

LAW ON ELECTRONIC COMMUNICATIONS

Chapter One

GENERAL PROVISIONS

Article 1

Subject Matter of the Law

This Law shall prescribe the conditions and manner of providing public electronic communications networks and public electronic communication services in Republic of Macedonia.

Article 2

Purpose of the Law

The purpose of this Law shall be to ensure:

- encouraging the development of public electronic communications networks and services in Republic of Macedonia, for the purpose of economic and social development;
- encouraging the use and development of broadband access to services;
- protecting the rights of users, including end users with disabilities and end users with special social needs;
- efficient and sustainable competition on the electronic communications market;
- providing of universal service;
- efficient use of the radio frequency spectrum and numbering;
- enhancing the development and encouraging the investments in public electronic communications networks by introducing new technologies and services, particularly by introducing next generation public electronic communications networks; and
- confidentiality of communications.

Article 3

Definitions

Certain terms used in this Law shall have the following meaning:

1. **Electronic communications network** means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) 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;
2. **Electronic communications service** means a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting or retransmission, but exclude services providing, or exercising editorial control over, content transmitted using electronic communications networks and services; it does not include information society services,

which do not consist wholly or mainly in the conveyance of signals on electronic communications networks;

3. **Electronic mail** means any text, voice, sound or image message sent over a public communications network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient.
4. **Public electronic communications network** means an electronic communications network used wholly or mainly for the provision of electronic communications services available to the public which support the transfer of information between network termination points.
5. **Local loop** means the physical communication circuit connecting the network termination point to a distribution frame or equivalent facility in the fixed public electronic communications network.
6. **Public electronic communications service** shall mean electronic communications service available to the public.
7. **Publicly available telephone service** means a service made available to the public for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan.
8. **User identification code** means a unique identifier allocated to persons when they subscribe to or register with an Internet access service or Internet communications service.
9. **Cell code** means the identity of the cell from which a mobile telephony call originated or in which it terminated.
10. **Unsuccessful call attempt** means a communication where a telephone call has been successfully connected but not answered or there has been a network management intervention.
11. **Radiocommunication services** shall mean electronic communication services provided by using radio frequencies.
12. **Universal service** means the minimum set of services, of specified quality which is available at an affordable price to all end users in Republic of Macedonia regardless of their geographical location.
13. **Universal service provider** shall mean a legal entity providing universal service.
14. **Information Society Services** shall mean services provided for a fee, at a distance, via electronic means and upon personal request of the service recipient. "At a distance" shall mean that the service is provided without the two parties being present simultaneously. "Via electronic means" shall mean that the service is sent from the point of origin and received at the final destination via electronic equipment for processing (including digital compression) and data storage, and is sent, transmitted, and received in its entirety via cable, radio waves, optical means, or other electromagnetic means. "Upon personal request of the recipient of the service" shall mean that the services are provided by way of data transmission upon personal request.
15. **Value added service** means any service which requires the processing of traffic data or location data other than traffic data beyond what is necessary for the transmission of a communication or the billing thereof.

- 16. Geographic number** means a number from numbering plan of the public communication networks and services in Republic of Macedonia where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point (NTP).
- 17. Non-geographic number** means a number from numbering plan of the public communication networks and services in Republic of Macedonia that is not a geographic number. It includes, inter alia, mobile, free phone and premium rate numbers.
- 18. Interconnection** shall mean a type of access provided among operators of public electronic communications networks, establishing physical and logical connection of the public electronic communications networks with one or more different operators for the purpose of enabling the users of one Operator to communicate with the users of another Operator, or to access the services provided by another Operator. These services may be provided by the parties which are mutually interconnected or other parties that have network access.
- 19. Access** means the making available of facilities and/or services to another undertaking, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services, including when they are used for the delivery of information society services or broadcast content 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); access to physical infrastructure including buildings, ducts and masts; access to relevant software systems including operational support systems; access to information systems or databases for pre-ordering, provisioning, ordering, maintaining and repair requests, and billing; 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 and access to virtual network services.
- 20. Physical infrastructure** means any element of a network which is not active such as pipes, masts, ducts, inspection chambers, manholes, cabinets, buildings or entries to buildings, antenna installations, towers and poles and their associated facilities.
- 21. High-speed electronic communications network, in respect to Chapter 9 of this Law** means an electronic communication network which is capable of delivering broadband access services at speeds of at least 30 Mbps.
- 22. In-building physical infrastructure** means physical infrastructure at the end-user's location, including elements under joint ownership, intended to host wired and/or wireless access networks, where such access networks are capable of delivering electronic communications services and connecting the building concentration point with the network termination point;
- 23. High-speed-ready in-building physical infrastructure** means in-building physical infrastructure intended to host elements of high-speed electronic communications networks.
- 24. Provision of an electronic communications network** means the establishment, operation, control or making available of such a network.
- 25. Operator** means a physical person conducting activity or legal person that provides or intends to provide public electronic communications network and/or services, as well as

associated facilities, based on submitted notification and received confirmation on registration issues by the Agency for Electronic Communications.

- 26. Network termination point** means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the NTP is identified by means of a specific network address, which may be linked to a subscriber number or name.
- 27. Terminal equipment** shall mean a product or its corresponding part which enables communication by way of connecting it directly or indirectly to a network termination point of a public electronic communications network, which is fully or partially used for providing public electronic communication services.
- 28. Traffic data** means any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof.
- 29. Location data** means any data processed in an electronic communications network or by an electronic communications service, indicating the geographic position of the terminal equipment of an end user of a publicly available electronic communications service.
- 30. Personal data breach** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed in connection with the provision of a publicly available electronic communications services.
- 31. Calling line identification** shall mean a service enabling the called subscriber to identify the network termination point from which the call originates based on the number or code assigned to said network termination point.
- 32. Called line identification** shall mean a service enabling the calling user to identify the network termination point where the call terminates based on the number or code assigned to said network termination point.
- 33. Subscriber** means any natural person or legal entity who or which is party to a contract with the provider of publicly available electronic communications services for the supply of such services.
- 34. User** means any legal entity or natural person using or requesting a publicly available electronic communications service, in line with the provisions in Chapter Eighteen of this Law, for private or business purposes, without necessarily having subscribed to that service.
- 35. End-user** means a user not providing public communications networks or publicly available electronic communications services.
- 36. Consumer** means 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.
- 37. Conditional access system** means any technical measure and/or arrangement whereby access to a protected radio or television broadcasting service in intelligible form is made conditional upon subscription or other form of prior individual authorisation.
- 38. Wide-screen television service** means a television service that consists wholly or partially of programmes produced and edited to be displayed in a full height wide-screen format. The 16:9 format is the reference format for wide-screen television services.

- 39. Number** shall mean the number determined with the Numbering Plan for public communication networks and services in the Republic of Macedonia.
- 40. Call numbers to emergency service** shall mean numbers from the Numbering Plan for public communication networks and services in the Republic of Macedonia, which are particularly intended for the police, the fire service, the emergency hospital service, the rapid alert service, including the common European emergency telephone number “E-112”, as well as the common European telephone number for reporting missing children 116000.
- 41. Harmful interference** means 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 this Law and international acts and agreements that Republic of Macedonia concluded or ratified.
- 42. Application program interface (API)** means the software interfaces between applications, made available by broadcasters or service providers, and the resources in the enhanced digital television equipment for digital television and radio services.
- 43. Associated facilities** means those associated services, physical infrastructures and other facilities or elements 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 or have the potential to do so, and include, inter alia, buildings or entries to buildings, building wiring, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets.
- 44. Associated services** means those services 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 or have the potential to do so and include, inter alia, number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, as well as other services such as identity, location and presence service.
- 45. Spectrum allocation** means the designation of a given frequency band for use by one or more types of radio communications services, where appropriate, under specified conditions.
- 46. Call** means a connection established by means of a publicly available electronic communications service allowing two-way voice communication.
- 47. Public pay telephone** means a telephone 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 dialling codes.
- 48. Enhanced digital television equipment** shall mean adjustment equipment (set-top box), used for connection of television sets or integrated digital television sets that enable receipt of digital interactive television services.
- 49. Communication** means any information exchanged or conveyed between a finite numbers of parties by means of a publicly available electronic communications service. This does 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.

- 50. Intercepted communication information** shall mean signalling data related to the intercepted communication service, signalling for establishing the communication and control thereof, as well as other information available to the Operator.
- 51. Digital terrestrial multiplex** shall mean a standardised stream for series of signals containing television, radio programme services, additional services, and other associated information and data, broadcasted to the end users via single terrestrial radio frequency television channel.
- 52. Digital terrestrial system** shall mean electronic communication network which broadcasts the content of the digital terrestrial multiplex to the end users via terrestrial radio communication.
- 53. Data pursuant to articles 176, 177 and 178 of this Law shall** mean traffic data and location data and the related data necessary to identify the subscriber or user of electronic communications service.

Chapter Two

COMPETENCE FOR THE ELECTRONIC COMMUNICATIONS

Article 4

Competent Authorities

Competent bodies for regulating the issues in the field of electronic communications determined in this Law shall be:

- the Ministry competent for issues in the field of electronic communications; and
- the Agency for Electronic Communications.

Article 5

Competencies of the Ministry

- (1) The Ministry competent for the activities in the field of electronic communications shall:
- carry out the politics of the Government of Republic of Macedonia in the field of electronic communications;
 - gives initiatives for adopting regulations, or amending the existing regulations, and/or draft regulations in the field of electronic communications in cooperation with the Agency for Electronic Communications, and other state bodies and institutions;
 - carry out the works related to development of electronic communications within the development of the information society; and
 - carry out the alignment with other regulations which, inter alia, are regulating issues related to the development of electronic communications.
- (2) The Minister competent for electronic communications shall:
- draft strategic documents in the field of electronic communications, and shall organise public debates thereof;
 - promote the development of competition in the field of electronic communications and the increase of access and use of electronic communication services;
 - coordinate and harmonize activities in the field of electronic communications;

- provide consent for the Decision to publish an open tender for selection of universal service provider;
- cooperate with the Minister of defence and the Minister of interior regarding issues in the field of electronic communications related also to defence and security;
- coordinate the work with the minister of defence and the Minister of interior regarding the use of radio frequencies for defence and security purposes, in cooperation with the Agency for Electronic Communications;
- performs the activities laid down in this Law and in the regulations adopted therefrom, related to the operations of the public electronic communications networks in case of a war and state of emergency, and the provisioning of public electronic communication services in such circumstances; and
- represents the Republic of Macedonia in international organizations in the field of electronic communications, negotiates and signs bilateral and international agreements in the field of electronic communications, on behalf of the Government of Republic of Macedonia.

Article 6

Agency for Electronic Communications

- (1) The Agency for Electronic Communication (hereinafter: the Agency) shall be an autonomous and independent, not-for-profit regulatory body, and shall have a status of legal person with public authorisations established in this Law.
- (2) Republic of Macedonia shall be the founder of the Agency. The Assembly of Republic of Macedonia shall have the founding rights in regards to the operating property and assets of the Agency. The operating property and assets of the Agency shall be used and managed by the Agency.
- (3) The head office of the Agency shall be in Skopje.
- (4) The Agency shall be independent in its operations from any state authority or body, that is to say, organisation established by a state body, as well as other legal and natural persons providing electronic communications networks and/or services.
- (5) The Agency shall perform its activities in compliance with this Law and the regulations adopted therefrom, the Law on General Administrative Procedure, in case it is not stipulated otherwise in this Law, and other laws and strategic documents of Republic of Macedonia, as well as international agreements in the field of electronic communications entered into or ratified by the Republic of Macedonia.
- (6) The organisation and operations of the Agency shall be regulated in the Agency's Statute.

Article 7

Regulatory Objectives and Principles

- (1) The Agency shall encourage the competition in providing public electronic communication networks, public electronic communication services, and associated facilities and services, particularly in the following manner:
 - by guaranteeing that the end users, including persons with disabilities, the elderly, and the persons with special social needs, shall have the maximum benefits in regards to the selection, price, and quality;

- by guaranteeing that there is no disruption or restriction of the competition on the electronic communications market, including the transmission of programme content;
 - by encouraging efficient use and by providing effective management of radio frequencies, numbers, and/or number ranges.
- (2) The Agency shall promote the citizens' interest, particularly in the following manner:
- by providing access to universal services for all citizens in accordance with the provisions of this Law;
 - by providing a high level protection of the consumers' rights in their relations with the operators, especially by providing a simple and cheap procedure for dispute resolution in accordance with the provisions of this Law;
 - by contributing to the high level protection of personal data and privacy;
 - by promoting the obligations for providing clear information, especially in regards to the obligation for transparency of prices and conditions for using public electronic communication services;
 - by fulfilling the needs of special social groups, especially persons with disabilities, the elderly, and the persons with special social needs;
 - by maintaining the integrity and security of public electronic communication networks; and
 - by promoting the possibility for the end users to access and distribute information, or use applications and services of their own choosing.
- (3) The Agency shall contribute to the development of the European market, particularly in the following manner:
- by removing all remaining obstacles for providing public electronic communication networks and public electronic communication services, and associated facilities and services at European level;
 - by encouraging the installation and development of Trans-European networks and interoperability of the Pan-European services, as well as mutual interconnection of the end users; and
 - mutual cooperation, cooperation with the European Commission and BEREC.
- (4) In order to accomplish its objectives set in paragraphs (1), (2), and (3) of this Article, the Agency shall be obliged to apply the regulatory principles for objectivity, transparency, non-discrimination, and proportionality, particularly in the following manner:
- by promoting regulatory predictability with a consistent regulatory approach during the respective control periods;
 - by ensuring that, in similar circumstances, there will be no discrimination in the treatment of operators;
 - by protecting the competition for the benefit of the consumers, and by promoting, if appropriate, the infrastructure based competition;
 - by promoting efficient investments and innovations in new and contemporary infrastructures, inter alia, by ensuring that the obligation for access is adequately taking into account the risk to which the investing operators are exposed to, thus allowing various cooperative agreements between investors and interested parties seeking access in order

to diversify the investment risk, and also ensuring the preservation of market competition and the non-discrimination principle;

- by taking into account the diversity of the conditions related to competition and consumers existing in various geographic areas of Republic of Macedonia; and
- by imposing prior regulatory obligations only if there is lack of efficient and sustainable competition and repealing them if there is efficient and sustainable competition.

Article 8

Competences of the Agency

In order to achieve the regulator objective and principles referred to in Article 7 of this Law, the Agency shall be competent for:

1. conducting supervision, control and monitoring of the operators' activities in accordance with this Law, and the regulations adopted thereof;
2. ensuring the establishment of interconnection or access;
3. approving the interconnection or access referent offers of operators with significant market power;
4. establishing relevant markets of products and services, and relevant geographic markets in the field of electronic communications on the territory of Republic of Macedonia;
5. designating operators with significant market power, imposing upon them the obligations arising from this Law and following the fulfillment thereof;
6. registering the operators' notifications;
7. adopting the Plan for allocation of radio frequency bands, and the Plan for assignment and use of radio frequencies;
8. controlling and monitoring the radio frequency spectrum, as well as inspecting and detecting harmful interferences;
9. issuing radio frequency authorizations;
10. coordinating the radio frequencies with the regulatory bodies of neighbouring and other countries;
11. adopting the Numbering Plan for electronic communication networks and services of the Republic of Macedonia;
12. assigning numbers and number ranges to operators;
13. approving and controlling the standard subscriber agreements of the operators;
14. undertaking measures in accordance with this Law in cases when provisions of said Law or of regulations adopted therefrom have been violated;
15. managing and governing the compensation fund for universal service and performing payments therefrom;
16. conducting dispute resolution proceedings, as per this Law;
17. maintaining and updating the electronic database as per this Law;

18. cooperating, providing opinions, proposals, and exchanging data with state management bodies, competent bodies, and institutions on issues which are regulated by this Law;
19. requesting data and information from operators in accordance with this Law;
20. providing information to users, operators, and international organisations and bodies;
21. adopting the bylaws required for the implementation of this Law;
22. providing consent to the main project for construction of public electronic communication network and associated facilities;
23. providing opinions in regards to the procedure for drafting and adopting the spatial planning documentation;
24. providing consent on the compliance with the special conditions for performing works in the zone of the electronic communication network and associated facilities;
25. implementing the national and international standards, and technical regulations in the field of electronic communications;
26. partaking in the work of international organizations and associations of national regulatory bodies in the field of electronic communications;
27. conducting procedures for designating a universal service provider and entering into agreement therewith;
28. providing single point of contact for information;
29. controlling and measuring the quality parameters of public electronic communication services;
30. controlling and measuring the non-ionising radiation caused by use of public electronic communication networks;
31. undertaking activities for developing internet traffic exchange points;
32. keeping the registries established in this Law; and
33. conducting other works as stipulated in this Law.

Article 9

Statute of the Agency

- (1) The organisation and operations of the Agency shall be more closely regulated in the Agency's Statute.
- (2) The Agency's Statute shall particularly contain provisions on:
 - the place, trademark, and head office of the Agency;
 - making and using the stamps of the Agency;
 - representing the Agency;
 - the method of appointment and dismissal of the Agency director;
 - the method for adoption of the general and secondary acts of the Agency;
 - the employees' obligation in regards to data confidentiality; and
 - other provisions relevant to the operations of the Agency.

