to the communication, and the user ID of the subscriber or registered user, including the calling number;

j) in connection with internet access, internet mail services and internet telephony services, or the combination of these, the data necessary to trace any changes made in the unique identifiers of subscribers and users by the provider of electronic communications services (IP address, port number);

k) in the case of pre-paid anonymous mobile telephony services, the date and time of the initial activation of the service and the location label (cell ID) from which the service was activated.

(2) The obligation to retain data provided for in Subsection (1) shall include the retention of the data specified in Subsection (1) relating to unsuccessful call attempts.

(3) Providers of electronic communications services, for the purposes of compliance with the obligation of disclosure referred to in Subsection (1), shall retain the data specified in Paragraphs *a)-c)* of Subsection (1) for a period of one year following termination of the subscriber contract, the data specified in Paragraphs *d)-k)* of Subsection (1) for a period of one year following the time they were generated, and the data specified in Subsection (2) for a period of six months following the time they were generated.

(4) In connection with the data disclosures prescribed under Subsection (1), responsibility for the legitimacy of such requests of information shall lie with the requesting party. The provider of electronic communications services transferring the data files shall be liable to ensure that the data retained and transferred according to Subsection (1) are complete, of good quality and properly updated.

(5) Providers of electronic communications services subject to the obligation of retention prescribed in Subsection (1) shall be authorized to subcontract their data processing operations, or to store the data retained in another Member State of the European Economic Area, if the agreement for the retention of data concluded with the data processing contractor contains provisions laying down the requirements for security and access in due compliance with Hungarian confidentiality regulations concerning the data requests made under Subsections (1)-(2). Providers of electronic communications services shall not be authorized to store any data retained in the territory of a country, and may not contract the services of a data processing contractor that is established in a country, which country is other than a Member State of the European Economic Area.

(6) For the purposes of this Section, 'communication' means any information exchanged or conveyed between a finite number of parties by means of a publicly available electronic communications service, including unsuccessful call attempts. For the purposes of this Section, this shall not include any information conveyed as part of a broadcasting service to the public over an electronic communications network except to the extent that the information can be related to the identifiable subscriber or user receiving the information.

Subscriber Lists, Subscriber Directory, Address Registers

Section 160.

(1) Service providers shall maintain subscriber lists for keeping data that is necessary for the identification of the subscriber and for the services used and that can be processed by the service provider under authorization by this Act or specific other legislation.

(2) Service providers shall prepare subscriber directories each year in printed format (phone book) or in electronic format, listing all subscribers of the service provider. A provider of electronic communications services or other information service provider may create address registers, featuring subscriber information arranged in specific groups.

(3) Subscriber directories and address registers may only contain as much data of a subscriber as is essential for the identification thereof unless the subscriber concerned clearly approves, on a voluntary basis, to the publication of more of his/her data.

(4) Each subscriber shall have the right to require the service provider, free of charge, to:

- a) be left out from the printed or electronic directory;
- b) indicate in the telephone books that his/her personal data may not be used for the purposes of direct marketing, information, public-opinion polling and market research;
- c) indicate his/her address in the telephone books in part only.

(5) The subscriber directory referred to in Paragraph d) of Section 117 shall be supplied to the subscribers free of charge, subject to the conditions laid down by law.

Section 161.

(1) Electronic communications service providers may use data included in their subscriber directory and address register for providing information, as a service, from the data they contain. Within the framework of the provision of this service, no data exceeding those contained in the subscriber directory or address register may be disclosed, unless the subscriber concerned has approved of the disclosure of more of his/her data.

(2) The security of the queries from the subscriber directory or address register shall be maintained, and any misuse, in particular any unauthorized downloading of such data, shall be prevented by appropriate technical solutions.

(3) It is forbidden to establish any interrelation between the data of electronic subscriber directories or address registers and other data or directories unless it is inevitable for operational purposes on the part of the electronic communications service provider.

Use of Data for Direct Marketing and for Information

Section 162.

(1) Applying the automated calling system free of any human intervention, or any other automated device for initiating communication with prospective subscribers, for the purposes of direct marketing, information, public-opinion polling and market research in respect of a subscriber shall be subject to the prior consent of the subscriber.

(2) No call serving the purposes of direct marketing, information, public-opinion polling and market research may be placed to a subscriber who has declared that he/she does not wish to receive any publicity matter; this prohibition also applies to direct marketing techniques falling outside the scope of Section 6 of Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities (hereinafter referred to as "CAA"), and to any communication that is not treated as advertisement under the CAA.

(3) Communication for the purposes of direct marketing, information, public-opinion polling and market research may not be forwarded, even in possession of the subscriber's express consent, from which the sender cannot be clearly identified.

(4) Operators of electronic communications services for voice transmission shall convey to the universal service provider all data of subscribers - depending on their approval - as are necessary in connection with providing services referred to in Paragraphs c) and d) of Section 117. Data transferred in this fashion may not be used for purposes other than what is described above.

PART SIX

CLOSING PROVISIONS

Miscellaneous Provisions

Section 163.

(1) Fees and penalties defined in this Act and in other legal regulations adopted under authorization granted in this Act that are payable to the central budget or to the Authority, as well as payments to be made to the Universal Electronic Communications Compensation Fund, shall be treated as public debts to be collected as taxes.

(2) In connection with the subscriber contracts for universal services, which are in effect at the time of this Act entering into force, the universal service provider shall be required to enable subscribers to make the carrier selection specified in Section 111 on a call-by-call basis or by means of pre-selection.

(3) In connection with the subscriber contracts for universal services, which are in effect at the time of this Act entering into force the services may continue to be provided under the same conditions, and the provisions of Act LXXXVII of 1990 on the Establishment of Prices shall apply; any potential claim to be lodged by the universal service provider for support shall fall within the scope of this Act.

(4) Funding for the government duties conferred in this Act and in other legal regulations adopted under authorization of this Act shall be allocated in the act on the annual central budget as an independent chapter of appropriation.

(5) From the appropriations chapter referred to in Subsection (4) financial aid may be granted on behalf of the government to service providers for compulsory improvements prescribed by statutory provision.

Entry into Force

Section 164.