- (3) The Statute of the Agency shall be publicly available and published on the Agency web-site.

Article 10

Other acts of the Agency and the manner of their publication

- (1) The Agency shall adopt the general and secondary acts on issues within its competency, an Annual Report on the operations report of the Agency for the previous year, an Annual Programme for the operations of the Agency for the next year, and for certain issues it may adopt recommendations.
- (2) The Agency shall decide on issues within its competency by adopting decisions and resolutions.
- (3) The bylaws of the Agency shall be published in the "Official Gazette of the Republic of Macedonia" and on the Agency web-site.
- (4) The general acts, the Annual Report on the operations of the Agency for the previous year, the Annual Programme on the operations of the Agency for the next year, the decisions and resolutions, as well as the recommendations of the Agency shall be published on the Agency web-site.

Article 11

Accountability for the Agency's operations

- (1) For its operations, the Agency shall be accountable before the Assembly of the Republic of Macedonia by submitting a Report on its operations.
- (2) The Agency shall be obliged to submit for review the Report referred to in paragraph (1) of this Article to the Assembly of the Republic of Macedonia not later than 31st of March of the current year.
- (3) The Report referred to in paragraph (1) of this Article shall be comprised of:
 - a. an Annual Report on the operations of the Agency for the previous year, and
 - b. an Annual Programme on the operations of the Agency for the next year.
- (4) The Annual Report on the operations of the Agency for the previous year referred to in paragraph (3), item a) of this Article, shall particularly be comprised of:
 - a Development Report on the market for electronic communications in Republic of Macedonia for the previous year;
 - a Report on the realisation of the activities defined in the Annual Programme for the operations of the Agency, for the previous year;
 - a Financial Report on the accomplishment of the Financial Plan for the previous year and the Annual Account, including data on generated revenues, expenses, receivables, and liabilities for the previous year grouped by structure and by organisational structure of the Agency;
 - an Audit Report from an independent authorised auditor, as well as from the State Audit Office, in case it has conducted an audit. the position of the Agency concerning the results of the conducted audit shall be enclosed to the Audit Report; and

- a Report on the status of assets in the universal service compensation fund, which contains data on the repayments of net expenses to the universal service providers.
- (5) The Annual Programme for the operations of the Agency for the next year referred to in paragraph (3), item b) of this Article shall define the tasks and objectives that should be fulfilled by the Agency the next year, in accordance with this Law, and should particularly include:
- a Programme of planned activities for the next year; and
 - a Financial Plan for the next year, containing data on the accomplishment of planned activities, planned revenues and expenditures of the Agency for the next year grouped by structure and by organisational structure of the Agency, as well as the envisaged capital investments of the Agency for the next year.
- (6) The Annual Report on the operations of the Agency for the previous year referred to in paragraph (3), item a) of this Article shall be adopted by the Agency, upon proposal of the director of the Agency, not later than the 10th of March of the current year.
- (7) The Annual Programme on the operations of the Agency for the previous year referred to in paragraph (3), item b) of this Article shall be adopted by the Agency, upon proposal of the director of the Agency, not later than the 10th of December of the current year.

Article 12

Transparency of the Agency's operations

- (1) On a quarterly level throughout the year, the Agency shall be obliged to publish for the public the reports on the development and situation of the electronic communications market.
- (2) At least twice a year, the Agency shall be obliged to organise public meetings in order to allow all interested parties to express their positions and opinions in regards to the development of electronic communications in Republic of Macedonia, and particularly on:
- the conditions of the electronic communications market;
 - the accomplishment of activities and fulfillment of the objectives in the Annual Programme for the operations of the Agency; and
 - the rights of all end users, including the persons with disabilities, in regards to the provision of public electronic communication services.
- (3) The obtained positions and opinions referred to in paragraph (2) of this Article, as well as the position of the Agency in regards thereof, shall be published on the Agency web-site within seven days from the public meeting.
- (4) The Agency shall regulate the following in more details with a bylaw:
- the manner of receiving proposals from interested parties;
 - the data and information that the Agency will publish, as well as the manner of access thereto, as per the Law; and
 - the form of cooperation with representatives of organizations of users of electronic communication services.

Article 13

Public Influence

- (1) The Agency, before adopting or amending the bylaws or decisions within its competency, and of significant impact on the relevant electronic communications market, as well as before adopting the Annual Programme for the operations of the Agency for the next year, shall be obliged to publish on its web-site the draft decision or draft bylaw, that is to say, the proposed Annual Programme for the operations of the Agency for the next year, in order to ensure public debate where it will allow all interested parties to express their opinions, views, and positions thereof.
- (2) The duration of the public debate must not be shorted than 30 days from the date of publication of the proposed acts referred to in paragraph (1) of this Article.
- (3) As soon as the deadline referred to in paragraph (2) of this Article expires, and before the adoption of the acts referred to in paragraph (1) of this Article, the Agency shall publish on its web-site the obtained opinions and comments, as well as the position of the Agency thereof, wherein the confidential information and data shall not be published.
- (4) Before adopting the acts referred to in paragraph (1) of this Article, the Agency may hold a public meeting with the interested parties.

Article 14

Bodies of the Agency

Bodies of the Agency shall be the Commission and the Director.

Article 15

Composition and appointment of Commission members

- (1) The Commission shall be comprised of five members, appointed and dismissed by the Assembly of the Republic of Macedonia upon proposal from the Committee of Elections and Appointments of the Assembly of the Republic of Macedonia.
- (2) The Commission shall appoint and dismiss the president and deputy president of the Commission from its own members following the manner and procedure defined in the Commission's Rules of Procedure.
- (3) The members of the Commission shall be appointed for a five-year term in office.
- (4) The members of the Commission may not hold office for more than two consecutive terms.
- (5) The members of the Commission shall be appointed not later than 30 days prior to the expiration of the mandate of the their predecessors. The president shall be obliged to inform the Committee on Elections and Appointments of the Assembly of the Republic of Macedonia on the expiry of the term in office of the Commission members not later than 60 days prior to said expiry.
- (6) If the procedure for appointment has not been completed prior to the expiration of the term in office of Commission, the members of the Commission, whose terms in office have expired, shall continue to hold their office, however, for a period not longer than six months.
- (7) If the members of the Commission adopt a decision within their competency, which violates the interests of the Agency, said members shall be liable jointly and without limitations for

the damages resulting from such decision. A member of the Commission, who has pointed out that the proposed decision is contrary to this Law, and has opposed the adoption of the decision, by way of stating its opinion in the minutes of the session and by voting "against" the decision, shall not be deemed liable.

Article 16

Conditions for appointment of Commission members

- (1) The following person may be appointed as Commission member:
 - citizen of Republic of Macedonia;
 - fluent in Macedonian;
 - with attained at least 240 ECTS credits or completed VII/1 degree education in the field of electrical engineering, information technologies, law or economics;
 - with at least five years adequate work experience and special know-how in the field of electronic communications;
 - with internationally recognised CEFR B2 level certificate issued by an official European language testers, member of the ALTE association of European language testers, or TOEFLPBT score of at least 500 points, TOEFL CBT score of at least 175, or TOEFLIBT score of at least 60 points; and
 - with certificate for knowledge of computer office applications.
- (2) A person employed in another legal entity may be appointed member of the Commission, except when said employment may represent a conflict of interests pursuant to this Law.

Article 17

Incompatibility of the function Commission member

- (1) During the term in office, the Commission members may not be members of the Assembly of the Republic of Macedonia, members of the Government of Republic of Macedonia, persons performing duties within the authorities and bodies of political parties, as well as employees of operators.
- (2) Commission member, its spouse or unwed partner, as well as close first and second degree relatives, may not be:
 - part-owner or shareholder, directly or indirectly, of legal persons performing activities which are directly within the competencies of the Agency, as well as of operators; or
 - member of management or supervisory boards, or execute a management positions in legal entities performing activities in the field within the competency of the Agency, as defined in this Law, or in legal entities where it may cause conflict of interests as per this or any other Law.

Article 18

Premature termination of a Commission member

- (1) The Assembly of the Republic of Macedonia, upon proposal from the Committee on Elections and Appointments of the Assembly of the Republic of Macedonia, may remove a member of the Commission prior to the term expiration, as follows:
 - upon its request;
 - in case of any of the obstacles for Commission membership as envisaged in Article 17 of this Law;
 - if it has been sentenced for a criminal act with a prison sentence lasting more than six months, or has been pronounced a safety measure for prohibition to perform an occupation, professional activity, or duty for a period longer than six months; and
 - if it is not capable to perform the duty for a continuous period longer than six months;
 - if it has been absent from the three consecutive meetings of the Commission or from five meetings in aggregate during a one-year period;
 - it is established that during the appointment procedure the Commission member has provided untrue data or omitted to present information relevant to its appointment;
 - if it is established that while performing its function, either alone or in consort with another Commission member, it has acted contrary to the main objectives of this Law and the consistent implementation of the electronic communications system, as envisaged in this Law, which may be ascertained from the auditor's report on the degree of implementation of the legal competences of the Agency; or
 - due to incompetent, unprofessional, and negligent execution of the function president or member of the Commission in the field of material and financial operations, as stipulated in the auditor's report.
- (2) Non-submission of the required Report on the operations of the Agency, referred to in Article 11 of this Law, to the Assembly of the Republic of Macedonia may be grounds for collective dismissal of the Commission.
- (3) In case of existing conditions for premature termination of a Commission member, as envisaged in paragraph (1) of this Article, the president, that is to say, the deputy president of the Commission, shall be obliged to inform the Committee on Elections and Appointments of the Assembly of the Republic of Macedonia within five days from the date the conditions referred to in paragraph (1) of this Article have been fulfilled.

Article 19

Competencies of the Commission

The Commission shall have the following competencies:

- to adopt the Statute upon prior consent obtained from the Assembly of the Republic of Macedonia;
- to adopt its Rules of Procedure in accordance with this Law and the Statute of the Agency;
- to adopt the decision for adopting the Annual Report on the operations of the Agency for the previous year;

- to adopt the decision for adopting the Annual Programme on the operations of the Agency for the next year;
- to adopt the decision for appointment or dismissal of the Agency director in accordance with this Law following the procedure set in the Statute of the Agency;
- to monitor the implementation of the Annual Programme for the operations of the Agency using the quarterly reports submitted by the Agency director;
- to adopt the decision for use of undisbursed funds from the Financial Plan of the Agency from the previous year, upon proposal from the Agency director;
- to adopt the decision for lease of available business premises, that are not used by the Agency and for the lease price that will be the initial price in a public bidding procedure, upon proposal from the Agency director;
- to give consent on the draft decision of the Agency director concerning the property disposal of the Agency, as well as on the employment or termination of employment of the Agency employees;
- to decide upon complaints from employees submitted against a resolution of the Agency director adopted in regards to the fulfilment of the employment rights and obligations;
- to cooperate with other state bodies and institutions, the local self-government units and non-governmental organizations and associations of citizens in the Republic of Macedonia;
- to provide opinions, recommendations, and proposals to the Assembly of the Republic of Macedonia, and other state bodies and institutions in the field of electronic communications; and
- to adopt the general acts on the operations of the Agency as defined in the Statute of the Agency, upon proposal from the Agency director.

Article 20

Commission's method of operating and decision-making

- (1) The Commission shall convene at least four times per year.
- (2) The decisions of the Commission shall be adopted by a majority vote of all Commission members.
- (3) The president of the Commission shall convene the meetings of the Commission upon written proposal from the Agency director or upon written proposal from three members of the Commission. The president of the Commission shall preside over the meetings of the Commission, and shall represent the Commission, whereas in case it is absent or prevented, the deputy president shall take over said responsibilities.
- (4) The president or deputy president of the Commission shall convene the meeting of the Commission within a timeframe which shall not be longer than five days from the date the request for the meeting has been received.
- (5) The Commission shall elect or dismiss the president and deputy president of the Commission with a majority vote of all Commission members. The procedure for election or dismissal of the president and deputy president of the Commission shall be defined in the Commission's Rules of Procedure.

- (6) The director shall attend and participate in Commission meetings, without a right to vote.
- (7) The meetings of the Commission may be attended, without voting rights, by employees of the Agency expert service, upon invitation from the Commission, and for the purpose of providing information, clarifications, and expert rationales on the issues which are part of the meeting agenda, and in accordance with the Commission's Rules of Procedure.
- (8) The decisions and other acts of the Commission shall be signed by the president of the Commission, and in case it has been prevented to do so, the deputy president of the Commission, within three days from the day of their adoption.
- (9) The materials for the meetings of the Commission shall be prepared by the Agency expert service, and said materials shall be submitted to all members of the Commission, in the manner and within the deadline set in the Commission's Rules of Procedure.
- (10) The agenda, the minutes of the Commission's meetings, the adopted decisions and acts shall be published on the Agency web-site within seven days from the date when the meeting was held.
- (11) In case any member of the Commission has a direct or indirect private interest related to the adoption of the decisions within the competency of the Commission, said member shall be obliged to inform the Commission thereof. The Commission shall decide whether such interest exists and whether said member may participate in the decision-making process for such issues.

Article 21

Remuneration of the Commission members

- (1) The Commission members shall be entitled to:
 - monthly remuneration up to four average monthly salaries in the Republic of Macedonia as per the data published by the State Statistical Office, and in accordance with the Statute of the Agency for Electronic Communications; and
 - remuneration for travel expenses of those Commission members living outside Skopje when attending the meetings of the Commission, and remuneration for travel expenses and per-diems for business trips, as per the Law on salaries and other remunerations of elected and appointed persons in the Republic of Macedonia.
- (2) The funds for the monthly remunerations and other expenses of the Commission members shall be paid from assets of the Agency as determined in the Financial Plan.

Article 22

Appointment of the Agency director

- (1) The Commission shall appoint the Agency director through a public competition.
- (2) The following person may be appointed as Agency director:
 - citizen of Republic of Macedonia;
 - fluent in Macedonian;
 - has not been employed by an Operator at least one year prior to the publication of the public competition;

- with attained at least 240 ECTS credits or completed VII/1 degree education in the field of electrical engineering, information technologies, law or economics;
 - with at least five years adequate work experience in the field of electronic communications;
 - with internationally recognised CEFR B2 level certificate issued by an official European language tester, member of the ALTE association of European language testers, or TOEFLPBT score of at least 500 points, TOEFL CBT score of at least 175, or TOEFLIBTscore of at least 60 points;
 - with passed psychological and integrity tests; and
 - with certificate for knowledge of computer office applications.
- (3) During the election process of the Agency director, its professional or management experience in the field of electronic communications shall be taken into account.
 - (4) The Commission shall be obliged to appoint the Agency director no later than 30 days prior to the expiration of the mandate of its predecessor.
 - (5) The Agency director shall be engaged by the Agency as a professional full-time employee.
 - (6) The term in office of the director shall be five years, with a possibility for one additional consecutive term in office.
 - (7) In case the term in office of the director has expired, and the procedure for appointment of a new director has not been completed, the director shall continue to perform the office until the appointment of a new director, however, no longer than six months.

Article 23

Incompatibility of function of the Agency director

The Agency director, its spouse or unwed partner, as well as close first and second degree relatives, may not be:

- part-owner or shareholder, directly or indirectly, of organisations performing activities which are directly within the competencies of the Agency; or
- member of management or supervisory boards, or execute a management positions in legal entities performing activities in the field within the competency of the Agency, as defined in this Law, or in legal entities where it may cause conflict of interests as per this or any other Law.

Article 24

Competencies of the Agency director

- (1) The Agency director shall manage the operations of the Agency, shall be responsible for the lawful operations of the Agency, and shall have the following competencies:
 - to act on behalf and represent the Agency;
 - to sign agreements on behalf of the Agency;
 - to adopt the bylaws arising from this Law;

- to undertake measures in accordance with this Law in cases when the provisions of this Law or of regulations adopted thereof, as well as the conditions and obligations of issued resolutions and approvals, have been violated;
 - to adopt decisions, resolutions, and other acts related to issues within the competencies of the Agency in accordance with this Law, and the Statute of the Agency;
 - to propose the Statute, the Annual Report on the operations of the Agency for the previous year, the Annual Programme on the operations of the Agency for the next year, as well as the general and other acts adopted by the Commission and the Agency;
 - to delegate powers within the scope its competences;
 - to authorise persons to conduct supervision, taking into account the adequate and equal representation;
 - to adopt the Annual Supervision Programme, and to submit the Annual Supervision Report, as an integral part of the Annual Report on the operations of the Agency for the previous year; and
 - to undertake other activities as regulated by this Law and the Statute of the Agency.
- (2) The director shall be obliged to submit quarterly reports on the implementation of the Annual Programme for the operations of the Agency.

Article 25

Premature termination of the director

- (1) The Agency director may be prematurely terminated prior to the expiration of its term in office with a decision adopted by the Commission only in the following cases:
- upon its request;
 - if it is not capable to perform the duty for a continuous period longer than six months;
 - it has accepted function or employment incompatible with its function as the Agency director in accordance with Article 23 of this Law;
 - in case of being convicted for a crime by a prison sentence lasting more than six months or has been pronounced a safety measure for prohibition to perform an occupation, professional activity, or duty for a period longer than six months;
 - it is established that during the appointment procedure it has provided untrue data or omitted to present information relevant to its appointment; or
 - in case of misuse of the function as per the auditor's report referred to in Article 11 of this Law.
- (2) The Agency director, against whom there is pending termination procedure, shall be allowed to defend itself before the Commission.
- (3) The decision to dismiss the Agency director, inter alia, should include the reasons for dismissal, explained in details, and it shall be published on the Agency web-site within seven days from its adoption.
- (4) In case the Agency director has been dismissed, and the procedure for appointment of Agency director has not been completed, the function Agency director shall be carried out

by an employee of the Agency expert service, authorised thereof by the Commission for a period not longer than three months.

Article 26

Organization of and employment in the Agency

- (1) The expert, normative and legal, administrative, administrative and supervisory, material and financial, accounting, IT and other activities of the Agency shall be performed by an expert service with internal organisational structure, scope of work, and employment terms defined in details in the acts on internal organisation, and systematisation of the operations and tasks, as per the Law on Employment Relations.
- (2) The expert service shall perform the activities within its competency autonomously and without bias, abiding to the procedures set in this Law, and the regulations adopted thereof.
- (3) An employee of the expert service shall be obliged to refuse an order for actions contrary to the provisions of this Law, the regulations adopted thereof, as well as the other acts of the Agency, even when said order is coming from a superior, and should inform the Agency director thereof.
- (4) The conduct of the employees in the Agency expert service, when performing the competences set in this Law, the regulations adopted thereof, and the other acts of the Agency, shall be prescribed in more details in the Code of Conduct for the employees of the expert service, published on the Agency web-site.
- (5) For the purpose of conducting certain activities within the scope of its competencies, the Agency may engage other domestic and foreign natural or legal persons, taking into account the conflict of interests.
- (6) The employees of the Agency expert service shall have the right to permanent professional development for the purpose of performing the work and tasks arising from this Law, the regulations adopted thereof, and other acts of the Agency.

Article 27

Cooperation

- (1) Within its competences, the Agency shall be obliged to provide opinions, proposals, and exchange data and information with the Ministry competent for the operations in the field of electronic communications, the broadcasting regulatory body, the Consumer Protection Commission, the Personal Data Protection Directorate, and other state authorities, state management bodies, public enterprises, local self-government units, public institutions and organisations in the Republic of Macedonia, as per this Law and other laws.
- (2) The volume of data and information exchanges between the Agency and the entities referred to in paragraph (1) of this Article shall be limited to data and information appropriate and proportionate to the purpose for which they have been exchanged in accordance with this Law.
- (3) The Agency may exchange data and information at its disposal with the entities referred to in paragraph (1) of this Article, upon their request, provided the exchanged data and information are within the competences of said entities, and are exchanged under the conditions and in the manner defined in paragraph (2) of this Article.

Article 28

EU harmonisation, other international cooperation, and application of standards

- (1) For the purpose of promoting and developing the electronic communications market in the Republic of Macedonia, the Agency shall, while performing its activities, take into account the recommendations of the European Commission and the International Telecommunication Union.
- (2) In accordance with its competences, and for the purpose of implementing the provisions of this Law, the Agency shall cooperate with regulatory bodies of other countries, and international organisations, institutions and bodies, and it may sign cooperation agreements therewith.
- (3) The Agency may collaborate with national regulatory bodies for electronic communications of other countries.

Chapter Three

FEES

Article 29

Financing of the Agency

- (1) The Agency shall be financed with funds from revenues generated by the fees defined in this Chapter of this Law for covering the administrative expenses of the Agency incurred by the implementation of its competencies set in this Law.
- (2) The Agency may be financed by donations, lease of unused business premises owned by the Agency, loans, and other financial and technical aid.
- (3) The fees referred to in paragraph (1) of this Article shall be set in a decision adopted by the Agency director, pursuant to the adopted Annual Programme on the next year operations, including the Financial Plan of the Agency for the next year, and pursuant to the bylaws referred to in Article 30, 31, and 32 of this Law.
- (4) The Agency director shall be obliged to adopt the decision referred to in paragraph (3) of this Article within 10 days from the adoption of the Annual Programme on next year operations.
- (5) The lease of unused business premises of the Agency referred to in paragraph (2) of this Article shall be awarded by public bidding in a manner defined in a bylaw of the Agency. The public bidding procedure shall be conducted by a special Commission established by the Agency director comprised of employees in the Agency expert service. The Agency director, upon proposal from the public bidding Commission, shall adopt the decision for selection of the most favourable bidder.
- (6) The auditing of the material and financial operations of the Agency and the Universal Service Compensation Fund shall be carried out by an external and independent auditor, selected as per the Public Procurement Law, as well as by the State Audit Office.
- (7) The Agency shall be obliged to keep separate accounting for the assets in the Universal Service Fund, after it has been established, and for the assets from the operations of the Agency.
- (8) The undisbursed funds from the Financial Plan of the Agency for the previous year shall be transferred by the Agency to the Financial Plan for the next year, where it may decide to use

the funds, or part thereof, for development of the electronic communications and the information society, as well as for other activities relevant to the Republic of Macedonia, as set in the Financial Plan of the Agency.

Article 30

Market supervision fee

- (1) The operators shall pay an annual market supervision fee.
- (2) The annual fee referred to in paragraph 1 of this Article shall not exceed 0,30% of the total annual gross revenue of the Operator generated from the provision of public communication networks and public communication services during the prior calendar year or a shorter portion of such year when the Operator commenced its operations.
- (3) The Operator shall be obliged to submit to the Agency the report on the amount of total revenue referred to in paragraph (2) of this Article, no later than the 15th of March in the current year.
- (4) In case the Operator fails to submit the report on the amount of total revenue referred to in paragraph (2) of this Article within the deadline set in paragraph (3) of this Article, the Agency shall request the data on the total revenue from the Public Revenue Office of Republic of Macedonia.
- (5) The Operator shall be obliged to pay the annual fee referred to in paragraph (1) of this Article no later than the 15th of April in the current year on the account of the Agency, based on the previously submitted report on the amount of total revenue referred to in paragraph (3) of this Article, or on the obtained data referred to in paragraph (4) of this Article, and in accordance with the decision referred to in Article 29, paragraph (3) of this Law.
- (6) If the Agency suspects the truthfulness of the reported total annual revenue stated in the Report referred to in paragraph (3) of this Article on reasonable grounds, it shall have the right to estimate said revenue at the Operator's or service provider's expense.
- (7) If the estimated total revenue substantially deviates from the reported total revenue, when collecting the annual fee referred to in paragraph (2) of this Article, the Agency shall oblige the Operator or the service provider to pay the calculated difference.
- (8) The method for calculation of the annual fee referred to in paragraph (1) of this Article shall be prescribed by the Agency following the principle of objectiveness and proportionality.

Article 31

Fee for use of radio frequencies

- (1) The holders of authorisation for use radio frequencies shall pay an annual fee for use of the radio frequencies.
- (2) The annual fee referred to in paragraph (1) of this Article shall be determined on the basis of the following criteria:
 - type of radio communication service;
 - assigned radio frequency band;
 - width of the assigned radio frequency channels;

- area of coverage;
 - extent of the service zone (populated area/number of inhabitants);
 - effective height of the antenna;
 - joint use of same frequency; or
 - combination of some of the foregoing.
- (3) The method for calculation of the annual fee referred to in paragraph (1) of this Article, that should be based on the principle of objectiveness and proportionality, shall be prescribed in a bylaw adopted by the Agency. The annual fee shall be set in the decision referred to in Article 29, paragraph (3), of this Law.
 - (4) The Agency may increase the annual fee referred to in paragraph (1) of this Article, determined in accordance with the decision referred to in Article 29, paragraph (3), of this Law, however, said increase may not exceed the price growth index in the EU zone, as set by the European Central Bank for the previous year.
 - (5) The annual fee referred to in paragraph (1) of this Article shall be paid on the account of the Agency for each current year, starting from the date of issuance of authorization for use of radio frequencies.
 - (6) The holder of the authorisation for use of radio frequencies, that have lost the right to use them as per Articles 145 and 146 of this Law, shall be reimbursed by the Agency for the portion of the paid annual fee for use of radio frequencies for the full months of the calendar year when the assigned radio frequencies have not been used, calculated in such a way that the remaining months are multiplied by one twelfth of the paid annual fee.
 - (7) By way of derogation from the provision referred to in paragraph (1) of this Article, the holders of provisional authorisation for use of radio frequencies, as per this Law, shall pay to the Agency fee for use of the radio frequencies equal to 10% of the annual fee that will have been paid for use of said radio frequencies.
 - (8) The annual fee for use of radio frequencies shall not be paid by the state management bodies, by the Public Enterprise Macedonian Broadcasting for transmission of radio-television programme services of the Public Enterprise Macedonian Radio Television, radio-amateurs, and users of the citizens band radio (CB).

Article 32

Fee for use of assigned numbers and/or number ranges

- (1) The operators that have been assigned numbers and/or number ranges by the Agency, shall pay an annual fee to the Agency for the use of said assigned numbers and/or number ranges.
- (2) The criteria for calculation of fees referred to in paragraph (1) of this Article shall be based on the type, purpose, and length of the numbers.
- (3) The method for calculation of the annual fee referred to in paragraph (1) of this Article that should be based on the principle of objectiveness and proportionality, shall be prescribed in a bylaw adopted by the Agency.
- (4) The amount of the fee referred to in paragraph 1 of this Article shall be expressed in points. The value of the point shall be set in the decision referred to in Article 29, paragraph (3), of this Law.

- (5) The Agency may increase the annual fee referred to in paragraph (1) of this Article, determined in accordance with the decision referred to in Article 29, paragraph (3), of this Law, however, said increase may not exceed the price growth index in the EU zone, as set by the European Central Bank for the previous year.
- (6) The annual fee referred to in paragraph (1) of this Article shall be paid on the account of the Agency for each current year in advance, starting from the date when the numbers and/or number ranges have been assigned.
- (7) The Operator that have lost the right to use the numbers and/or number ranges due to transfer of the right to use the assigned numbers and/or number ranges as per Article 155 of this Law, shall be reimbursed by the Agency for the portion of the paid annual fee for the use of numbers and/or number ranges for those month of the calendar year when the assigned numbers and/or number ranges have not been used, calculated in such a way that the remaining full months are multiplied with one twelfth of the paid annual fee.
- (8) By way of derogation from the provision referred to in paragraph (1) of this Article, the operators, whose numbers have been transferred to another Operator as per Article 116 of this Law, shall not paid the annual fee referred to in paragraph (1) of this Article for said numbers. The annual fee shall be paid by the Operator to whom the numbers have been transferred. In doing so, the Agency shall use the data from the central database of ported numbers as per the bylaw referred to in Article 116 of this Law.

Article 33

One-time fee for use of radio frequencies, numbers and/or number ranges

- (1) When the radio frequencies, numbers, and/or number ranges are awarded with a public tendering procedure or a public tender with a public bidding procedure as per this Law, one-time fee for the use radio frequencies, numbers, and/or number ranges shall be paid.
- (2) The one-time fee for use of radio frequencies, numbers, and/or number ranges shall be paid on the account of the Budget of Republic of Macedonia following the completion of the public tender or the public tender procedure with public bidding.
- (3) The lowest amount of the one-time fee referred to in paragraph (1) of this Article, as well as the payment method, which may be done in several monthly or annual instalments, shall be set by the Agency in a decision adopted by the Agency director, upon a conducted public debate as per Article 134, paragraph (6), of this Law, and upon received consent from the Government of Republic of Macedonia.
- (4) The Agency shall be obliged to publish the decision referred to in paragraph (3) of this Article in the "Official Gazette of the Republic of Macedonia" and on its web-site.
- (5) When defining the lowest amount of the one-time referred to in paragraph (3) of this Article, the Agency shall take into account the regulatory objectives and principles referred to in Article 7 of this Law.

Chapter Four

SUPERVISION

Article 34

Supervisory competencies

- (1) The Agency shall supervise the operators and other legal and natural persons conducting activities for provision of electronic communications, as per this Law, the regulations adopted thereof, the obligations imposed thereby, as well as the compliance with the conditions for use of radio frequencies and for use of numbers and/or number ranges.
- (2) The Agency shall have the right to request from the operators to submit all necessary information for the purpose of the supervision referred to in paragraph (1) of this Article.
- (3) The Agency director shall adopt the Annual Supervision Programme, and shall submit the Annual Supervision Report, as an integral part of the Annual Report on the operations of the Agency for the previous year.

Article 35

Type of supervision

- (1) The Agency shall conduct:
 - regular supervision;
 - extraordinary supervision; or
 - control supervision.
- (2) The regular supervision shall be conducted pursuant to the Annual Supervision Programme, and shall include supervision over the implementation of this Law, the regulations adopted thereof, the obligations imposed by the Agency, as well as the compliance with the conditions set for use of radio frequencies, and for use of numbers and/or number ranges.
- (3) The extraordinary supervision shall be conducted upon written initiative submitted by state bodies, operators, natural and legal persons, as well as ex officio by the Agency in case of suspicion.
- (4) The control supervision shall be conducted after the expiry of the deadline set in an individual act adopted by the Agency director for the purpose of detecting whether the supervised entity:
 - acted in full compliance with the act,
 - acted in partial compliance with the act; or
 - did not act in compliance with the act.

Article 36

Supervision report and taking a professional examination

- (1) The supervision referred to in Article 34 of this Law shall be carried out by employees of the Agency expert service, as per the act on systematisation of operations and tasks of the Agency expert service.

- (2) Written report shall be compiled for each conducted supervision, and it shall be submitted to the Agency director within three days from the completed supervision.
- (3) In case breach or violation has been ascertained during the supervision, the report shall contain a draft measure as per this Law and other laws.
- (4) The persons referred to in paragraph (1) of this Article should have a university degree in technical sciences, law or economics, and at least three-year work experience.
- (5) The persons referred to in paragraph (1) of this Article should have passed professional examination and should possess a certification for knowledge of computer office applications.
- (6) The professional examination referred to in paragraph (5) shall be conducted in order to verify the professional capabilities of the persons referred to in paragraph (1) of this Article, and the knowledge and application of the regulations within the scope of electronic communications, general administrative procedure, misdemeanour procedure, personal data protection, and the media-related regulations.
- (7) The professional examination referred to in paragraph (5) of this Article shall be conducted by a Commission established by the Agency director, and shall be comprised of five members, of whom three from the Agency expert service, and two members for the academia. The Agency shall adopt the act prescribing the manner of conducting the professional examination.

Article 37

Conducting a supervision at the supervised entity

- (1) In case when the supervision referred to in Article 34 of this Law is conducted at the supervised entity, it shall be carried out by employees of the Agency expert service, duly authorised by the Agency director (hereinafter: authorised person).
- (2) The Agency shall issue official identification card to each authorised person, that will serve to prove its official capacity, and it shall be obliged to present it when conducting the supervision.
- (3) The form and content of the official identification card referred to in paragraph (2) of this Article, and the manner of issuing and revocation thereof, shall be prescribed in a bylaw.
- (4) In case of regular supervision at the supervised entity, the Agency shall be obliged to notify it in writing thereof, at least one day before the commencement date of the supervision. In the written notification, the Agency shall be obliged to provide a rationale on the reasons for supervision.
- (5) The provisions referred to in paragraph (4) of this Article shall not apply in cases when the notification would reduce the efficiency of the supervision, in case of protection of the public interest, in case of serious threat against public security, human safety and health, or in cases of extraordinary expert supervision.

Article 38

Rights of an authorised person

When conducting the supervision, the authorised person shall have the following rights:

- to request submission of data and information in accordance with Article 55 of this Law, and to verify them accordingly, as well as to request from the supervised entity, or its authorised employees, to prepare the required copies and documents drafted in a foreign language and to have them translated into Macedonian using its Cyrillic alphabet by a court authorised translator;
- to conduct the supervision in the business premises and in other premises not used as residences;
- to verify the identification documents of persons for the purpose of verifying their identity as per the Law;
- to request from the supervised entity, or its employees, written or verbal clarifications related to the issues within the scope of supervision;
- to provide audio and video recordings which may be used during the supervision;
- to seal off the premises and/or communication means or equipment, as per Article 47 of this Law; and
- to temporarily seize the communication means or equipment, as per Article 47 of this Law.

Article 39

Notification of the competent authority

If the authorised person detects irregularities during the supervision which should be remedied within the competences of the Agency, it shall be stated in the minutes, and the Agency shall notify the competent authority thereof.

Article 40

Obligation of a supervised entity during a supervisory procedure

- (1) The supervised entity shall be obliged to enable the authorised person to perform the supervision without any interruptions, and to provide all information and data required to perform the supervision.
- (2) The supervised entity shall be obliged to provide for the authorised person all the conditions required for uninterrupted work and establishment of the actual situation.
- (3) The supervised entity shall be obliged to provide for the authorised person access to the premises and documents which are subject matter of the supervision within the timeframe set by the authorised person.