(1) This Act - with the exceptions set out in Subsections (2)-(3) - shall enter into force on 1 January 2004.

(2) Section 182 of this Act shall enter into force on the day of promulgation.

(3) Section 13, Section 51, Section 75, Section 148, Paragraphs b) and c) of Subsection (1) of Section 150, and Section 153 of this Act shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(4) Subsection (4) of Section 53, Subsection (2) of Section 54, Section 56 and Section 65 of this Act shall apply as of the date referred to in Subsection (3). Where the provisions of this Act on specific procedures require that the respective official actions are also executed, such actions shall be suspended until the date referred to in Subsection (3).

Sections 165-166.

Section 167.

- (1) The Authority shall be legal successor of the Communications Authority.
- (2)
- (3) The Authority shall adopt the records of its predecessor and shall take measures to obtain any information that might be missing from these records.
- (4)-(5)

Transitional Provisions

Section 168.

(1) The obligations of service providers with significant market power on any key market imposed under this Act, or by another legal regulation that was in effect on 31 December 2003 or was adopted subsequently with respect to being identified as having significant market power shall remain in force, subject to the exceptions set out in this Act, until the expiry of the transitional period specified in Subsection (2) of Section 55 as referred to in the Authority's resolution for imposing obligations for the first time subsequent to this Act entering into force on any service provider identified as having significant market power on all relevant markets set to replace the key markets specified in Section 52.

(2) The provisions in Subsection (1) shall not concern the Authority's entitlement conferred under Section 56 to impose obligations that were applied on the strength of law by way of resolution within the scope of this Act.

Section 169.

Section 170.

(1) Service providers identified as having significant market power at the time of this Act entering into force shall establish the price payable under network contracts by the time referred to in Subsection (1) of Section 168 under the principles of objectivity, transparency, non-discrimination and in a verifiable way.

(2) Service providers identified at the time of this Act entering into force as having significant market power on the market of telephone services and service providers identified as having significant market power for mobile radio telephone services shall be required to keep separate financial accounts. These service providers shall keep separate accounts for the assets and liabilities and for the costs, expenses and revenues on the activities of their divisions associated with the provision of electronic communications services in accordance with Subsections (3) and (4) of Section 105, using internal transfer prices calculated by the methodology referred to in Subsections (3) and (4) of Section 105 that can be compared against the prices charged to third persons for network services, as if these activities were carried out by another business entity.

(3) The notified operators subject to the obligation of accounting separation at the time of this Act entering into force shall submit the first accounting statement under this Act to the Authority by 31 May 2004, prepared on the basis of the audited accounting records of 2003.

(4) The Authority shall decree the detailed regulations relating to accounting records before the date referred to in Subsection (1) of Section 168, and the Minister shall decree the rights and obligations of notified operators concerning accounting separation.

(5) Simultaneously with this Act entering into force:

- a) service providers having significant market power on the market of telephone services shall set the prices:
 - aa) for access and/or interconnection, and
 - ab) charged under contract for unbundled access to the local loop;
- b) service providers with significant market power on the leased-line market shall set the prices charged under interconnection contracts;
- c) service providers with significant market power on the interconnection market shall set the prices charged to fixed telephone service providers for the interconnection of electronic communications network
 - by the time referred to in Section 168 by keeping separate accounts for the assets and liabilities and for the costs, expenses and revenues from services, with the exception that the long-run incremental cost (LRIC) method shall be applied in connection with the services referred to in Paragraphs aa), b) and c), whereas for the service referred to in Paragraph ab) the fully distributed cost method including historical cost accounting (HCA-FDC) shall be applied. Electronic communications service providers shall submit the above-specified prices to the Authority for approval before charging them, also if no reference offer is made.

(6) The cost accounting system to be used by the time referred to in Subsection (1) of Section 168 is contained in specific other legislation.

Section 171.

The service providers identified as having significant market power at the time of this Act entering into force shall comply with their obligation by the time referred to in Subsection (1) of Section 168 in due observation of the provisions contained in Section 103, Section 107, Section 110 and Sections 112-115.

Section 172.

(1) The service providers identified as having significant market power on the market of telephone services or on the leased-line market, and controlling an electronic communications network before the time referred to in Subsection (1) of Section 168 shall prepare a reference offer concerning interconnection - in compliance with Subsection (1) of Section 112 - by the time referred to in Subsection (1) of Section 168, and shall send it to the Authority by 15 January 2004, and submit it for approval by 31 August 2004, as pertaining to 2005, for the purposes of accounting separation.

(2) The service providers referred to in Subsection (1) shall proceed according to Section 107 up to the time referred to in Subsection (1) of Section 168.

(3) Reference offers pertaining to interconnection and/or access shall contain:

- a) the general conditions of interconnection, including pre-ordering;
- b) the geographically defined points of interconnection;
- c) options for technical solutions for interconnection;
- d) transmission routes applicable for interconnection;
- e) network (access) services offered, and any associated supporting services;
- f) an indication of the interfaces;
- g) the quality of services (including the conditions of operation and maintenance) and the capacities available;
- h) the supporting (operator, emergency and directory) services;
- i) premium services;
- j) the conditions of carrier selection;
- k) the conditions of the portability of numbers;
- l) the conditions for facility sharing, in particular the space to be provided to accommodate the equipment of the beneficiary service provider and the technical conditions that can be provided in the premises of the notified operator, or alternative facilities of installation;
- m) the prices of the above services and the conditions of application;
- n) the rules of cooperation between the parties.

Section 173.

(1) The service providers identified as having significant market power on the market of telephone services (for the purposes of this Section hereinafter referred to as "notified operator") before the time referred to in Subsection (1) of Section 168 shall prepare a reference offer concerning unbundled access to the local loop and the related

facility sharing, and shall send it to the Authority by 15 January 2004, and submit it for approval by 31 August 2004, as pertaining to 2005, for the purposes of accounting separation.

(2) The service providers referred to in Subsection (1) shall proceed according to Section 107 up to the time referred to in Subsection (1) of Section 168.