Article 41

Rights of a supervised entity during a supervisory procedure

- (1) The supervised entity shall have the right to submit statements in the minutes and remarks on the supervisory procedure, on the conduct of the authorised person performing the supervision, or on the accuracy of the established actual situation, including a rationale on the reasons thereof.
- (2) The supervised entity shall have the right to refuse the signing of the minutes, in case it disagrees with the facts stated therein, or in case it has been denied the right referred to in paragraph (1) of this Article.
- (3) The refusal to sign the minutes shall not prevent the further execution of the supervisory procedure.

Article 42

Obligations of other entities

- (1) An entity, which is not supervised entity within a the supervisory procedure, shall be obliged to enable supervision in case of reasonable doubt that there are activities carried out or objects located related to the supervision in its premises or buildings.
- (2) If the entity referred to in paragraph (1) of this Article does not allow the supervision, the authorised person conducting the supervision may apply to said entity the same authorisation applied to the supervised entity.

Article 43

Supervision without presence of the supervised entities

- (1) In case the authorised person conducting the supervision is not met by the authorised person of the supervised entity at the day of the scheduled supervision, the former will leave a written invitation with a specific time of required presence for the purpose of the supervision.
- (2) Subsequent damaging, destruction or removal of the written invitation shall not bear any impact on its duly delivery.
- (3) In case the person referred to in paragraph (1) of this Article fails to respond to the written invitaiton, the authorised person shall conduct the supervision in presence of another employee of the supervised entity.

Article 44

Obstruction of the authorised person conducting the supervision

- (1) The authorised person conducting the supervision shall have the right to warn or have the person obstructing the supervision removed.
- (2) If the authorised person conducting the supervision assesses that the supervision may not be conducted even by undertaking the measures referred to in paragraph (1) of this Article, it shall seek assistance from a state management bodies under the conditions and the procedure prescribed in a Law.

Article 45

Minutes

- (1) The authorised person conducting the supervision shall compile minutes on the supervision at the place where the supervision has taken place.
- (2) The authorised person conducting the supervision and the supervised entity shall sign the minutes upon the completion of the supervision. The supervised entity shall receive a copy of the minutes.
- (3) If the supervised entity refuses to sign the minutes, the authorised person conducting the supervision shall state the reasons thereof.
- (4) The minutes should include an overview of the actual situation established during the supervision, as well as the ascertained remarks, statements, and other relevant facts and circumstances.

- (5) The form and mandatory elements of the minutes on the conducted supervision shall be prescribed by the Agency.
- (6) The authorised person conducting the supervision shall be obliged to submit to the Agency the minutes on the conducted supervision and the written report referred to in Article 36 of this Law, within three days from the completed supervision.

Article 46

Supervision of unknown entities

- (1) In cases where the authorised person conducting the supervision may not ascertain who is the supervised entity of the procedure, the authorised person shall leave a written invitation to an unknown supervised entity for presence during the supervision at specific time and date.
- (2) If the unknown supervised entity fails to respond to the invitation referred to in paragraph (1) of this Article, the supervision shall be carried out without the presence of the supervised entity or in the presence of another employee of the supervised entity.

Article 47

Sealing off and provisional confiscation of objects

- (1) In case the authorised person conducting the supervision establishes that the supervised entity causes harmful interference in the work and use of other communication networks and means, or it has failed to act in regards to the measures pronounced by the Agency in accordance with the Law, as follows: prohibition to provide electronic communication networks and/or services, prohibition to use radio frequencies, numbers and/or number ranges, as well as provisional measure – prohibition to provide a specific service or a bundled services, shall seal off the premises housing the communication means and equipment or the communication means and equipment used to violate the provisions of this Law.
- (2) The sealing off referred to in paragraph (1) of this Article shall be marked by a seal, the content and form of which, shall be prescribed by the Agency.
- (3) Upon written request from the supervised entity, subject of the sealing off, and in case it is ascertained that the irregularities and shortcomings, due to which the sealing off referred to in paragraph (1) of this Article occurred, have been remedied, the authorised person shall unseal the premises housing the communication means and equipment within five days from the receipt of said request.
- (4) The authorised person conducting the supervision shall have the right to temporarily seize the communication means or equipment used to violate the provisions of this Law, and it shall issue to the supervised entity a receipt for the seized equipment.
- (5) The receipt referred to in paragraph (4) of this Article shall contain the name and surname, that is to say, the name of the supervised entity, the time and place when the equipment was seized, the legal grounds for seizure of the equipment, exact listing of the seized equipment by type and quantity, signature of the responsible person from the supervised entity, and other documents required to identify the seized equipment, and the name and surname of the authorised person.

- (6) The temporarily seized equipment, accompanied by a request for instigating misdemeanour proceedings, shall be submitted by the Agency to the competent misdemeanour authority.
- (7) The Agency shall be obliged to provide conditions for storage of the temporarily seized equipment until it is handed over to the competent misdemeanour authority.

Article 48

Measures in case of violation of the regulations

- (1) If the Agency establishes that an Operator's operations are not compliant with one or more of the conditions set in this Law, the regulations adopted thereof, the obligations imposed by the Agency, as well as the defined conditions for use of radio frequencies and use of numbers and/or number ranges, it shall notify in writing the Operator thereof, and shall set a timeframe not shorter than 30 days from the date of receipt of the written notification to remedy the established non-compliance.
- (2) If the Operator fails to remedy the established non-compliance in accordance with paragraph (1) of this Article, the Agency shall instigate misdemeanour proceedings, and in case of non-compliance with the access obligations imposed by the Agency following an analysis of the relevant market that causes significant damages to the development of the competition, the Agency shall order the Operator with a resolution to cease the provision of a service or bundled services within 10 days from the receipt of the said resolution, until compliance with the obligations imposed by the Agency has been restored.
- (3) In case of non-compliance related to the failure to submit information as per Article 55 of this Law, or non-compliance with the obligation for transparency as per Article 84 of this Law, the Agency shall instigate misdemeanour proceedings against the Operator without applying the provisions referred to in paragraph (1) of this Article.
- (4) In case of serious or repeated non-compliance, and where the measures undertaken by the Agency in accordance with paragraph (2) of this Article have not yielded the expected results, the Agency director may adopt a resolution prohibiting the Operator to provide electronic communication networks and/or services, repealing its right to use the radio frequencies, and repealing its right to use numbers and/or number ranges.
- (5) Without prejudice to the provisions in paragraphs (1), (2), (3), and (4), if the Agency has proof of existing non-compliance, which represents an immediate and serious threat to public security, human health and safety, or which may cause serious economic or operational problems to other operators or users of radio frequencies, the Agency director shall adopt a resolution for an immediate provisional measure – prohibition to provide a service or bundled services against the Operator, for the purpose of remedying the non-compliance. The duration of the provisional measure may not exceed three months.
- (6) Following the adoption of the resolution referred to in paragraph (5) of this Article, the Agency director shall allow the Operator to state its position on the established non-compliance, and to propose preventive measures for its rectification, within 15 days from the receipt of said resolution.
- (7) If the Operator fails to remedy the established non-compliance within the duration of the provisional measure referred to in paragraph (5) of this Article, the Agency may extend the duration of the provisional measure for another period not longer than three months.

- (8) If the Operator remedies the established non-compliance, the Agency shall adopt a resolution to repeal the pronounced provisional measure within three days after the duration of said provisional measure has expired.

Article 49

Right to legal remedy

- (1) The resolution of the Agency director adopted in case of violation of the provisions of this Law, the regulation thereof, the obligations imposed by the Agency, as well as the compliance with the conditions for use of radio frequencies, and for use of numbers and/or number ranges, shall be final.
- (2) The unsatisfied party shall have the right to lodge an administrative dispute complaint before the administrative court against the resolution of the Agency director.
- (3) The complaint for instigating administrative dispute shall be lodged within 30 days from the receipt of the resolution.

Chapter Five

MISDEMEANOUR AUTHORITY

Article 50

Misdemeanour jurisdiction

- (1) Competent misdemeanour authority for the misdemeanours referred to in Articles 180 and 181 of this Law shall be the competent court.
- (2) Competent misdemeanour authority for the misdemeanours referred to in Articles 182, 183 184, and 185 of this Law shall be the Agency.
- (3) The Misdemeanour Commission, established with a resolution adopted by the Agency director, shall manage the misdemeanour proceedings before the Agency and shall pronounce the misdemeanour sanction.
- (4) The Misdemeanour Commission shall be comprised of three members selected from the employees of the Agency expert service. The Commission members should have completed higher education in the field of law and at least three-year work experience in the field, of whom one should have a law degree with passed bar exam, who will also serve as president of the Commission.
- (5) The term in office of the members of the Misdemeanour Commission shall be three years, with a right for re-election.
- (6) Aside from the members of the Misdemeanour Commission, the Agency director may assign a Commission secretary, who will carry out the administrative activities of the Commission, and deputy members, who will, by way of derogation, participate in the operations of the Commission in case any of the members are absent.
- (7) The modus operandi of the Misdemeanour Commission, the record-keeping of misdemeanours, the pronounced sanctions and adopted decisions, as well as the access to information contained in the records, shall be prescribed in the Rules of Procedure of the Misdemeanour Commission, adopted by the Agency director.

- (8) Administrative dispute may be initiated against the resolutions of the Misdemeanour Commission pronouncing a misdemeanour sanction.
- (9) Member of the Misdemeanour Commission may be dismissed in the following cases:
- 1) with the expiry of the term of appointment;
 - 2) upon its own request;
 - 3) by fulfilling the conditions for age pension in accordance with the Law;
 - 4) in case of an effective prison sentence of at least six months without probation for perpetrating a crime;
 - 5) in case of establishment permanent incapability to work;
 - 6) in case of established violation of the regulations for conducting misdemeanour proceedings with effective decision;
 - 7) in case the obligations arising from the operations of the Misdemeanour Commission have not been fulfilled; or
 - 8) in case it has failed to report conflict of interest in a case deliberated by the Misdemeanour Commission.
- (10) The proposal for dismissing a member of the Misdemeanour Commission in the cases referred to in paragraph (9), items 3 through 8, of this Article, shall be submitted by the president of the Commission to the Agency director.
- (11) The Misdemeanour Commission shall have the right to present the evidence and collect the data, which are necessary to establish the misdemeanour, as well as to conduct other activities and undertake actions as envisaged in this Law, the Misdemeanour Law and/or other laws.
- (12) The members of the Misdemeanour Commission shall be autonomous and independent in the activities of the Commission, and shall deliberate on their own expert know-how and autonomous persuasion.
- (13) The Misdemeanour Commission shall operate as council, and shall make decisions by majority vote of all members.
- (14) The Misdemeanour Commission shall keep single records of misdemeanours, pronounced sanctions, and adopted decisions, as defined in the Rules of Procedure of the Misdemeanour Commission.
- (15) The records referred to in paragraph 14 of this Article shall contain the following personal data: name and surname, unique identification number of the citizen (EMBG), place and date of birth, place of residence, street and number, address of temporary residence, occupation, citizenship, and if the natural person is foreigner, then instead of the EMBG, the passport number, and for the responsible person of the legal entity, and the position said person has in the legal entity. The personal data shall be kept for five years from the effective date of the decision on the pronounced sanction.

Article 51

Settlement

Prior to submitting the application for misdemeanour proceedings, for the misdemeanours defined in Article 182, 183, 184, and 185 of this Law, settlement proceedings shall be conducted, as per the Misdemeanour Law.

Article 52

Statute of limitations

- (1) The misdemeanour proceedings may not be instigated, nor carried out, if three years have passed from the day when the violation of a certain right guaranteed by this Law has been committed.
- (2) The statute of limitations for misdemeanour prosecution shall commence to lapse on the day when the violation of a right guaranteed by this Law has been disclosed.
- (3) The statute of limitations shall not lapse during the period when the prosecution may not begin or resume as per the Law.
- (4) The statute of limitations shall not lapse during each process action undertaken for the purpose of prosecution of the perpetrator of the violation. The statute of limitations shall also not lapse when the perpetrator has committed a serious or more severe misdemeanour during the lapsing period of the statute of limitations. After each cessation, the statute of limitations shall resume to lapse.
- (5) The statute of limitations for misdemeanour prosecution shall expire in any case when twice the time required by law for said statute of limitations will have passed.

Chapter Six

DISPUTE RESOLUTION

Article 53

Dispute resolution procedure

- (1) The Agency shall conduct a dispute resolution procedure between:
 - operators in accordance with the provisions of this Law, the regulations adopted thereof, and the obligations imposed by the Agency;
 - operators and legal entities managing the physical infrastructure, as per this Law; and
 - end users and operators as per the provisions of this Law.
- (2) In the cases referred to in paragraph 1 of this Article, the Agency shall open a dispute resolution procedure upon request from a party to the dispute.
- (3) After receiving the application referred to in paragraph (2) of this Article, and before opening the dispute resolution procedure, the Agency shall be obliged to propose to the parties to the dispute the mediation procedure determined in Article 54 of this Law.
- (4) In case any party to the dispute refuses the mediation procedure referred to in paragraph (3) of this Article, or if no settlement is reached between the parties to the dispute during the mediation procedure, the Agency shall, upon request of a party to the dispute or ex officio in case of dispute related to the obligations referred to in Article 73 of this Law, resolve the dispute.
- (5) During the dispute resolution procedure, the Agency shall apply the provisions of the Law on General Administrative Procedure, unless otherwise prescribed in this Law.
- (6) In case any party to the dispute resolution procedure before the Agency initiates court proceedings for the same dispute, the dispute resolution procedure before the Agency shall cease.

- (7) The Agency shall be obliged to resolve the dispute in the shortest possible timeframe, however, no later than four months from the date of commencement of the dispute resolution procedure, unless there are exceptional circumstances when it may be extended.
- (8) When resolving the disputes, the Agency shall be obliged to take into account the objectives and regulatory principles referred to in Article 7 of this Law. During the dispute resolution procedure, the parties shall be obliged to fully cooperate with the Agency. In accordance with Article 55 of this Law, and in relation to the dispute resolution procedure, the operators shall be obliged to submit to the Agency all requested information at their disposal.
- (9) The Agency shall be obliged to publish the decisions related to disputes, where it must take into account the personal data protection and the prohibition to publish the business secrets of the parties.

Article 54

Mediation

- (1) The Agency shall propose a mediation procedure to the parties to the dispute in order for them to resolve the dispute by settlement.
- (2) Within eight days from the date of receipt of the application for dispute resolution between the parties to the dispute, the Agency shall be obliged to submit to them a written proposal for carrying out a mediation procedure.
- (3) The mediation procedure shall be conducted in case the parties to the dispute inform the Agency in writing that they have agreed to conduct the mediation procedure within five days from the receipt of the written proposal referred to in paragraph (2) of this Article.
- (4) During the mediation procedure, the Agency shall have the role of mediator and shall conduct the mediation procedure by applying the principles of impartiality, equality, and objectivity, taking into account the fulfilment of the objectives and regulatory principles referred to in Article 7 of this Law.
- (5) When conducting the mediation procedure, all parties taking part in the procedure shall be obliged to observe the confidentiality principle.
- (6) The Agency shall adopt a bylaw prescribing the manner of conducting the mediation procedure.

Chapter Seven

SUBMISSION, RECORDING, STORING, AND PUBLISHING OF DATA AND INFORMATION

Article 55

Providing data and information

- (1) The operators shall be obliged to submit to the Agency data and information, including documents and financial information, that the Agency will use to perform the competences established in this Law, and particularly for:
 - a) systematic and individual control of the compliance with:
 - the obligation to make payments in the Universal Service Fund;
 - the obligation to pay the Agency fees;

- the obligation for efficient and effective use of radio frequencies, numbers and/or number ranges;
 - the obligations imposed by the Agency as per this Law, and the regulations adopted thereof;
- b) individual compliance with the provisions of this Law, and the regulations adopted thereof, as well as the individual acts of the Agency, where:
- a complaint has been received;
 - the Agency is aware of committed violations to the provisions of this Law, the regulations adopted thereof, the imposed obligations or conditions for use of radio frequencies, or the conditions for use of numbers and/or number ranges; or
 - the Agency is conducting an ex officio procedure for establishing the compliance of the operators' operations with the provisions of this Law, the regulations adopted thereof, the imposed obligations, or the conditions for use of radio frequencies, or the conditions for use of numbers and number ranges;
- c) assessment procedure of the application for granting rights to use the scarce resources in accordance to this Law;
- d) publication of reports or comparative overviews on the quality and pricing of services for the benefit of the consumers;
- e) clearly established statistical purposes;
- f) market analysis;
- g) protection of the effective use and provision of efficient management of radio frequencies;
- h) evaluation of the development of future networks and services that may have an impact on the wholesale services which are available to the competition; and
- i) accounting data for the retail markets which are related to wholesale markets.
- (2) The data and information referred to in paragraph (1), items a), b), d), e), f), g), h), and i), may not be requested by the Agency before and as a condition for commencing the provision of public electronic communication networks and/or services.
- (3) The information requested by the Agency shall be proportionate and objective to the purpose for which they will be used.
- (4) Upon written proposal of the Agency, the operators shall be obliged to submit the information referred to in paragraph (1) of this Article, at the level of details and within a deadline that may not be less than 15 days from the receipt of the request, free of charge. The Agency shall be obliged to state in the request the reasons for using the requested information.
- (5) The Agency may only use the confidential data and information received for the purposes for which it has requested it, while observing their confidentiality.

Article 56

Recording and storage of data

- (1) The Agency shall keep records and store documentation containing data on:

- a) operators;
 - b) users of assigned radio frequencies;
 - c) users of assigned numbers and/or number ranges;
 - d) operators' interconnection or access referent offers;
 - e) interconnection agreements of operators with significant market power at the relevant market of communication services;
 - f) interconnection agreements between domestic operators, and between domestic and foreign operators;
 - g) calculations of fees and expenses for provision of universal service; and
 - h) other data as defined by the Agency.
- (2) The Agency shall keep the records and store the documentation referred to in paragraph 1 of this Article in its information database.
- (3) The Agency shall keep records and store data on operators referring to the following:
- a) name, head office, court registration number, unique tax number, and name and address of the legal representative for legal entities;
 - b) notification for public communications network and/or public communication services;
 - c) the date of commencement, alteration or cessation of the provision of public communication services;
 - d) decisions determining operators with significant market power in a relevant market;
 - e) compliance of the operators' obligations arising from this Law; and
 - f) pronounced sentences for violations of this Law.
- (4) The Agency shall keep records and store data on users of assigned radio frequencies referring to the following:
- a) name, head office, court registration number, and unique tax number for legal entities;
 - b) name, address, and unique identification number of citizens;
 - c) authorisations for use of radio frequencies;
 - d) fulfilment of the obligation for payment of fees to use radio frequencies;
 - e) pronounced penalties for committed offences in regards to the provisions of this Law; and
 - f) other data as defined by the Agency.
- (5) The Agency shall keep records and store data on the users of assigned numbers and/or number ranges referring to the following:
- a) name, head office, court registration number, unique tax number for legal entities, and name and address of a legal representative for legal entities;
 - b) resolutions for assigned numbers and/or number ranges;
 - c) fulfilment of the obligation for payment of fees to use numbers and/or number ranges;
 - d) pronounced penalties for committed offences in regards to the provisions of this Law; and
 - e) other records as defined by the Agency.
- (6) The Agency shall be obliged to regularly update the data and documentation referred to in this Article.
- (7) The Agency shall retain the data referred to in paragraph (3) of this Article as long as the Operator provides a public communication service in accordance to this Law, and then in the form of an archive for additional five years thereafter. The Agency shall retain the data

referred to in paragraphs (4) and (5) of this Article for as long as the natural or legal person has the right to use the radio frequency, the number and/or the number range, and then in the form of an archive for additional five years after the expiration of said right.

Article 57

Publication of data and information

- (1) The Agency shall be obliged to publish on its web-site data and information on:
 - the signed interconnection agreements of the operators with significant market power;
 - the referent offers of operators with significant market power;
 - the calculations of the fees and expenses for provision of universal service;
 - authorisations for use of radio frequencies, and resolutions for allocation of numbers and/or number ranges;
 - issued licences to radio amateurs;
 - transfer or lease the right to use the assigned radio frequencies, and numbers and/or number ranges;
 - public calls for obtaining opinions of interest parties;
 - public calls and tenders implemented by the Agency;
 - decisions related to dispute resolution; and
 - completed supervisory procedures.
- (2) The Agency shall publish on its web-site data and information for the purpose of encouraging the use of the emergency services numbers, as well as the use of the 116 (xyz) telephone numbers intended for services of social relevance.
- (3) The Agency shall publish the data and information referred to in paragraphs (1) and (2) of this Article in other ways as per this Law, and the regulations adopted thereof.
- (4) When publishing the data and information referred to in paragraphs (1) and (2) of this Article, the Agency shall be obliged to adequately take care of the confidentiality of data and information, as well as of the personal data protection in accordance with this Law, and other laws.

Article 58

Data and information not available to the public

- (1) The public shall not have access to data and information deemed as business secret, as well as data and information as per the Law on Classified Information.
- (2) The following shall be deemed business secret:
 - any data and information defined as business secret in accordance with a law or any other regulation;
 - any data and information defined as business secret in accordance with a general or any other act of the data owner;
 - any data and information defined as business secret in accordance with an act adopted by the Agency;

- (3) In case the data and information referred to in Article 57, paragraph (1), of this Law contain a business secret, the Operator should mark them as business secret.
- (4) In the cases referred to in paragraph (3) of this Article, the Operator shall be obliged to submit to the Agency a copy of the documentation that does not contain business secret. In case it only marks which data are deemed business secret, and fails to submit a copy of the letter and/or documentation without the business secret, the Agency shall request of said Operator to submit the letter and/or documentation without a business secret. In case the Operator fails to comply with the request of the Agency, it shall be deemed that said letter and/or documentation does not contain a business secret.
- (5) Without prejudice to provisions referred to in paragraph (2) of this Article, data or documentation which have become publicly available in any way or which have been published pursuant to special regulations or to a decision of the data owner, as well as in the case referred to in paragraph (4) of this Article, shall not be deemed business secret.
- (6) The members of the Agency Commission, the Agency director, and the employees of the Agency expert service, shall be obliged to protect the business secret, irrespective of the manner in which they have become aware of it. The obligation to keep the business secret shall remain for five years after the termination of employment with the Agency or after the expiration of the term in office.

Chapter Eight

CONDITIONS FOR PROVISION OF ELECTRONIC COMMUNICATION NETWORKS AND/OR SERVICES

Article 59

Provision of Electronic Communication Networks and/or Services

The legal and natural persons providing electronic communication networks and/or services, including the associated facilities, shall be obliged to meet the conditions envisaged in this Law, and other laws and regulations adopted thereof, as well as international agreements in the field of electronic communications entered into or joined by the Republic of Macedonia, and shall not endanger the public order, human life and health, public security and the defence of the country.

Article 60

Notification Procedure

- (1) Before commencing the provision of public electronic communication networks and/or services, a notification shall be submitted to the Agency.
- (2) Pursuant to the notification referred to in paragraph (1) of this Article, the Operator shall have the right to provide public electronic communication networks and/or services, that is to say, to build, operate, and manage a public electronic communication network or to provide access thereto, as per this Law.
- (3) The notification referred to in paragraph (1) of this Article shall contain data which will enable the Agency to keep official records on the operators, and to conduct the supervision. The notification shall include the following:
 - a) name, head office, unique tax number and registration number of the entity filing the notification, as well as statement of the legal representative including its name, address, contact number, and unique identity number;

- b) short description of the public communication networks and/or services and a physical overview thereof; and
 - c) date of commencement of the provision of the public electronic communication networks and/or services.
- (4) Within 15 days from the receipt of a notification that does not contain all of the required data and the documentation referred to in paragraph (3) of this Article, the Agency shall be obliged to inform the applicant that has submitted said notification to supplement the required data within 15 days from the receipt of the information thereof.
 - (5) The Agency shall register the Operator in the official records within seven days from the receipt of the notification, and subsequently send the latter a written confirmation of the completed registration.
 - (6) The Operator shall be obliged to inform the Agency of all the changes in the data referred to in paragraph (3), item a), of this Article, as provided in the notification, within 30 days from the date when the change occurred. The Operator shall be obliged to inform the Agency of the data referred to in paragraph (3), item c) before the date stated in the notification, except in cases of Force Majeure, when the Agency shall be informed within 10 days following the date stated in the notification. The Agency shall erase from its official records an Operator that has not commenced its operations on the date set in the notification, and has failed to inform the Agency of any changes thereof, as well as in case of bankruptcy or liquidation.
 - (7) An Operator shall be obliged to notify the Agency of a cessation of the provision of public electronic communication networks and/or services within 90 days before the date of said cessation of the provision of public electronic communication networks and/or services. In said notification, the Operator shall be obliged to describe the manner in which it will safely store the data as per this Law, and the manner of access thereto.
 - (8) The Agency shall prescribe the content and the form of the notification, the required documentation, and the registration confirmation in a regulation adopted pursuant to this Law.
 - (9) The Agency shall be obliged to publish on its web-site data on the notified operators.

Chapter Nine

CONSTRUCTION OF ELECTRONIC COMMUNICATION NETWORKS AND ASSOCIATED FACILITIES

Article 61

Regulations, standards, and/or technical specifications

- (1) The public electronic communication networks and associated facilities, interfaces, and other network elements should be planned, designed, built, maintained, and operating in accordance with this Law, the regulations adopted thereof, the regulations on spatial planning and construction, the regulations on environmental protection, the regulations, standards, and/or technical specifications contained in the recommendations of the European Union.
- (2) In case the recommendations referred to in paragraph (1) of this Article do not exist, the standards and/or technical specifications of the European Telecommunication Standardisation Institute (ETSI), the European Standardisation Committee (CEN), the European Committee for Electrotechnical Standardisation (CENELEC), the International

Telecommunication Union (ITU), International Standardisation Organisation (ISO), the International Electrotechnical Commission (IEC), and the European Conference of Postal and Telecommunications (CEPT) shall apply.

- (3) In case the adequate standards and/or technical specifications referred to in paragraph (2) of this Article do not exist, the norms of the Republic of Macedonia shall apply.
- (4) The list of regulations, standards, and/or technical specifications referred to in paragraphs (1), (2), and (3) of this Article, shall be published by the Agency on its web-site.

Article 62

Planning, designing, building, and maintaining of public electronic communication networks and associated facilities

- (1) The construction and maintenance of public electronic communication networks and associated facilities shall be works of public interest.
- (2) The maintenance of the public electronic communication networks and associated facilities, within the meaning of the construction regulations, shall include the following:
 - a) additions and upgrades to the existing communication means or equipment for electronic communication networks (installation or replacement of equipment, increasing the capacity, installation of communication cables in existing pipes, reconstruction, change of locations, protection, and repairs);
 - b) enhancement and replacement of existing antenna systems, and reduction and extension of their height;
 - c) replacement of existing containers;
 - d) expanding the existing power supply systems; or
 - e) earthing or expansion of the existing earthing due to replacement of existing objects.
- (3) The works referred to in paragraph (2) of this Article should be performed in such a way as to retain the main properties of the public electronic communication network and associated facilities, as well as to enable minimum disruption or threat to the ownership.
- (4) The public electronic communication networks and associated facilities, except in cases of no technical viability, must be built in such a way as to enable access and joint use as per this Law, and for the purpose of ensuring environmental protection, spatial protection against unnecessary interventions, as well as protection of human health and safety. To that end, when building these electronic communication networks and associated facilities, access termination point, that will enable joint use of the access portion of the network, must be envisaged, and the Agency will adopt a decision thereof in accordance with Article 75 of this Law.
- (5) In cooperation with the Ministry competent for construction, the Agency will prescribe in a regulation the technical and other issues related to the implementations of the provisions referred to in paragraph (4) of this Article, and Article 63 of this Law.

Article 63

Planning, designing, building of business and residential buildings with physical infrastructure for providing electronic communication networks for high-speed transmission

A business or residential building must be planned and built in such a way as to have a concentration point inside or outside the building, as per the Construction Law and regulations adopted thereof, for the purpose of allowing high-speed access for operators to the physical infrastructure in the building.

Article 64

Other obligations

- (1) The public electronic communication networks and associated facilities must be planned, designed, built, and set up in such a way as to enable their switching and routing equipment not be installed outside the Republic of Macedonia.
- (2) The electronic communication networks and associated facilities must be planned, designed, built, and set up in such a way as to enable priority of communications at specific network connection points before other communications in case of network outages, state of war or emergency, or during natural disasters. The Government of Republic of Macedonia shall set the group of users with right to priority network termination points.
- (3) The public electronic communication networks and associated facilities must be planned, designed, built, and set up in such a way as to enable, upon request of a competent state authority or body, free of charge, transmission of messages and notifications in case of state of war or imminent threat to the independence or sovereignty of the Republic of Macedonia, in case of large natural disasters, technical, technological and ecological accidents and outbreaks, and in case of danger to the human life and health, and the safety of the country.
- (4) The public electronic communication networks and associated facilities for public mobile communication services must be planned, designed, built, and set up in such a way as to enable free of charge transmission of SMS-messages containing information from the Electronic journal (E-journal) provided by the Ministry of Education and Science.

Article 65

Performing works within the zone of the electronic communication network and associated facilities

- (1) Concerning the works conducted within the space of the zone of an electronic communication network and associated facilities, within said protected zone and the "radio corridor" of specific radio stations, the Agency shall:
 - submit its opinions during the procedure for drafting and adopting the spatial planning documents; and
 - provide consent on the fulfilment of special conditions for performing the works in the zone of the electronic communication network and associated facilities.
- (2) The manner for determining the zone of the electronic communication network and associated facilities, as well as the protected zone, and the "radio corridor" of specific radio stations, shall be prescribed in a regulation adopted by the Agency.

Article 66

Providing access to existing physical infrastructure of an entity managing infrastructure objects

- (1) The entity managing infrastructure objects as defined in the Law on Real Estate Cadastre, pursuant to a written request from an operator of public electronic communication network,

shall be obliged to allow the latter access to its physical infrastructure for the purpose of setting up elements of electronic communication networks for provision of high-speed transmission, under fair conditions, deadlines, and pricing.

- (2) The entity referred to in paragraph (1) of this Article may reject the request referred to in paragraph (1) of this Article, only in the following cases:
 - there is no technical viability;
 - network integrity and security deteriorates;
 - there is risk of serious interference; or
 - on the relevant wholesale market, there is available alternative for physical access to a network infrastructure, which is adequate for providing electronic communication network for high-speed transmission.
- (3) The entity referred to in paragraph (1) of this Article shall be obliged to inform the applicant in case it has rejected its request, stating the reasons thereof, within 60 days from the receipt of the request referred to in paragraph (1) of this Article.
- (4) In case the request referred to in paragraph (1) of this Article is rejected or there is no agreement for the requested access within two months from the receipt of the request, the Agency shall, upon request of any party, open a dispute resolution procedure as per Article 53 of this Law.
- (5) During the dispute resolution procedure referred to in paragraph (4) of this Article, the Agency shall adopt a binding decision resolving the dispute, taking into account the principle of proportionality, and where appropriate, it shall define the fair deadlines, conditions, and pricing. When defining the pricing, the Agency should take into account the impact that the request access will have on the investment business plan of the entity referred to in paragraph (1) of this Article, and particularly in case of physical infrastructure for high-speed electronic communication networks that has been built in the last six months. The Agency shall adopt the dispute resolution decision, where appropriate, in coordination with the local self-government.

Article 67

Single information point

- (1) Through its web-site, the Agency shall provide a single information point for the purpose of providing for the interested parties, inter alia, minimum information in regards to the planned construction of the public electronic communication network and means referred to in Article 75 of this Law, and the existing physical infrastructure of the entity referred to in paragraph (1), Article 66 of this Law, as follows: data on the type, main technical properties, horizontal and vertical setup of underground and surface infrastructure objects and associated installations, as well as data on the entities managing them. By accessing the single information point, an Operator may obtain information on the manner and conditions of obtaining a construction permit, as per the Law. In this regard the Agency cooperates with the Ministry competent for construction.
- (2) The Agency shall enable the access to the single information point for minimum information in a specific area in an electronic form, taking into account the principles of proportionality and non-discrimination. The Agency shall not provide access to information that may deteriorate the public health and safety, the network security and integrity, as well as to information related to operational and business secrets.

- (3) The minimum data referred to in paragraph (1) of this Article shall be provided by the Agency in the manner defined in the Law on Real Estate Cadastre, as well as from the municipalities, the municipalities of the City of Skopje, and the City of Skopje.
- (4) In case the minimum information referred to in paragraph (1) of this Article may not be provided through the single information point, the entities referred to in paragraph (1), Article 66 of this Law shall be obliged to provide access to said information, under proportionate, non-discriminatory, and transparent conditions, upon written request from any operator of public electronic communication networks and/or services, within one month from the receipt of said written request.
- (5) The entity referred to in paragraph (1), Article 66 of this Law shall be obliged to enable an operator on-site access to the elements of its physical infrastructure upon written request from said operator. The request should include data on the elements of the physical infrastructure for which access is requested, from a viewpoint of setting up elements for high-speed networks. The access should be provided within one month from the date of receipt of the written request, where the principles of proportionality, non-discrimination, and transparency should be observed.
- (6) The entity referred to in paragraph (1), Article 66 of this Law shall be obliged to put at disposal to an operator, upon a written request, the following minimum information on the current or planned construction works related to its physical infrastructure for which it has received construction permit, or the construction permit is pending, or it plans to apply for construction permit in the next six months, as follows:
 - location and type of construction works;
 - network elements that will be included in the construction works;
 - envisaged date of commencement of the construction works and their duration; and
 - contact persons.
- (7) The entity referred to in paragraph (1), Article 66 of this Law shall be obliged to provide all requested information referred to in paragraph (6), under proportionate, non-discriminatory, and transparent conditions, and make them available to the Agency for the purpose of enabling access to said information via the single information point, within 60 days from the date of receipt of the written request thereof.
- (8) The entity referred to in paragraph (1), Article 66 of this Law may reject the request referred to in paragraph (6) of this Article, if:
 - it has previously made publicly available the requested information in electronic form; or
 - the access to said information is available through the single information point.
- (9) In case of dispute related to paragraphs (4) through (8) of this Article, the Agency shall, upon request from any party, open a dispute resolution procedure as per Article 53 of this Law. The Agency shall adopt a binding decision resolving the dispute, taking into account the principle of proportionality.
- (10) In cooperation with the Ministry competent for construction, the Agency may adopt a bylaw establishing the exemptions of the obligations in accordance with paragraphs (1), (3), (4), and (5) of this Article, and in relation to cases when for a specific physical infrastructure it is not technically viable to set up a public electronic communication network for high-speed transmission.