(3) If the notified operator is required to publish a reference offer for unbundled access to the local loop and for the related facility sharing (hereinafter referred to as "unbundled access"), the reference offer shall inter alia contain:

- a) the general conditions for access, including pre-ordering;
- b) facilities of an access to the network terminal point of the local access network;
- c) facilities of an access to transmission capacities still available in the local loop in the case of shared access;
- d) the conditions for facility sharing, in particular the space to be provided to accommodate the equipment of the beneficiary service provider and the technical conditions that can be provided in the premises of the notified operator, or alternative facilities of installation;
- e) all essential information on the architecture of the local access network and necessary for the conclusion of the contract of access;
- f) technical specifications of the physical circuit of the access network;
- g) specifications of equipment that represent technologies ensuring wideband transmission applicable in the local loop, as well as EMC requirements necessary for avoiding interference with other systems;
- h) the prices of the above services and the conditions of application;
- i) the rules of cooperation between the parties.

(4) The service provider shall not be subject to the obligation to conclude a contract for unbundled access to the local loop if the request for access cannot be satisfied for technical reasons, or the integrity of the network cannot be maintained if satisfied.

(5) The notified operator's obligation for publishing a reference offer for unbundled access to the local loop and the related facility sharing in connection with any service provider identified - at the time of this Act entering into force - as having significant market power on the market of telephone services before the time referred to in Subsection (1) of Section 168 shall apply solely to the twisted metallic pair local loop.

Section 174.

Subsequent to the time referred to in Subsection (1) of Section 168 the Authority shall have powers to impose the obligation of unbundled access to the local loop and the contracting obligation for the related facility sharing - if the conditions referred to in Section 172 are satisfied - on service providers with significant market power irrespective of the type of physical circuit installed in the local loop, however, if the obligation is imposed regarding the twisted metallic pair local loop, it shall be done in compliance with the provisions laid down in specific other legislation.

Section 175.

(1) The service providers identified as having significant market power on the market of telephone services at the time of this Act entering into force shall prepare a reference offer concerning local bit-flow access and the related facility sharing before the time referred to in Subsection (1) of Section 168, and shall send it to the Authority by 15 January 2004, and submit it for approval by 31 August 2004, as pertaining to 2005, for the purposes of accounting separation.

(2) Reference offers for local bit-flow access shall be published together with the offers for unbundled access to the local loop.

(3) In addition to what is contained in Subsection (2) of Section 172, reference offers shall contain an indication of the conditions for access to transmission capacities.

(4) A notified operator shall be authorized to provide bit-flow access in connection with a specific local loop only if the reference offer published by the notified operator contains an offer for local bit-flow access to the local loop in question and the sharing of facilities as necessary.

(5) Other aspects of local bit-flow access shall be governed by the provisions on unbundled access to the local loop.

Section 176.

The service providers identified as having significant market power on the leased-line market before the time

referred to in Subsection (1) of Section 168 shall be required to provide leased-line services under uniform technical specifications and conditions for use, as specified in specific other legislation, and with the features and in the prescribed variety.

Section 177.

(1) The Minister shall designate the universal service provider on the strength of this Act by 1 May 2004. Until then, the Minister shall provide for the amendment of universal service contracts in effect at the time of this Act entering into force, or for their termination with a view to ensure the continuity of services.

(2) The Minister shall conclude the universal service contracts referred to in Subsection (1) of Section 120 with the designated service providers by 1 July 2004.

Section 178.

(1) The provisions contained in Subsection (1) of Section 111 and Subsection (1) of Section 112 shall apply to service providers having significant market power on the market of telephone services before the time referred to in Subsection (1) of Section 168.

(2) Up to the time referred to in Subsection (1) of Section 168 service providers identified as having significant market power on the mobile radio telephone services market shall be required to enable their subscribers - as provided for in specific other legislation - to select the carrier for international calls.

Section 179.

The service provider having significant market power on the telephone, interconnection, mobile radio telephone and leased-line markets, as specified in Sections 170-178, shall mean the service provider identified as such by the Communications Arbitration Committee at the time of this Act entering into force.

Section 180.

The authorizations referred to in Subsection (1) of Section 84, if granted with respect to concession contracts before the date of this Act entering into force, shall remain valid during the term of the concession contracts.

Section 181.

(1) This Act shall apply to fixed-term subscriber contracts of a service provider identified as having significant market power on the market of telephone services concluded before 31 August 2003 as of the date referred to in Subsection (1) of Section 168, or as of 1 September 2004 at the latest.

(2) The provisions of Subsection (2) of Section 88 shall apply to the terms of limitations set off subsequent to this Act entering into force.

Authorizations

Section 182.

(1) The Government is hereby authorized to decree the following in connection with frequency management:

- a) the national plan for the allocation of frequency bands;
- b) the rules of the auction and tenders published for the acquisition of entitlement to frequency use;
- c) the organizational structure, functions, direction, duties and funding of the authority responsible for the management of frequencies for non-civilian purposes, the rules of frequency management for non-civilian purposes and the organizations falling within the scope of management of frequencies for non-civilian purposes.

(2) The Government is hereby authorized to decree the following in connection with electronic communications:

- a) the scope of responsibilities and competence of the Authority as well as detailed rules of its procedures;

- b) the scheme of preparing electronic communications for emergencies and extraordinary emergency situations, and the duties of government agencies along with laying down the conditions for their operation;
- c) the NPAI and the detailed rules for the management of identifiers;
- d) the detailed rules for number portability;
- e) the rules for carrier selection;
- f) the rules for the cooperation between operators of the electronic communications sector and organizations authorized to conduct covert investigations and covert information gathering operations;
- g) requirements for the quality of electronic communications services concerning consumer protection;
- h) the detailed rules relating to reference offers, network contracts and the conclusion thereof;
- i) the obligation of data protection and confidentiality of electronic communications service providers, their employees, members or agents, detailed rules of data management, special conditions of secrecy, management of traffic and billing data, conditions for the indication of identifiers and call forwarding;
- j) the detailed rules on the formation, operation, the resources to be allotted to, the exercise of supervision over and the termination of the Universal Electronic Communications Compensation Fund, and the use of the funds;
- k) the rules on private networks, in derogation from this Act;
- l) the detailed regulations concerning the obligations the Authority is empowered to impose under Subsection (3) of Section 100 so as to ensure accessibility for end-users to digital radio and television broadcasting services;
- m) the detailed rules of the provision of telegram service.

(3) The Minister is hereby authorized to decree the following in connection with frequency management:

- a) the regulations for the use of frequency bands that can be allocated for civilian and for common purposes;
- b) the qualifications required for authorizations to prepare technical plans necessary, in certain cases, for frequency assignment, in agreement with the Minister placed in charge of frequency management for non-civilian purposes;
- c) the guidelines and the conditions for the transfer of rights to use a radio frequency;
- d) the rules of the regulatory procedure related to individual licensing, in particular the detailed conditions for the frequency assignment and radio licensing procedures, and detailed rules relating to the granting, amendment, withdrawal, extension of licenses, and to the refusal to grant such licenses, the condition for the exercise of the right to use a radio frequency and the detailed rules on the conditions that can be installed in the authorization granting the right to use a radio frequency (frequency assignment, radio license, entitlement to use a radio frequency), and, furthermore, the period of validity of the right to use a radio frequency;
- e) fees payable for the use of frequencies reserved for civilian purposes, and the terms of payment, in agreement with the minister in charge of taxation;
- f) conditions for the recognition of foreign radio licenses;
- g) detailed rules for the certification of conformity of radio equipment and electronic communications terminal equipment and recognition of such certifications, and the rules for placing this equipment on the market and its commissioning, and for the authorization of testing, inspection and certification bodies relating to conformity;
- h) examination requirements in connection with amateur radio operators, the rules of examination and conditions for the issue of operator licenses;
- i) the rules of control and testing procedures and procedures for the elimination of interference.

(4) The Minister is hereby authorized to decree the following in connection with electronic communications:

- a) the technical specifications relating to electronic communications networks;
- b) fees payable for the Authority's procedures, payment terms and conditions, as well as the amount of the fees, upon consultation with the Authority and in agreement with the minister in charge of taxation;
- c) the detailed conditions and the technical specifications of universal electronic communications services;
- d) fees payable for the reservation and use of identifiers, detailed terms and conditions of payment, in agreement with the minister in charge of taxation;
- e) contributions to be made to the Universal Telecommunications Compensation Fund, the method used in determining the amount most reasonable, the principles for the calculation of net avoidable costs, and the regulations for the compensation and recovery of financial burdens relating to universal services;
- f) detailed rules relating to the cost accounting of network services;
- g) the regulations and procedural rules for cooperation between the central reference database and the service providers for the viability of number portability, and the quality requirements for access to the database;
- h) the rules concerning the tariff packages relating to universal services, in agreement with the minister in charge of taxation;
- i)
- j) the regulations concerning town and country planning and development, road and public utilities construction

and rehabilitation projects, and the implementation and renovation of other buildings and structures relating to the installation of electronic communications facilities;

k) the scope of data necessary for the performance of the Authority's tasks, to be supplied by market operators, conditions for the obligation of market operators to disclose data, and rules relating to the Authority's data processing and registration procedures;

l) the designation of electronic communications service providers involved in national defense and determination of their preparatory tasks;

m) requirements of content relating to technical specifications of interfaces and prescriptions of access thereto;

n) detailed rules on keeping separate financial accounts;

o) the basic principles for market definition, market analysis and for the designation of service providers with significant market power and laying down the obligations to be imposed upon them;

p) regulations for the operation and competence of an emergency service for the information technology and communications sectors, the obligation of notification and communication of service providers;

q) regulations for a minimum set of leased line services;

r) regulations for the designation of universal electronic communications service providers;

s) detailed rules relating to subscriber contracts and to the conclusion of these contracts.

t) the procedure for providing access for emergency services operators to calling line identification and location information with a view to respond to emergency calls.

(5) The minister in charge of industrial production is hereby authorized to decree, jointly with the Minister, the conditions for the certification of conformity of high-frequency electric equipment and electronic communication equipment or any other electric device emitting high-frequency signals or causing any other side effects, conditions for manufacturers' declarations of conformity, the basic requirements of conformity, and the conditions of mutual recognition of foreign certificates of conformity.

(6) The Minister placed in charge of frequency management for non-civilian purposes is hereby authorized to decree, in agreement with the Minister:

a) the method of application of the certificate of conformity, relating to radio equipment using frequency bands reserved for non-civilian purposes, defined in Subsection (1) of Section 80 and in legal regulations adopted by authorization granted therein, and the basic requirements as well as permissible departures therefrom;

b) the rules of frequency assignment and radio licensing procedures, and the rules of control and testing procedures and procedures for the elimination of interference and the rules for the disclosure of data in the field of non-civilian frequency management;

c) rules relating to the use of frequency bands for non-civilian purposes.

(7) The Minister is hereby authorized to decree, in agreement with minister in charge of industrial production, the regulation concerning the installation of engineering fixtures in the vicinity of or crossing electronic communications structures, and the protection of electronic communications structures.

(8) The Minister is hereby authorized to decree, in agreement with the minister in charge of social and family welfare policies, the regulations concerning support to be provided to subscribers of specific social groups for their access to universal electronic communications services.

Amendments

Section 183.

Section 184.

- (1)
- (2)
- (3)

Section 185.

- (1)
- (2)

(3)

Section 186.

(1) Any reference made in legal regulation to the Communications Authority, the Communications Supervisory Authority, local branches of the Communications Authority and to the Regional Communications Agency, shall be understood as the National Communications Authority.

(2) Any terminology used in legal regulations adopted before the date of this Act entering into force, that corresponds to a definition under Section 188 of this Act, the definition conveyed in this Act shall be applied, for example:

- a) 'communications' shall be replaced by 'electronic communications';
- b) 'telecommunications' shall be replaced by 'electronic communications';
- c) 'telecommunications services and structure' shall be replaced by 'electronic communications services and structure';
- d) 'telecommunications network, equipment, and terminal equipment' shall be replaced by 'electronic communications network, equipment and terminal equipment';
- e) 'telephone services and network' shall be replaced by 'fixed public telephone service and network'.

(3) Any terminology used in network contracts and any other contracts related to electronic communications concluded before the date of this Act entering into force, that corresponds to a definition under Section 188 of this Act, the provisions contained in Subsection (2) shall be appropriately applied.