- (11) The operators shall be entitled to submit applications in electronic form for construction permits to set up elements of electronic communication network for high-speed transmission via the single information point. This will ensure forwarding the operator's application to the adequate competent authority for issuing construction permits, as well as enable monitoring of the compliance with the deadlines for issuing construction permits by the competent authority.

Article 68

Coordination of construction works

- (1) The legal person conducting construction works which are financed by public funds shall be obliged to comply with any reasonable request for entering into agreements for mutual coordination of the construction works, under non-discriminatory and transparent conditions, submitted by an operator for the purpose of constructing and setting up a public electronic communication network for high-speed transmission, provided it does not incur any additional expenses for the initially envisaged construction works.
- (2) The Operator shall be obliged to submit the request for entering into an agreement for mutual coordination of the construction works to the legal person referred to in paragraph (1) of this Article, at least one month before submitting the required project documentation to the competent authority for issuing construction permits, as per the Law.
- (3) In case the agreement for mutual coordination of the construction works is not reached within one month from the receipt of the request referred to in paragraph (1) of this Article, any party shall be entitled to request of the Agency to resolve the dispute.
- (4) Taking into account the principles of proportionality, the Agency shall issue a binding decision resolving the dispute referred to in paragraph (3) of this Article, and in doing so, it shall establish fair and non-discriminatory deadlines, conditions, and fees, where appropriate.
- (5) In cooperation with the local self-government, the Agency shall publish the information on the legal persons referred to in paragraph (1) of this Article via the single information point referred to in Article 67 of this Law.

Article 69

Providing access to high-speed physical infrastructure of a building

- (1) Pursuant to received written request of any operator of public electronic communication network, the holder of the right to use high-speed physical infrastructure of a building shall be obliged to provide for said operator, under non-discriminatory conditions and deadlines, access to the concentration point of the building, as well as to provide access to the high-speed physical infrastructure of the building, in case the duplication of the infrastructure is economically inefficient or physically impractical. The Operator requesting access shall be obliged to set up the access to the concentration point of the building on its own expense and with minimal disruptions to the private property.
- (2) In case there is no high-speed physical infrastructure of a building, an Operator or public electronic communication networks shall be entitled to set up a network termination point at the premises of the subscriber with whom it has signed an agreement for provision of broadband access to services, and shall accomplish this with minimum disruptions to the property, and on its own expense.

- (3) In case there agreement for the requested access is not reached within one month from the receipt of the request referred to in paragraph (1) of this Article, the Agency shall, upon request of any party, open a dispute resolution procedure as per Article 53 of this Law.
- (4) During the dispute resolution procedure referred to in paragraph (3) of this Article, the Agency shall adopt a binding decision resolving the dispute, taking into account the principle of proportionality.
- (5) An Operator of public electronic communication network, that has been enabled access in accordance with paragraphs (1) and (2) of this Article, shall be obliged to submit to the Agency information related to the access setup for the purpose of making said information available through the single information point in accordance with Article 67 of this Law, within 30 days from the date of entering into the agreement.

Article 70

Expropriation, right to easement, and other restrictions to title

The ownership and other rights to real estate may be expropriated, that is to say, right to easement, and other restrictions to title may be instituted in case of constructing and maintaining public electronic communication network and associated facilities, as per the Law.

Article 71

Supervision

In cooperation with the Ministry competent for construction, the Agency shall supervise the implementation of the provisions in this Chapter of the Law.

Chapter Ten

ENSURING COMPETITION

GENERAL PROVISIONS

Article 72

Legal persons with special or exclusive rights

Legal persons providing electronic communication networks and/or services, that result in total annual revenue exceeding one million euro, and possessing exclusive or special rights for provision of services in other economic sectors, shall be obliged either to establish separate legal person for provision of public electronic communication networks and/or services, or to keep separate accounting for the activities related to the provision of public communication networks and/or services, as if they had provided these activities as a separate legal person.

Article 73

Interconnection and access obligations

- (1) The operators shall be entitled and, upon request from an operator, obliged to mutually negotiate the interconnection and access for the purpose of providing public communication services and interoperability of services.
- (2) The parties shall be obliged to enter into an agreement for the technical and financial issues related to the interconnection or access, which may not be contrary to this Law. In case the

parties fail to reach an agreement, the Agency shall, upon request from any party, resolve the dispute in accordance with the provisions of this Law.

- (3) The parties shall be obliged to protect the confidentiality of all the data exchanged during the execution of the agreement on interconnection and access. These data may not be used for any other purpose, nor transferred to third parties, which would afford them competitive advantage, taking into consideration the obligations determined in Articles 84 and 85 of this Law.
- (4) An Operator shall be obliged to respond to a request for interconnection or access within ten work days from the receipt of said request. The interconnection or access agreement should be entered into within 45 days from the date of receipt of the interconnection or access request.
- (5) The operators with significant market power shall be obliged to meet the requirements for interconnection or access at any point in their networks where it is technically viable, including access at the points which are not the network termination points, in accordance with the provisions of this Law, the obligations set by the Agency, and the approved referent offers.
- (6) The interconnection or access agreements between an operator with significant market power on a relevant market and other operator must be:
 - a) in writing; and
 - b) contain the entire agreement between the parties.
- (7) The Operator with significant market power in a relevant market shall be obliged to submit to the Agency the signed interconnection and access agreements with other operators in the Republic of Macedonia, as well as the signed interconnection or access agreements with foreign operators, within 15 days from the date of their signing.
- (8) The interconnection or access agreements referred to in paragraph (6) of this Article shall be publicly available in accordance with Article 57 of this Law.
- (9) In case the executed agreement is contrary to the provisions of this Law, the approved referent offers, or the previously established obligations, the Agency shall, ex officio, adopt a decision obliging the parties to harmonise the agreement with the provisions of this Law, the approved referent offers, or the previously established obligations, within 30 days from the receipt of said decision.

Article 74

Competency of the Agency in relation to the provision of interconnection or access

- (1) The Agency shall, in accordance with the regulatory objective and principles defined in this Law, encourage and, where appropriate, ensure interconnection and access, and interoperability of services, in a manner promoting efficient and sustainable competition, efficient investments and innovations, and provision of maximum benefits for the end users. For this purpose, the Agency may:
 - impose an obligation for interconnection, if non-existent, on the operators controlling the access to end users, for the purpose of interconnecting the network termination points, to the extent necessary;
 - impose an obligation for interoperability of services on the operators controlling the access to end users, to the extent necessary and warranted; or

- impose obligations to the operators to provide access to application programming interfaces and/or to electronic program guides, under fair, just, and non-discriminatory conditions, where it is necessary to provide access for end users to digital radio and television broadcasting.
- (2) The obligations and conditions defined in paragraph (1) of this Article must be objective, transparent, proportionate, and non-discriminatory.
 - (3) When imposing the obligations and conditions referred to in paragraph (1) of this Article, the Agency shall be obliged to act in accordance with Article 13 of this Law.

Article 75

Joint use of the same location (co-location) and joint use of network elements and associated facilities

- (1) Taking into account the principle of proportionality, the Agency may impose on operators of public electronic communication networks, entitled to install means on, above, or under private or public property, or entitled to expropriation, right to easement, or right of use, an obligation for joint use of said means or property (including joint use of the same location – co-location), particularly of its physical infrastructure, or may impose an obligation for coordination of the construction works, as per Article 68 of this Law.
- (2) The Agency may also impose on the operator of public electronic communication networks referred to in paragraph (1) of this Article, an obligation for joint use of the electronic communication cables in the building up to the first concentration or distribution point, if it is located outside the building, and if the duplication of such infrastructure would be economically inefficient or physically impractical.
- (3) The Agency shall impose the obligations referred to in paragraphs (1) and (2) of this Article for the benefit of another operator of public electronic communication network in order to protect the environment, the public health, the public safety, or to fulfil the objectives of the urban and spatial planning, and in case when the parties are not able to reach an agreement for joint use.
- (4) The obligations determined in paragraphs (1) and (2) of this Article shall be imposed by the Agency acting in compliance with Article 13 and 55 of this Law, and observing the principles of objectivity, transparency, non-discrimination, and proportionality, and where appropriate, in coordination with the local self-government. The Agency may establish rules for allocation of the costs for means or the property, as well as rules for allocation of the costs for joint use of electronic communication cables in the building, into account the risk as well.
- (5) The Operator of public electronic communication networks referred to in paragraph (1) of this Article shall be obliged to submit to the Agency information on the planned construction works related to the construction of means, for the purpose enabling access to said information via the single information point, as per Article 67 of this Law, within a timeframe not shorter than one month, and not longer than six month before it submits an application for issuing a construction permit.

Chapter Eleven

REGULATION OF OPERATORS WITH SIGNIFICANT MARKET POWER

Article 76

Operators with Significant Market Power

- (1) It shall be deemed that the Operator has significant market power on a market for public communication networks or services, if it has a dominant position, individually or with other operators, that is to say, has economic power and capacity to act to a significant scale, independently of the competition and the users on said market.
- (2) Two or more operators may be treated as operators that jointly have a dominant position on a market, even in case of no structural and other relation among them, if they operate on a market characterised with lack of efficient competition, and none of them have a significant market power therein.
- (3) Where an Operator has significant market power in a relevant market, it may also be deemed to have significant market power in a market closely related thereto, in case the relations between the two markets are such as to allow the market power held in one market to be asserted in the other market, thus strengthening the market power of the Operator. In order to prevent such power on the other market, obligations may be imposed in accordance with this Law. In case these obligations fail to produce the expected results, an obligation to regulate the retail pricing may be imposed in accordance with this Law.

Article 77

Criteria for designating an Operator or Provider of public electronic communication services with significant market power

When assessing if an Operator has a significant market power on a specific market, as per Article 76, paragraph (1) of this Law, the Agency shall particularly take into account the following criteria which are not applied cumulatively:

- Operator's share on the relevant market;
- Operator's size;
- control over infrastructure which may not be easily duplicated;
- technological advantages and superiority;
- lack of countervailing purchasing power;
- simple or privileged access to capital markets or financial sources;
- level of diversification of products or services;
- economies of scale;
- economies of integration;
- degree of vertical integration;
- highly developed distribution and sales network;
- lack of potential competition;
- development barriers;
- high prices;
- easy market entry; and
- costs and barriers to use new services.

Article 78

Criteria for designating operators with joint dominant market position

When conducting the assessment whether two or more operators have jointly dominant position on a market in accordance with Article 76, paragraph (2), of this Law, the Agency shall particularly take into account the following criteria which are not applied cumulatively:

- low elasticity of demand;
- similar market share;
- high legal or economic barriers to market entry;
- vertical integration with joint rejection of an offer;
- lack of countervailing purchasing power; and
- lack of potential competition.

Article 79

Conducting analysis of the relevant markets

The Agency shall conduct analysis of the relevant markets taking into account the recommendations of the European Commission on establishing relevant markets of products and services, and where appropriate, in cooperation with the authority competent for protection of the competition.

Article 80

Establishing relevant markets of products and services

- (1) The Agency may establish relevant markets of products and services, and relevant geographic market in the field of electronic communications on the territory of Republic of Macedonia, whose properties may be such as to justify the imposition of the regulatory obligations set in this Law, however, without prejudice to the markets which may be established in specific cases as per the Law on Protection of the Competition. The Agency shall establish the relevant markets following a public debate in accordance with this Law.
- (2) When establishing the relevant markets of products and services, the Agency should ascertain whether the following three criteria have been cumulatively fulfilled:
 - presence of high and continuous entry barriers which may be of structural, legal, or regulatory nature;
 - market structure with tendencies towards ineffective competition within a relevant time period; and
 - the Law on Protection of the Competition shall not be individually sufficient to resolve the problems on the market.

Article 81

Re-examination of established relevant market of products and services

Within the designated time periods, which may not exceed three years, the Agency shall be obliged to re-examine the established relevant market of products and services in cooperation with the authority in charge of protecting the competition.

Article 82

Designating an Operator with significant market power, imposing, extending, amending, or repealing the obligations

- (1) If, on the basis of an analysis of a relevant market, the Agency finds that the market lacks sufficient competition, it shall be obliged to decide which operator or operators have significant market power on that market in accordance with Article 76, paragraphs (1) and (2), of this Law. The decision for designating an Operator with significant market power on the relevant market shall be published by the Agency on its web-site within three days from the date of its adoption.
- (2) The Operator designated as operator with significant market power, in accordance with paragraph (1) of this Law, may be imposed, extended or amended any of the existing obligations by the Agency, as per this Law, which should be based on the nature of the identified problem, to be proportional and warranted, and aimed at meeting the regulatory objectives and principles referred to in Article 7 of this Law.
- (3) If, on the basis of an analysis of a relevant market, the Agency finds that the market lacks insufficient competition, it shall not designate any operator as operator with significant market power as per Article 76, paragraphs (1) and (2), of this Law. If this market was previously not competitive, the Agency shall be obliged to repeal all decisions designating operators with significant market power on that market.
- (4) When repealing the decisions referred to in paragraph (3) of this Article, the Agency shall also repeal the obligations of operators subject to such decisions as operators with significant market power in accordance with this Law.
- (5) The decision for repealing referred to in paragraphs (3) and (4) of this Article, the Agency shall publish on its web-site within three days of its adoption.
- (6) The Agency may implement measures in accordance with this Article, pursuant to a previously conducted public debate in accordance with Article 13 of this Law, and in cooperation with the body competent for protection of the competition.

Article 83

Special prohibition for acquiring ownership

The operators with significant market power on a relevant market, all the stockholders that own more than 10% of shares or stocks in the companies which are operators with significant market power on a relevant market (principals), as well as the companies established by the operators with significant market power on a relevant market, may not acquire ownership of communication networks that will decrease the competition in a specific relevant market, and limit the selection of users in relation to a certain communication service, without an approval from the authority for protection of the competition.

Article 84

Obligation for transparency concerning the interconnection and access

- (1) In compliance with this Law, the Agency may impose on operators with significant market power on a relevant market, a transparency obligation related to interconnection or access, in such a way as to oblige them to publish the following information:
 - accounting;
 - technical specifications;
 - network properties;
 - deadlines and conditions of the offer and the use, including all conditions restricting the access to and/or use of services and applications; and
 - prices.
- (2) The level of information details referred to in paragraph (1) of this Article, as well as the manner of their publication shall be prescribed by the Agency.
- (3) An Operator with significant market power on a relevant market, also obligated to apply non-discrimination in accordance with Article 85 of this Law, may be imposed an obligation by the Agency to submit to the Agency a proposal of the interconnection or access referent offer, within 30 days from the adoption of the decision it has designated it as an operator with significant market power. The referent offer must be sufficiently detailed, in order to ensure that the other operators requesting interconnection and/or access will not pay for the capacities, that is to say, for the means which are not required for the requested service.
- (4) The referent offer referred to in paragraph (3) of this Article must be broken down in items containing description of services offered by an operator with significant market power on a relevant market in regards to the interconnection or access as per the market needs, as well as the deadlines, conditions, and pricing for provision thereof.
- (5) The referent offer referred to in paragraph (3) of this Article shall be approved by the Agency within 30 days from the date of its submission to the Agency, and the Operator shall be obliged to publish the referent offer on its web-site within five days from the date of receipt of the Agency's approval.
- (6) The Operator shall be obliged to apply the pricing in the approved referent offer, referred to in paragraph (3), from the first day of month following the month when the Agency's approval has been obtained.
- (7) The Agency shall adopt a regulation prescribing in more details the content and information that should be published in the referent offer referred to in paragraph (3) of this Article.
- (8) An operator with significant market power may not retreat from the terms of the approved referent offer when entering into agreements on interconnection and/or access.
- (9) The Agency director may adopt a resolution requesting of an Operator with significant market power to amend an approved referent offer, that is to say, to draft and submit a renewed and updated referent offer in order to ensure the regulatory objectives and principles established in Article 7 of this Law, and the Operator may do so upon its own initiative.
- (10) The Operator with significant market power shall be obliged to act in compliance with the resolution referred to in paragraph (9) of this Article within 30 days from the receipt of said resolution, and the Agency shall approve the amendment of the referent offer within 30 days from the date of its submission to the Agency. When the Operator submits to the Agency an amendment to the approved referent offer upon its own initiative, the Agency shall be obliged to address it within 30 days from the date of its submission to the Agency.

- (11) The provisions in paragraphs (4) and (5) of this Article shall referring to the publication and application of the referent offers shall also apply to the amendments of the approved referent offers.