Compliance with the Acquis

Section 187.

(1) This Act contains provisions for the implementation of the following legislation of the Communities;

a) Regulation (EC) No. 2887/2000 of the European Parliament and of the Council of 18 December 2000 on unbundled access to the local loop;

b) Regulation (EC) No. 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC.

(2) This Act serves the purpose of conformity with the following legislation of the Communities:

a) Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity, Articles 3 and 4 and Article 7(4);

b) Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive);

c) Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorization of electronic communications networks and services (Authorization Directive);

d) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive);

e) Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive);

f) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications);

g) Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services;

h) Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC.

Interpretative Provisions

Section 188.

For the purposes of this Act:

1) 'Basic monitoring subsystem' shall mean a system that enables announcements and the accompanying data thereof of the subscribers of an organization providing electronic communications services, or the members of a group of subscribers (users) thereof selectable, on an arbitrary basis, from among all subscribers (users), coming to at least 0.1 to 0.6 per cent of the total number of subscribers (users) - or 0.6 per cent or at least 60, if the number of subscribers is below 150,000, 0.3 per cent or at least 900, if the number of subscribers is between 150,000 and 1,000,000, or 0.1 per cent or at least 3000, if the number of subscribers is over 1,000,000 subscribers or users (with a traffic of not more than twice the average volume falling on one subscriber among all subscribers), in simultaneous connection to be fully, continuously and simultaneously selected and made available at the exit point without delay.

2) 'Identifier' shall mean a character string, necessary for the operation of the electronic communications network, the provision of electronic communications services and the interoperability of electronic communications networks and services, comprised of letters and/or numbers and/or signs identifying the recipient, that serves for the purpose of making information or signs reach their destination.

3) 'Central control of identifiers' shall mean a Government-operated system designed to allocate the use of identifiers - in line with international norms and standards - to service providers which are required for the access of communications networks and electronic communications services. In the application of this, the activities relating to domain names, e-mail addresses and IP (Internet Protocol) addresses shall not be considered a part of central control of identifiers.

4) 'Price squeeze' shall mean an action that is restrictive to competition and is introduced by a network operator intended to disable an otherwise effective service provider to sustain the provision of subscriber services over its network that is similar to the services provided by the network operator or by any affiliate or parent of or under joint management with the network operator, at the interconnection prices charged by the network operator or by any affiliate or parent of or under joint management with the network operator.

5) 'Flat-rate voice transmission wholesale service over the internet' shall mean a network service carrying voice signals over the internet from the subscriber's access point to the interconnection point, where the service provider operating the interconnection point is under obligation to provide the capacity previously agreed upon with the beneficiary service provider for a fee previously agreed upon.

5/a) 'Transmission system' shall mean a system of electronic communications and other equipment and technical means for the transmission of analogue or digital radio and television broadcast signals, using a transmission medium commonly used for broadcasting, such as air and radio frequency, coaxial cable, twisted metallic pair wire or fiber optics.

6) 'Roaming over mobile radio telecommunications networks' shall mean the use of the network of a mobile radio telecommunications service provider or operator by the subscriber of another mobile radio telecommunications network operator to enable the subscriber to access all or some of the same basic services which are available in the network of the host electronic communications service provider, as well as extra services, technical means permitting, and calling methods, without entering into a subscriber relationship with the operator of the visited network.

7) 'Domestic call' shall mean any call made in the domestic territory that also ends in the domestic territory.

8) 'Leased line' shall mean a system of electronic telecommunications apparatuses providing transparent transmission capacity between network terminal points not including, however, any user-controlled switching functions.

9) 'Bit-flow access' shall mean a two-way high-speed digital network service where the notified operator gives the beneficiary service provider access to or shares with them, the transmission capacity of its active network equipment.

10) 'Private subscriber' shall mean a natural person having subscribed to receive services for purposes other than business.

11) 'Universal electronic communications service' shall mean the electronic communications services defined in this Act which are to be rendered available, subject to predetermined quality standards, to all users, anywhere within the territory of the Republic of Hungary, for a reasonable fee.

12) 'Electronic communications structures' shall mean track-line and track-type structures and other fixtures installed for the purposes of electronic communications that include the cables, and objects in connection with cables and wireless connections such as covers, supports, protective equipment, signal equipment, etc., and engineering objects, in particular the accessories and support structures, antenna support structures (towers), antennas, poles, cable ducts, cable housings, channels, underground and surface signals and protective objects.

13) 'Electronic communications service' means a service normally provided for remuneration which consists

wholly or mainly in the conveyance and, where applicable, switching or routing of signals on electronic communications networks, but excludes services providing, or exercising editorial control over, content transmitted using electronic communications networks and electronic communications services; furthermore, it does not include information society services, as defined in specific other legislation, which do not consist wholly or mainly in the conveyance of signals on electronic communications networks.

14) 'Provider of electronic communications services' shall mean the operator of an electronic communications network and any natural or legal person or unincorporated business association engaged in providing electronic communications services.

15) 'Electronic communications activity' shall mean any activity aiming for the conveyance of any text, voice, sound or image or any other type of message generated in an intelligible form over a public communications network to one or more recipients, such as in particular the provision of electronic communications services, the operation of electronic communications networks or equipment, the supply of terminal equipment and other associated services.

16) 'Electronic communications regulations' shall mean this Act, other legal regulation adopted under authorization of this Act for the implementation of this Act, directly applicable Community legislation relating to electronic communications, and the decisions of the competent authorities.

17) 'Electronic communication equipment' shall mean any equipment that is required for the provisions of electronic communications services, including, but not limited to, apparatuses.

18) 'Electronic communications assets' shall mean to include electronic communication equipment and associated facilities, including masts.

19) 'Electronic communications network' shall mean transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals between specific terminal points by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.

20) 'Electronic communications network operator' shall mean a natural or legal person or unincorporated business association providing or authorized to provide, a public electronic communications network or an associated facility.

21) 'Electronic communication terminal equipment' shall mean a product enabling communication or a relevant component thereof which is intended to be connected directly or indirectly through a subscriber access point for interaction with the electronic communications network.

22) 'Subscriber' shall mean any natural or legal person or unincorporated business association or other organization who or which is party to a contract with the provider of publicly available electronic communications services for the supply of such services.

23) 'Subscriber access point' shall mean a network termination point at which a subscriber or user is provided access to network functions and services provided through the network by way of a physical and logical connection of an electronic communication terminal equipment.

24) 'Subscriber access service provider' shall mean a provider of electronic communications services who is a party to a contract with a subscriber for the physical and logical linking of an electronic communication terminal equipment to an electronic communications network or a part thereof for receiving publicly available electronic communications services.

25) 'Subscriber services' shall mean publicly available electronic communications services, other than network services by definition of this Act.

25/A) 'Member State of the European Economic Area' shall mean any Member State of the European Union and States who are parties to the Agreement on the European Economic Area.

26) 'User' shall mean a natural or legal person or unincorporated business association or other organization using or requesting electronic communications activities, such as in particular electronic communications services.

27) 'Physical collocation' shall mean the provision of physical space designated by the notified operator to reasonably accommodate the relevant equipment of a beneficiary within the facility of the notified operator.

28) 'Consumer' shall mean any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession.

29) 'Placing on the market' shall mean the operation where electronic communication equipment and other electric devices emitting high-frequency signals or causing any other side effects, or their parts and components, are made available for the first time, whether for valuable consideration or free of charge, i.e. by means of sale, other forms of the transfer of ownership, warehousing, importation for personal use, or commissioning in the case of manufacturers.

30) 'Geographic number' shall mean a number from the NPAI, where part of its digit structure contains geographic significance used for routing calls to the physical location of the subscriber access point.

31) 'Frequency management' shall mean a Government-operated system for the national and international use of the radio spectrum in a regulated environment, with an aim to ensure the efficient use of the radio spectrum and to avoid harmful interference, and to provide frequencies for radio telecommunications services, such as radio astronomy and other non-radio telecommunications applications.

32) 'Manufacturer' shall mean an economic operator that is responsible for the design, manufacture, packaging, marking and placing on the market of an equipment, whether performed by the manufacturer itself or by others on behalf of the manufacturer. Any person implementing, also for the purpose of placing it on the market, substantial modifications or expansions in the fundamental characteristics of an existing equipment, or using such equipment to create a new product, shall also be regarded as a manufacturer. If the manufacturer's registered office is not in Hungary, the importer shall be treated as the manufacturer.

33) 'Network integrity' shall mean conformity with the technical standards pertaining to the establishment, operation, alteration and termination of electronic communications networks, to ensure the use of and uninterrupted access to, interconnected networks, and that the data and information stored in the network remain unaltered for functional purposes.

34) 'Network access point' shall mean the physical connection point at which the network is linked to another network through which access services are provided.

35) 'Network contract' shall mean an agreement between service providers for the use of and access to, network services, including the contracts for access and interconnection.

36) 'Network services' shall mean the provision of access and/or interconnection services to another service provider, including the associated supporting service activities.

37) 'Network termination point' shall mean the physical and logical point or radio access platform at which the service provider provides access to an electronic communications network.

38) 'Tone dialing' shall mean the use of voice band modem signals as specified in specific other legislation.

39) 'Harmonized frequencies and frequency bands' shall mean the harmonized assignment of radio frequencies and frequency bands in the European Union for operations in radio frequencies under the same conditions.

40) 'Efficient service provider' shall mean any service provider who operates a product or service at a nominal cost that is acceptable by international comparison, taking into account the market conditions, the technology employed and the size of the service provider.

41) 'Telephone services at fixed locations' shall mean publicly available telephone services that can be accessed through fixed subscriber terminal points and which are not regarded as mobile radio telephone services.

42) 'Fixed public telephone network' shall mean a public telephone network designed to provide telephone services at fixed locations.

43) 'Local sub-loop' shall mean a partial local loop connecting the network termination point at the subscriber's premises to a specified intermediate access point in the fixed public telephone network.

44) 'Local bit-flow access' shall mean the type of bit-flow access where network equipment means a device that resides in the fixed public telephone network and interconnected to the local loop with a function of multiplexing or demultiplexing all remote lines in the local loop (e.g. a DSLAM - Digital Subscriber Line Access Multiplexer); the local loop remains in the use of the notified operator for providing services.

45) 'Local loop' shall mean 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.

46) 'Unbundled access to the local loop' shall mean full unbundled access to the local loop and shared access to the local loop; it does not entail a change in ownership of the local loop.

47) 'Shared access to the local loop' means the provision to a beneficiary service provider of access to the local loop or local sub-loop of the notified operator, authorizing the use of the band frequency spectrum of the local loop or local sub-loop actually used for the provision of services at the time the request was made; the unauthorized part of the frequency spectrum continues to be used by the notified operator.

48) 'Full unbundled access to the local loop' shall mean the provision to a beneficiary of access to the local loop or local sub-loop of the notified operator authorizing the use of the full frequency spectrum of the local loop or local sub-loop.

49) 'Location data' shall mean any data processed in an electronic communications network, indicating the geographic position of the terminal equipment of a user of an electronic communications service.

50) 'Collocation' shall mean the provision by the notified operator of physical space and technical facilities necessary to reasonably accommodate and connect the relevant equipment of a beneficiary, including physical collocation, distant collocation and virtual collocation.

51) 'Call origination wholesale service' shall mean the transmission of calls under network services from the callers' subscriber access point to the interconnection point.

52) 'Carrier selection by call origination' shall mean a process of carrier selection where the subscriber access service provider provides the possibility of carrier selection through the provision of call origination wholesale services to the carrier that is under contractual relationship with the subscriber.

53) 'Call termination wholesale service' shall mean the transmission of calls under network services from the interconnection point to the called subscriber's access point.

54) 'Carrier selection by call termination' shall mean a process of carrier selection where the subscriber access service provider provides the possibility of carrier selection through the use of call termination wholesale services from the carrier selected by the subscriber that is under contractual relationship with the subscriber.