Article 85

Obligation for non-discrimination concerning the interconnection and access

- (1) In compliance with this Law, the Agency may impose on operators with significant market power on a relevant market, a non-discrimination obligation related to interconnection or access.
- (2) The non-discrimination obligation referred to in paragraph (1) of this Article shall guarantee that the designated operator with significant market power shall apply equivalent conditions in equivalent circumstances to other operators providing same services, and shall provide services and information to other operators under the same conditions and with the same quality as those ensured for their own services or for their subsidiaries or partners.

Article 86

Obligation for separate accounting in case of interconnection or access

- (1) In compliance with this Law, the Agency may impose on operators with significant market power on a relevant market, an obligation to have separate accounting for the activities related to interconnection or access.
- (2) The Agency may require of the operators with significant market power, who are vertically integrated company, transparency of their wholesale pricing and internal transfer pricing, in order to ensure compliance with the non-discrimination obligation, as well as to prevent potential unfair cross-subsidies.
- (3) In order to assess the compliance with the transparency and non-discrimination obligations, the operators with significant market power on a relevant market shall be obliged, upon request of the Agency, to submit accounting records, including data on revenues received from third parties.
- (4) The Agency may publish such information so as to contribute to an open and competitive market, while at the same time respecting the confidentiality of the received information in accordance with the regulations pertaining to a business secret.
- (5) The Agency may adopt a bylaw regulating in greater detail the issues arising from the implementation of this Article.

Article 87

Obligations for providing access and using specific network means

- (1) In accordance with this Law, the Agency may impose to operators with significant market power on a relevant market, an obligation to meet all reasonable requests for access to, and use of, specific network elements and associated facilities.
- (2) The Agency shall impose the obligations referred to in paragraph (1) of this Article, where it considers that the denial of access or the unreasonable terms and conditions with similar effect, would hinder the establishment of a sufficiently competitive retail market, or would not be in the interest of end users.

- (3) When introducing the obligations referred to in paragraph (1) of this Article on an operator with significant market power on a relevant market, the Agency may, inter alia, request the following:
- to allow access to another operator to the specific network elements and/or means, including access to the network elements which are inactive, and/or unbundled local loop access in order to, inter alia, provide carrier selection and/or pre-selection, and/or to offer resale of subscriber lines;
 - to negotiate in good faith with operators requesting access;
 - to not revoke the provided access to the means;
 - to provide to another operator specific wholesale services for resale;
 - to allow open access to the technical interfaces, protocols, and other significant technologies necessary for interoperability of services or for virtual network services;
 - to provide joint use of the same location (co-location) and other forms of joint use of associated facilities;
 - to provide specific services needed to ensure interoperability of end-to-end user services, including facilities for intelligent networks or roaming on mobile networks;
 - interconnection of networks or network means;
 - to provide access to the operating support system or similar software systems required to guarantee just competition in the provision of services; and
 - to provide access to associated services, such as identification, location, and presence.
- (4) The obligations referred to in paragraph (3) of this Article, the Agency may add conditions for ensuring fairness, justifiability, and timeliness.
- (5) When adopting the decision for setting the obligations referred to in paragraphs (3) and (4) of this Article, and particularly when assessing whether these obligations are compliant with the regulatory principles and objectives referred to in Article 7 of this Law, the Agency must particularly take into account the following factors:
- technical and economic capability for use or setting up competitive facilities, taking into account the market development, the nature and type of the proposed interconnection and/or access, as well as the existence of other access products, such as access to canals;
 - viability of the proposed access, taking into account the available capacity;
 - initial investment of the Operator referred to in paragraph (1) of this Article, taking into account any public investment and the risks thereof;
 - the need for long-term protection of the completion, and particularly the competition based on the economically efficient infrastructure;
 - where appropriate, any relevant intellectual property rights; and
 - provision of Pan-European services.
- (6) When adopting the decision to establish the obligations referred to in paragraphs (3) and (4) of this Article, the Agency may establish technical and operational conditions that must be fulfilled by the Operator providing access and/or by the Operator requesting access, where necessary, in order to ensure normal functioning of the network. The obligations for

compliance with the special technical standards or specifications must be in compliance with this Law.

Article 88

Price control and cost accounting obligations

- (1) In accordance with this Law, the Agency may impose on operators with significant market power on a relevant market, obligations related to cost recovery and price control, including obligations for cost based pricing, as well as obligations for cost accounting related to providing specific types of interconnection and/or access, in cases when based on market analysis lack of effective competition has been established, hence allowing the Operator to maintain the prices at excessively high levels or to apply price squeeze to remove the competition, thus harming the end users. In order to encourage investments, including the next generation electronic communication networks, the Agency shall take into account the investments made by the Operator and will allow it reasonable rate of return on the invested capital, taking into account the risks, particularly when investing in new network projects.
- (2) The Agency shall provide all mechanisms for cost recovery and all established methodologies for setting priced aimed at encouraging an efficient and sustainable competition, as well as to exert the best benefits for the end users, where the pricing of comparable competitive markets may be taken into account.
- (3) The Operator that has been imposed the obligation for cost based pricing shall bear the burden of proof that the prices of its services are derived from the costs, and include a reasonable rate of return on the investments. For the purpose of calculating the costs for effective provision of services, the Agency may apply accounting cost methodology, independent on the methodology applied by the Operator. The Agency may request of the Operator provide full justification of its prices, and where appropriate, their harmonisation.
- (4) In case of imposed obligation for keeping cost accounting for the purpose of price control, the Agency shall publish a description of the cost accounting system, which should particularly contain the main categories under which the costs have been grouped, and the rules for cost allocation. The verification of the Operator's compliance with the established cost accounting system shall be conducted once a year by an authorised independent auditor, and the auditor's findings shall be published by the Agency on its web-site within seven days from the date of the receipt of said finding.

Article 89

Functional separation

- (1) If, on the basis of a market analysis, the Agency finds, despite the application of the regulatory obligations defined in Article 84, 85, 86, 87, and 88 of this Law, that there is no effective competition, there are relevant and permanent difficulties for the competition, and/or there are market shortcomings in relation to the provision of specific wholesale services on a relevant access market, it may, as an extraordinary measure, adopt a decision to impose on a vertically integrated operator an obligation to separate the activities related to provision of specific wholesale access services into a separate business entity.
- (2) The separate business entity referred to in paragraph (1) of this Article must provide access products and services to all operators, including other business entities of the operator referred to in paragraph (1) of this Article under the same deadlines and conditions, including the conditions related to the pricing and service level, as well as through the same systems and processes.

- (3) Before adopting the decision referred to in paragraph (1) of this Article, the Agency shall be obliged to act in accordance with Article 13 of this Law.
- (4) The decision referred to in paragraph (1) of this Article must contain the following:
 - clearly described nature and level of separation, particularly establishing the legal status of the separate business entity;
 - defining the property of the separate business entity, as well as the products and services provided by said entity;
 - provisions related to the managing, which will enable independence of the employees in the separate business entity, as well as an adequate incentives system;
 - rules that will ensure compliance with the obligations;
 - rules that will ensure transparency of the operational procedures, especially in relation to other interested parties; and
 - supervision programme that will ensure compliance, including the publication of an annual report.
- (5) After adopting the decision referred to in paragraph (1) of this Article, the Agency shall conduct analysis of other relevant access markets, and pursuant to the conducted analysis, the Agency may establish, retain, amend, or repeal any of the regulatory obligations determined in this Law.
- (6) The Operator, that has been imposed the regulatory obligation referred to in paragraph (1) of this Article, may be imposed any of the regulatory obligations determined in this Law, in case it is determined that it has significant market power on the respective relevant market.

Article 90

Voluntary separation of a vertically integrated operator

- (1) An Operator with significant market power on one or more relevant markets shall be obliged to inform the Agency in advance and in timely manner of its intention to transfer the property of its local access network or of a significant part of the property to a separate legal persons, with different ownership, or of the intention to establish a separate business entity in order to provide for all retail service operators, including its own retail units, equal access products to the full extent, and said Operator shall also be obliged to inform the Agency of each amendment of the intention, as well as of the final outcome of the separation process.
- (2) The Agency shall assess the effect of the planned transfer on the existing regulatory obligations.
- (3) In order to complete the assessment referred to in paragraph (2) of this Article, the Agency shall conduct coordinated analysis of various relevant access markets, and pursuant to the conducted analysis, the Agency may establish, retain, amend, or repeal any of the regulatory obligations determined in this Law.
- (4) The Agency may impose on the separate legal person or the separate business entity, referred to in paragraph (1) of this Article, any of the regulatory obligations determined in this Law, in case it has established that said person or entity has a significant market power on the respective relevant market.

Article 91

Regulation of retail prices

- (1) The Agency may impose on an Operator with significant market power on a relevant retail market adequate regulatory obligations, in accordance with the provisions of this Article, only if on the basis of the conducted market analysis, it has established that there is no effective competition on said retail market, and the regulatory obligations referred to in Article 84, 85, 86, 87, and 88 of this Law prevent the implementation of the regulatory principles and objective referred to in Article 7 of this Law.
- (2) The obligations imposed in accordance with paragraph (1) of this Article shall be based on the nature of the identified problem, and shall be proportional and warranted in accordance with the regulatory objectives and principles referred to in Article 7 of this Law. The obligations imposed on the Operator may particularly contain a request for the Operator not to charge too high prices for the services, not to prevent the entry on the market, and not to limit the competition by introducing predatory pricing, not to afford privileges to specific end users without any reason, and not to bundle the services unreasonably.
- (3) In order to encourage efficient competition and to protect the interests of the end users, the Agency may impose on the Operator referred to in paragraph (1) of this Article the following measures:
 - retail price-cap regime;
 - control of individual prices;
 - cost based prices; or
 - comparable markets based pricing.
- (4) The Operator that has been imposed the obligation for regulation of retail pricing or an obligation for other relevant controls of retail pricing must implement adequate cost accounting system. The Agency may define the form and the accounting methodology to be used by the Operator. The established cost accounting system shall be verified once a year by an authorised independent auditor, and the auditor's findings shall be published by the Agency on its web-site within seven days from the date of the receipt of said finding.
- (5) The Agency may regulate the retail pricing for services on the relevant market with effective competition, only when it is necessary to ensure the following:
 - availability of special prices adjusted to the needs of socially vulnerable groups of end users of services in accordance with this Law; and
 - the possibility for the end users of universal services not to be obliged to pay the additional costs which are not necessary for the provision of said services.

Chapter Twelve

PROVISION OF UNIVERSAL SERVICE

Article 92

Availability of universal service

- (1) The services determined in this Chapter of the Law should be available at an adequate quality and an affordable price to all users on the territory of the Republic of Macedonia, regardless of their geographic location.

- (2) The Agency shall adopt a bylaw prescribing in more details the manner for provisioning of the services referred to in paragraph (1) of this Article.

Article 93

Providing access at a fixed location and providing telephone services

- (1) The Agency shall designate one universal service provider that will provide connection between an end user at a fixed location and a public communication network, pursuant to its reasonable request.
- (2) The connection referred to in paragraph (1) of this Article should enable voice, fax, and data transmission at speed sufficient for efficient internet access, as per the bylaw referred to Article 92, paragraph (2), of this Law.
- (3) The universal service provider referred to in paragraph (1) of this Article shall be obliged to enable for the end user, upon its reasonable request, incoming and outgoing calls within the national (domestic) and international telephone traffic.

Article 94

Provision of complete directory and complete directory enquiry service

- (1) In the act referred to in Article 92, paragraph (2), of this Law, the Agency shall prescribe the form and content of the complete directory containing all subscribers in the Republic of Macedonia. Said directory may be published in hardcopy and/or electronic form.
- (2) The complete directory enquiry service shall be obliged to provide information from the complete directory to all end users in the Republic of Macedonia, including the users of public payphones.
- (3) The Agency shall designate at least one universal service provider for the complete directory of subscribers in the Republic of Macedonia, and shall designate at least one universal service provider for the complete directory enquiry service, under the conditions and the manner determined in Article 97 of this Law.
- (4) Legal entities and natural persons carrying out business activities shall be obliged to provide at least one telephone number that will be published in the complete directory.
- (5) The data in the complete directory should be regularly updated, at least once a year. The data administered by the complete directory enquiry service should be updated not less than once a month.
- (6) The operators assigning telephone numbers to subscribers shall be obliged to submit the data on their subscribers to the universal service providers, in accordance with Article 112 of this Law.
- (7) The universal service providers shall be obliged to include the data referred to in paragraph (6) of this Article, without exceptions, in the complete directory and in the records of the directory enquiry service. The universal service providers shall immediately notify the Agency, if an operator fails to provide the requested data, in which case the Agency shall oblige the operator to provide the data to the universal service providers within a set time period.

Article 95

Public payphones or other public access points for provision of voice telephone services

- (1) The Agency may designate one or more universal service providers of public payphones or other public access points for voice telephone services in order to meet the reasonable needs of the end users, from a viewpoint of geographical coverage, number of public payphones or other access points, including an access possibility for the end users with disabilities, and with adequate service quality in accordance with Article 103 of this Law.
- (2) The universal service provider referred to in paragraph (1) of this Article shall be obliged to provide in the public payphones free of charge calling to the emergency services numbers.
- (3) Pursuant to the public debate with the interested parties, and in accordance with this Law, the Agency may decide to impose the obligation referred to in paragraph (1) of this Article on the whole or part of the territory of Republic of Macedonia, in case it has assessed that these means or comparative services are widely available.

Article 96

Measures for persons with disabilities

- (1) The universal service providers should undertake special measures in order to provide for the persons with disabilities access to the service, and affordable prices for the services defined in Article 93, paragraph (3), and Article 94 of this Law, equivalent to those available to the other end users in the Republic of Macedonia.
- (2) The universal service providers should provide adequate services, terminal equipment for accessing the service, data transmission at speed sufficient to enable efficient internet access for the students with special educational needs in the regular and special elementary schools and high schools, in accordance with the bylaw referred to in Article 92, paragraph (2), of this Law.
- (3) In the act referred to in Article 92, paragraph (2), of this Law, the Agency shall prescribe in more details the measures referred to in paragraphs (1) and (2) of this Article.

Article 97

Designating one or more universal service providers

- (1) All services included in the universal service, as per this Law, must be available to all end users on the territory of Republic of Macedonia.
- (2) The Agency may designate one or more universal service providers for the services defined in Article 93, 94, 95, 96, and 99, paragraph (4), of this Law, in order to make them available on the whole territory of Republic of Macedonia. The Agency may designate a provider or providers of universal service who will provide various services and/or will cover various parts of the territory of Republic of Macedonia.
- (3) The Agency shall publish a public tender for the purpose of selecting one or more universal service providers.
- (4) Before implementing the public tender procedure referred to in paragraph (3) of this Article, the Agency shall publish its intention to implement said procedure, in order to allow a public debate. The public debate must not last less than 30 days from the publication of the intention to conduct a public tender procedure.
- (5) The Agency shall publish the intention referred to in paragraph (4) of this Article in at least two daily newspapers, of which one daily newspaper on the language of a non-majority

community, spoken by at least 20% of the citizens in Republic of Macedonia, and on its web-site. Before publishing the intention, the Agency shall be obliged to request an opinion from the minister competent for electronic communications.

- (6) The publication of the intention referred to in paragraph (4) of this Article shall particularly include the following:
 - services covered by the universal service, subject matter of the public tender;
 - number of service providers covered by the universal service, subject matter of the public tender;
 - the manner for covering the territory of Republic of Macedonia with the services included in the universal service, subject matter of the public tender;
 - criteria for selection of a universal service provider; and
 - rationale on the intention to publish the public tender.
- (7) The Agency shall publish on its web-site the results of the public debate, and its position thereof.
- (8) The Agency director shall be obliged to adopt the decision for publishing a public tender for selection of one or more universal service providers, within 90 days from the publication of the intention referred to in paragraph (4) of this Article, taking into account the results referred to in paragraph (7) of this Article. Before adopting the decision, the Agency director shall be obliged to request consent from the minister competent for electronic communications. The minister competent for electronic communications shall be obliged to respond to the consent request, within 15 days from the date of receipt of said request, in accordance with the Law on General Administrative Procedure.
- (9) When designating a provider or providers of universal service, the Agency must apply the principles of objectivity, transparency, efficiency, and non-discrimination, where no legal or natural person performing business activity will be exempted in advance from the procedure for selection of an universal service provider.
- (10) When establishing the criteria for selection of one or more universal service providers, the Agency shall particularly take into account that the universal service is provided in a cost-efficient manner, which may be used in the process for determining the net costs for provision of the specific universal service in accordance with Article 105 of this Law.
- (11) In case no universal service provider is selected during the tendering procedure, the Agency may adopt a decision to designate one or more universal service providers. The Agency may designate the Operator with significant market power for public telephone services at a specific fixed location, or the Operator with most subscribers of public telephone services in a specific fixed location, as universal service provider. When adopting the decision, the Agency must apply the principles of effectiveness, objectivity, and transparency.
- (12) The Agency shall enter into a five-year agreement with the universal service provider.
- (13) The Agency shall constantly monitor the operations of the universal service provider, and the provider shall be obliged to submit data on its operation to the Agency, as per this Law.
- (14) At least six months before the expiry of the period referred to in paragraph (12) of this Article, and pursuant to the obtained data concerning the service provision covered by the universal service, as well as the opinions of the interested parties, the Agency shall be obliged to redefine the conditions for providing said service.