55) 'Long-run incremental cost (LRIC) method' shall mean a forward-looking incremental costing method that uses as a starting point data from the service provider's accounting records and the existing electronic communications structure of the service provider, then reevaluates the figures on tangible and intangible assets, operating costs and expenses, taking into consideration long-term changes that are expected to take place in operations and efficiency factors, then allocates the segments which are contingent on quantity according to activities and products, taking into consideration any markup added to cover indirect costs and with the help of costing factors and cost-quantity functions.

56) 'Access' shall mean the making available of facilities and/or services to another provider of electronic communications services or electronic communications company, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services. It covers inter alia: access to network elements and associated facilities, which may involve:

- the connection of equipment, by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop);
- interconnection;
- bit-flow access;
- access to physical infrastructure including buildings, ducts and masts;
- access to relevant software systems including operational support systems, access to number translation or systems offering equivalent functionality;
- access to fixed and mobile networks, in particular for roaming;
- access to conditional access systems for digital television services.

57) 'Interface' shall have the following meanings in the application of this Act:

a) 'Network interface' shall mean the connection point of an electronic communications network, along with its physical and logical characteristics, that serves for providing access to or interconnection with, other electronic communications networks;

b) 'Subscriber interface' shall mean the connection point residing in an electronic communications network, along with its physical and logical characteristics, through which the service provider provides access for the subscriber to the electronic communications network.

58) 'Internet call origination wholesale service' shall mean shall mean the transmission of calls made to access the Internet under network services from the callers' subscriber access point to the carrier's interconnection point.

59) 'Internet access through public telephone networks' shall mean a service enabling the user to access the Internet using the public telephone network using a terminal equipment installed at the telephone network termination point to receive data communication services from the Internet service provider.

60) 'Control' shall have the meaning as defined in Subsection (2) of Section 23 of the UMPA.

61) 'Associated facilities' shall mean those facilities associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service. It includes conditional access systems and electronic program guides.

62) 'Harmful interference' shall mean interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with the applicable Community or national regulations.

63) 'Apparatus' shall mean any equipment that is either radio equipment or telecommunications terminal equipment or both.

64) 'Exit point' shall mean the physical transfer point or points for conveying messages and related data obtained from the network of a provider of electronic services in a covert investigation by way of a monitoring subsystem or subsystems to the National Security Agency, which the provider of electronic services is required to provide within the territory of the provider of electronic services, at the geographical location and in the format arranged in advance in accordance with Subsection (4) of Section 92.

65) 'Exclusive rights' shall mean the rights that are granted to one company through any legislative, regulatory or administrative instrument, reserving it the right to provide a specific service or to undertake a specific activity within

a given geographical area.

66) 'Facility sharing' shall mean the sharing of electronic communications structures and electronic communications instruments, such as information systems. Collocation is a special form of facility sharing.

67) 'Carrier' shall mean any provider of electronic communications services that provides access under a network contract with the subscriber access service provider to the called subscriber or a particular service when selected by the subscriber.

68) 'Carrier selection' shall mean the option the subscriber of an electronic communications service provider has in selecting the service provider through which to have access to the subscriber or service called through the interconnected provider of publicly available telephone services, in accordance with the following:

by means of 'carrier pre-selection' where the subscriber stipulates in a contract the carrier, and calls can be initiated without having to dial a carrier selection code;

on a 'call-by-call' basis by dialing a carrier selection code with a facility to override any pre-selected choice.

69) 'Publication of information' shall mean the disclosure of information to the competent authority as prescribed in this Act in the official journal of the authority, by means of the proper procedure, and on the official website of the authority without delay.

70) 'Special rights' shall mean the rights that are granted to a limited number of companies through any legislative, regulatory or administrative instrument which, within a given geographical area:

a) designates or limits the number of such companies authorized to undertake an activity otherwise than according to objective, proportional and non-discriminatory criteria; or

b) confers on companies, otherwise than according to such criteria, legal or regulatory advantages which substantially affect the ability of any other company to provide the same electronic communications service or to undertake the same electronic communications activity in the same geographical area under substantially equivalent conditions.

71) 'Mobile radio telephone network' shall mean a terrestrial radio telecommunications network for establishing two-way telephone voice connections between users moving about freely within a broad area.

72) 'Mobile radio telephone service' shall mean a publicly available telephone service enabling any subscriber of this service, moving about within a broad area, to initiate calls from a mobile set connected at the network terminal of the radio telephone network to establish communication with another network terminal, to which access is provided by way of the selection procedure defined in the NPAI. This service is used for voice transmission and for services built around voice transmission, and also for other services (for example, data transmission services, short text messages, WAP, GPRS services).

73) 'Multiplex technical service provider' shall mean an electronic communications service provider engaged in generating a single standard string of digital signals from radio and television program signals and other data signals for digital transmission by own means or by means of others.

74) 'Broadcast transfer' shall mean program distribution where the terminal equipment of the subscriber or user is connected to the broadcast transmission system at a specific geographical location.

75) 'Broadcast diffusion' shall mean program distribution where analogue or digital radio and television programs are transmitted to the subscribers and users by way of a - normally one-way - terrestrial transmission network using radio frequencies, excluding frequencies which are primarily assigned to satellite systems; broadcast diffusion shall also cover broadcast dissemination by way of a digital broadcast diffusion network or transmitter;

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77) 'Broadcast dissemination' shall mean electronic communications services irrespective of the type of transmission system used as defined in Point 5/a, where the analogue or digital signals produced by the broadcaster are transmitted unchanged to the terminal equipment of subscribers and users, irrespective of the type of transmission system and technology employed. Broadcast dissemination shall also include broadcast diffusion, broadcasting by satellite systems, broadcasting over hybrid transmission networks comprising fiber optics and coaxial cables, furthermore, transmission using an Internet Protocol through any transmission system, if the character and the conditions of service is in conformity with broadcast dissemination, or it is a suitable substitute for broadcasting and any other form of communication. Broadcast dissemination shall include, furthermore, the type of broadcasting that is made available to subscribers for a fee, including if it is offered in a package together with other electronic communications services. The transmission of signals with the aid of a network suitable for the connection of less than ten terminal equipment shall not be treated as broadcast dissemination.

78) 'High-frequency signal' shall mean a radio frequency signal used for purposes other than radio telecommunications.

79) 'High-frequency side effect' shall mean high-frequency signals which are generated in objects designed for different purposes (in apparatuses, equipment, vehicles, etc.) as a by-product of spark-discharge, gas-discharge or

semi-conductor regulation.

80) 'High-frequency electrical equipment' shall mean non-telecommunications equipment for industrial, scientific, medical, household or similar purposes used for the generation of electromagnetic energy in a small space, or for the utilization thereof.

81) 'Unidentified number' shall mean a dial number that is not included in the itemized statement sent with the invoice made out to the subscriber for reasons of protection of personal data.

82) 'Non-geographic number' shall mean a number from the special numbers designated in the NPAI, where the geographical location of the access point can only be determined by way of number translation.

83) 'International call' shall mean any call where an international access code is required to reach the called subscriber or service.

84) 'Net avoidable cost' shall mean the net cost incurred by a cost-effective service provider on account of universal service obligations. The net avoidable cost shall be calculated by taking due account of the revenues and intangible benefits which the service provider is set to lose upon termination of the universal service.

85) 'Public electronic communications network' shall mean an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services.

86) 'Publicly available telephone service (telephone service)' shall mean an electronic communications services available to the public for originating and receiving national and international calls and access to emergency services through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance, directory inquiry services, directories, provision of public pay phones, provision of service under special terms, provision of special facilities for customers with disabilities or with special social needs and/or the provision of non-geographic services.

87) 'Public telephone network (telephone network)' shall mean an electronic communications network which is used wholly or mainly to provide publicly available telephone services; it supports the transfer between network termination points of speech communications, and also other forms of communication, such as facsimile and data.

88) 'Public pay telephone' shall mean a telephone terminal equipment available to the general public, for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialing codes.

89) 'Interconnection' shall mean the physical and logical linking of public communications networks used by the same or a different electronic communications service provider in order to allow the users of one service provider to communicate with users of the same or another service provider, or to access services provided by another service provider. Services may be provided by the parties involved in the interconnection or other service providers who have access to the network. Interconnection is a specific type of access implemented between service providers, whether they are owners or authorized operators of public electronic communications networks.

90) 'Radio station' shall mean one or more transmitters or receiving equipment or group of transmitters or receiving equipment including accessories for the purpose of implementation of a radio telecommunications or radio astronomy service at a specific place.

91) 'Radio equipment' shall mean a product, or relevant component thereof, capable of communication by means of the emission and/or reception of radio waves utilizing the spectrum allocated to terrestrial and space radiocommunication.

92) 'Radio waves' shall mean electromagnetic waves propagated in space without artificial guide.

93) 'Radio spectrum' shall mean electromagnetic waves of frequencies from 9 kHz to 3000 GHz.

94) 'Radio service' shall mean the entirety of radio telecommunications services and the radio astronomy service defined by legal regulations in harmony with the International Radio Regulations.

95) 'Radio telecommunications network' shall mean an electronic communications network used wholly or mainly for the transmission of information by means of the emission and/or reception of radio waves.

96) 'Add-on subscriber services' shall mean a subscriber services related to a network services that is provided by a service provider, other than the network services operator, for which the use of the said network services at the level of technical means available is essential for reasons of cost-efficiency. In the application of this definition the services deemed as reasonable substitutes of a subscriber service in terms of objective, price, quality and contract terms shall also be taken into account.

97) 'Reference offer' shall mean an offer published by an operator designated as having significant market power on a specific market as required by the competent authority, containing a description of the network services offered, and the legal, technical and financial conditions.

98) 'Distribution frame' shall mean a connection device to which the individual circuits of the local loop or local sub-loop are connected.

99) 'Emergency call' shall mean an emergency call sent to the Police, Ambulance or Fire Department using a short

number or the single European emergency call number.

99/A) 'Unsuccessful call attempt' means a communication where a telephone call (including voice telephony - weather conventional or voice over IP -, voicemail and messaging services, conference and data calls), supplementary services (including call forwarding and call transfer) has been successfully connected but not answered (unanswered or rejected), or there has been a network management intervention, upon which the call is automatically terminated (if the called number is busy, disconnected or unavailable for other reasons).

100) 'Member States markets' shall mean the market designated by the European Commission covering wholly or mainly the Member States of the European Economic Area.

101) 'Telegram' shall mean a written communication posted by the user through the electronic communications network or the postal service provider, which is forwarded by the service providers to the addressee by delivery or through electronic communications terminal equipment.

102) 'Distant collocation' shall mean the type of collocation where the equipment of the beneficiary is deposited close to but separated from, the notified operator's facilities.

103) 'Installation' shall mean the construction of radio stations, a radio telecommunications system or network and bringing them into a condition suitable for operation by the emission and/or reception of radio waves, not including permanent or experimental operation.

104) 'Fully distributed cost (FDC) method' shall mean the definition of costs and expenses actually incurred in connection with the operations of a service provider in the normal course of business and their distribution according to the type of cost, activities and services. The fully distributed cost method also includes historical cost accounting (HCA-FDC).

105) 'Covert investigation, covert information gathering' shall mean the selection, detachment and recording of data and information, using technical means, relating to or transmitted in an electronic communications network using electronic communications apparatuses in the course of electronic communications operations, by the agencies duly authorized to do so in specific other legislation.

106) 'Transfer price' shall mean the price of a service, calculated by a specific formula, that is provided by one division of a service provider to another division.

107) 'Space segment' shall mean a segment of a telecommunications satellite system comprising the satellite and satellite tracking, telemetering and remote control functions, and the earth stations providing logistics support to the satellites.

108) 'Division' shall mean a segment of a service provider that is handled separately for accounting purposes and that operates independently as if it were a strategic business unit.

109) 'Trade secret' shall have the same meaning as defined in Section 81 of the Civil Code.

110) 'Company' shall mean a natural or legal person, or a business association lacking the legal status of a legal person, including the Hungarian branches of foreign companies, whose conduct in Hungary is linked to electronic communications services provided in the territory of the Republic of Hungary, including if such conduct may manifest itself within the Republic of Hungary.

111) 'Virtual collocation' shall mean the type of collocation where the equipment of the beneficiary, which is connected to the distribution frame, is in the possession of and operated by, the notified operator on behalf of the beneficiary.