Article 98

Transfer of local access network

- (1) If the universal service provider intends to transfer its local access network, completely or partially, to another legal person with different ownership structure, it shall be obliged to inform the Agency thereof, in advance and in writing, however, not less than 60 days before the date of the planned transfer.
- (2) Upon the receipt of the notification referred to in paragraph (1) of this Article, the Agency shall establish whether the intention referred to in paragraph (1) of this Article would affect the access to a fixed location, and the provision of the public telephone services referred to in Article 93 of this Law. In doing so, the Agency may impose on the universal service provider to amend or repeal specific obligations arising from the provision of the universal service. In case the service covered in the universal service is not provided in parts or on the whole territory of Republic of Macedonia due to the transfer, the Agency shall designate a new universal service provider in accordance with Article 97 of this Law.

Article 99

Provision of acceptable prices for services covered by the universal service

- (1) The Agency shall supervise the development and retail pricing of the services covered in the universal service referred to in Article 93, 94, 95, and 96 of this Law.
- (2) The prices of individual services covered by the universal service must be equal throughout the whole territory of Republic of Macedonia.
- (3) The Agency may require of the universal service provider to adjust its prices for individual services provided as an universal service, if on the basis of the supervision referred to in paragraph (1) of this Article, it has established that the prices are not acceptable, or are not equal throughout the whole territory of Republic of Macedonia.
- (4) In the cases referred to in paragraph (3) of this Article, the Agency may impose on the universal service providers an obligation to cap the retail prices or set the same price for the provided service based on a geographic average for the territory of Republic of Macedonia.
- (5) The universal service providers should offer special prices or bundles, different from those provided under commercial conditions, in order to provide the services covered by the universal service to end users with status of welfare beneficiaries and/or end users with special social needs, as per the Law.
- (6) The universal service provider shall be obliged to publish the prices for the individual services provided as an universal service on its web-site and/or in a manner that makes them available to the public.

Article 100

Cost control

- (1) The universal service providers shall be obliged to determine the prices for provision of universal service in such a way so that the subscribers of specific services provided as an universal service shall not be obliged to pay for the services which are not necessary or not required to provide the universal service.

- (2) The universal service provider shall be obliged to provide to its subscribers cost control via:
- detailed bill in accordance with Article 101 of this Law;
 - free of charge selective ban on outgoing calls or SMS/MMS messages with added value, and where technically viable, for other types of similar applications;
 - possibility to pay in advance for access to a public electronic communication network and to use public telephone services;
 - possibility for deferred payment of the one-time setup fee to a public electronic communication network;
 - access limitation to a service or disconnection of a subscriber in accordance with Article 102 of this Law;
 - pricing advice enabling the subscribers to obtain information on alternative lower prices for the service, if any; and
 - free of charge warning in case of unusual or excessive costs incurred for the service.

Article 101

Obligation to issue a detailed bill

- (1) The universal service provider shall be obliged to send to its subscribers a detailed bill which will enable them to check and control the expenses for the provided service.
- (2) The detailed bill referred to in paragraph (1) of this Article shall exclude the calls to free numbers and to emergency services numbers.
- (3) The detailed bill referred to in paragraph (1) of this Article shall be issued and sent to the subscribers free of charge, except to those that have notified the universal service provider in writing that they would like to be sent a non-detailed bill.
- (4) In accordance with the bylaw referred to in Article 92, paragraph (2), of this Law, the Agency shall prescribe the minimum details contained in the bills referred to in paragraphs (1) and (3) of this Article.
- (5) When providing the bills referred to in paragraphs (1) and (3) of this Article, the universal service provider shall be obliged to apply the personal data and privacy protection right, as per this Law and other laws.

Article 102

Access limitation to a service or disconnection of a subscriber

- (1) The universal service provider may restrict the access to its services and/or may disconnect the subscriber and terminate the agreement for connection setup and use of public communication network and/or public electronic communication services, only when the subscriber has violated the conditions stipulated in the agreement.
- (2) The universal service provider shall be obliged to include in the agreement referred to in paragraph (1) of this Article the measures that will be taken for specific violations, and the interval for their implementation, where they must be proportionate and non-discriminatory.
- (3) In the event of violation, the universal service provider shall be obliged to inform in writing the subscriber of the violation, the measure to be undertaken, and to set a reasonable interval within which the subscriber must meet the contractual obligations.

- (4) the universal service providers shall not be obliged to inform in advance the subscriber referred to in paragraph (3) of this Article, in case the violation causes immediate and serious threat to the public order, the public safety, the human health, and the health of the environment, or causes large material or operational damages.
- (5) The failure to pay the bill shall not be deemed as violation in accordance with paragraph (4) of this Article, and the universal service provider shall be obliged to act in accordance with paragraph (3) of this Article.
- (6) If technically viable, the universal service provider must restrict the access only to those services with regard to which the subscriber has committed the violation, except in instances of abuse, persistent late payment or non-payment of the bills. The universal service providers must not restrict the access to and use of emergency services numbers.

Article 103

Universal service quality

- (1) In accordance with the bylaw referred to in Article 92 of this Law, the Agency shall prescribe the quality of services covered by the universal service, particularly the quality parameters, their measurable values, and the method of their measurement, and may also establish additional quality parameters of the services for end users and consumers with disabilities.
- (2) The universal service providers shall be obliged to publish the data on the quality of services covered by the universal service, and shall submit them to the Agency, in accordance with paragraph (3) of this Article.
- (3) In accordance with the act referred to in paragraph (1) of this Article, the Agency shall prescribe the content, form, manner, and interval for publishing the data on the quality of services covered by the universal service, in order to provide access for the end users and consumers to complete, comparable, and user-friendly information, as well as the deadline and the manner for submission of said data to the Agency.
- (4) In accordance with this Law, the Agency shall supervise the quality of services covered by the universal service.
- (5) If the Agency has a reasonable doubt as regards the truthfulness of the information referred to in paragraph (2) of this Article, it may order, ex officio, an audit to be carried out by an independent auditor at the expense of the universal service provider.
- (6) In case the universal service provider has failed to achieve the established quality parameters in three consecutive attempts, the Agency may open a procedure to recall the existing and to designate new universal service provider.

Article 104

Data transmission speed for efficient internet access

- (1) In accordance with the bylaw referred to in Article 92 of this Law, the Agency shall set the data transmission speed for efficient internet access, as well as the timeframe during which it will be provide, which may not exceed two years. In doing so, the Agency shall take into account the technologies and data transmission speeds used by most of the subscribers, as well as the technical viability with minimum market disruptions.

- (2) In accordance with the bylaw referred to in paragraph (1) of this Article, the Agency may set another data transmission speed in case it has established that at least half of the households in Republic of Macedonia are using broadband internet access. This data transmission speed shall be set as the speed used by 80% of the households in Republic of Macedonia with broadband internet access.
- (3) Before setting the data transmission speed referred to in paragraph (2) of this Article, the Agency should conduct an analysis for the purpose of determining the impact of the data transmission speed on the overall social development, the development of the market, the competition, and similar, taking into account the costs for implementing it. The analysis, along with the draft bylaw referred to in paragraph (1) of this Article, shall be published by the Agency on its web-site in order to allow public debate in accordance with this Law.
- (4) As soon as the period set in paragraph (1) of this Article expires, the Agency shall re-examine the circumstances used to determine the data transmission speed, and if necessary, it shall set a new data transmission speed in the bylaw referred to in paragraph (1) of this Article.

Article 105

Compensation of net expenses for provision of a universal service

- (1) The universal service provider shall have the right to compensation of the net expenses for provision of the service covered by the universal service referred to in Article 93, 94, 95, 96, and 99, paragraph (4), of this Law, in case the provision of these services is an unwarranted burden for the provider. If the Agency establishes that there is no such burden, it shall be calculated as net expenses for provision of the specific universal service.
- (2) The net expenses referred to in paragraph (1) of this Article shall be calculated as the difference between the net expenses for providing the universal service and the net expenses that the universal service provider would have incurred, had it not been an universal service provider, taking into account the estimated earnings and the intangible benefits of the universal service provider arising from the provision of the universal service.
- (3) In accordance with the bylaw referred to in Article 92 of this Law, the Agency shall prescribe the calculation method for the net expenses.
- (4) The universal service provider shall be obliged to submit to the Agency a request for payment of the compensation for the net expenses referred to in paragraph (1) of this Article, including accounting data and/or information which are the basis for calculating the net expenses for providing the universal service during the previous year. Otherwise, the universal service provider will lose the right to claim the compensation of the net expenses for providing the universal service.
- (5) The Agency or an independent auditor approved thereby shall review or check the data referred to in paragraph (4) of this Article.
- (6) The Agency shall calculate the net expenses for providing the universal service, taking into account the provisions referred to in paragraphs (1) and (2) of this Article. The calculated net expenses and the conclusions of the audit referred to in paragraph (5) of this Article shall be published by the Agency on its web-site.
- (7) If, on the basis of the calculated net expenses, the Agency establishes that said expenses are unfair burden for the universal service provider, the Agency director shall adopt a resolution defining the amount for compensation of the unfair burden which may not exceed the calculated net expenses, which shall be paid to the universal service provider from the Universal Service Compensation Fund referred to in Article 106 of this Law. The deadline for

payment of the net expenses must not exceed 30 days from the date of adoption of the resolution.

- (8) In case the universal service provider has been selected on a public tender, when approving the net expenses, the net expenses for providing universal services offered by said service provider in the public tender should be taken into consideration. The Agency shall accept the difference in net expenses, only in cases when the conditions at the time of the public tender have changed and when the universal service provider has proved to the satisfaction of the Agency the justifiability of the net expenses deviation on an objective and transparent basis.

Article 106

Universal Service Compensation Fund

- (1) The Agency shall establish the Universal Service Compensation Fund by opening a separate bank account and by having separate accounting. It is intended for payment of the compensations for net expenses incurred by provision of the universal service in accordance with Article 105 of this Law.
- (2) The assets in the Fund referred to in paragraph (1) of this Article shall be provided by operators on the territory of Republic of Macedonia having a minimum gross revenue generated by provision of public electronic communication networks and/or services, set by the Agency in the bylaw referred to in Article 92 of this Law.
- (3) The Agency shall adopt a decision setting the amounts, that the operators referred to in paragraph (2) of this Article shall pay in the Fund referred to in paragraph (1) of this Article, which may not exceed 0,5% of the total revenue generated by an Operator from provision of public electronic communication networks and/or services.
- (4) The operators referred to in paragraph (2) of this Article shall be obliged to pay the funds referred to in paragraph (3) of this Article, within the period and the amount as defined in the Agency's decision referred to in paragraph (3) of this Article. The deadline for paying the amount may not be less than 30 days from the date of receipt of the decision.
- (5) The operators referred to in paragraph (2) of this Article shall be obliged to submit to the Agency data on their revenues for the previous year from provision of public communications networks or services in the Republic of Macedonia, not later than the 31st of March each year. If an Operator fails to do so, the Agency shall use the data on the overall revenues of the Operator for the previous year obtained from the Public Revenue Office of Republic of Macedonia.
- (6) If the Agency has reasonable doubts in the accuracy of the data submitted by the Operator referred to in paragraph (2) of this Article, the Agency or an auditor authorised thereby may assess its revenues. If the estimated revenue significantly deviates from the reported revenue referred to in paragraph (5) of this Article, the Agency shall take into account the estimated revenue in its calculation.

Chapter Thirteen

RIGHTS OF END USERS

Article 107

The agreement for connection setup and use of the public communication network and/or public electronic communication services

(1) A consumer or an end user requesting a connection setup and use of public communication network and/or public electronic communication services shall have the right to enter into an agreement for a connection setup and use of public communication network and/or public electronic communication services with an Operator. The agreement, that should be clear, comprehensive, and easily accessible, should particularly contain the following:

(a) Operator's name and address;

(b) provided services, including particularly the following:

- information whether the service provides access to emergency services numbers, whether information on the location of the calling party is provided, as well as all restrictions on the provision of the service for access to emergency services number in accordance with this Law;
- information on all other conditions limiting the access and/or use of services and application, in accordance with this Law and other laws;
- information on the minimum quality of the provided service, especially the timeframe for initial connection setup, and where appropriate, other service quality parameters in accordance with Article 109 of this Law;
- information on any procedures defined by the Operator for traffic measuring and shaping in order to avoid congestion or overloading of the network connections, as well as information on how these procedures would affect the service quality;
- types of services for maintenance, and envisaged services for customer support, as well as the methods for establishing contact with these services; and
- all the restrictions imposed by the Operator in regards to the use of terminal equipment;

(c) possibility for the subscribers to state whether they would like their personal data included, and to what extent, in the directories and directory enquiry services, in accordance with Article 112 of this Law;

information on the prices and tariffs, the manner in which the latest information on all current tariffs and maintenance fees are obtained, as well as the possible payment methods, including the differences in the expenses arising from the possible payment methods;

(e) duration of the agreement referred to in paragraph (1) of this Article and the conditions for renewal and termination of the services and the agreement, including:

- the minimum timeframe for using the services under the promotional conditions defined in special offers;
- all fees related to number portability, and other identification services; and
- all fees arising from the termination of the agreement referred to in paragraph (1) of this Article, including cost recovery in regards to the terminal equipment;

(f) all methods for compensation and refund of money in case of not fulfilling the agreed quality for the provided service;

(g) the procedure for resolving complaints in accordance with Article 53 of this Law;

(h) all types of activities that the Operator may undertake in order to maintain its security and integrity in case of incidents, threats or violations, as per this Law;

- (i) manner of informing the subscribers of envisaged amendment to the conditions in the agreement referred to in paragraph (1) of this Article, and the manner of accepting the new conditions for extension or termination of the agreement;
 - (j) procedures in case of non-payment or untimely payment of the service fees;
 - (k) information specially intended for persons with disabilities;
 - (l) other provisions in agreement with the subscriber.
- (2) The agreement referred to in paragraph (1) of this Article should also contain provisions that the subscriber must be informed of all proposed amendments in the conditions stated in the agreement, no later than 30 days before the introduction of the amendments, as well as on the right to terminate the agreement in that period without any consequences in case it disagrees with the proposed amendments. The form and manner of informing the subscribers shall be defined by the Agency in the bylaw referred to in Article 108, paragraph (2), of this Law.
- (3) Violation of paragraph (2) of this Article by an operator shall not relieve the subscriber of the obligation to pay the due and unpaid liabilities or to comply with the contractually agreed obligations prior to the introduction of the amendments in the conditions of the agreement referred to in paragraph (1) of this Article.
- (4) The agreement referred to in paragraph (1) of this Article should include a provision that the Operator shall send the subscriber information that may be obtained from the respective public authorities in accordance with Article 108, paragraph (4) of this Law.
- (5) The operators may obtain the following data on their subscribers:
- name of the subscriber;
 - unique identification number for natural persons, and tax and registration numbers for legal entities;
 - business activity of the subscriber;
 - address of the subscriber;
 - subscriber's number;
 - academic title or profession; and
 - on the basis of payment, additional data, provided that this does not encroach on the rights of third parties.
- (6) The data stated in paragraph (5) of this Article may only be used for:
- entering into, supervision of and termination of subscriber agreements;
 - charging of services;
 - preparation and issuance of directories in accordance with this Law;
 - other purposes in accordance with this Law, and on the basis of consent obtained from the subscriber.
- (7) When terminating the agreement referred to in paragraph (1) of this Article, the data referred to in paragraph (5) of this Article must be stored for a period of one year from the date of issuance to the subscriber's latest bill for the provided services.
- (8) The operators shall be obliged to keep records of all user-related relations (post-paid and pre-paid), which should particularly contain the following data: name, surname, and address;

and for legal persons: name and head office of the legal person; and unique identification number or passport number, and for legal persons, tax identification number of the legal person. The data stated in the records for all established user-related relations (post-paid and pre-paid) shall be kept for the time period determined in paragraph (7) of this Article.

- (9) The initial agreement referred to in paragraph (1) of this Article, in case it is entered into for a finite period, must not be valid for more than 24 months. In any case, the subscriber must be afforded the possibility to sign an agreement for a period not exceeding 12 months.
- (10) The provisions in paragraph (9) of this Article must not limit or prevent the subscribers to transfer their number to the network of another operator.

Article 108

Transparency and Publication of Information

- (1) The operators shall be obliged to publish transparent, comparable, adequate, and updated information on the applicable prices and tariffs, on all fees for termination of the agreement referred to in Article 107, paragraph (1), of this Law, as well as information on the general conditions concerning the access and use of the public communication services provided thereby. Said information shall be published in a clear, user-friendly, and easily accessible form.
- (2) The Agency shall adopt a bylaw to prescribe in details the type and content of the data referred to in paragraph (1) of this Article, that the operators are obliged to publish.
- (3) The bylaw referred to in paragraph (2) of this Article should particularly contain the following:
 - information on the applicable tariffs for numbers in the Numbering Plan or for value added services in accordance with Article 113 of this Law;
 - information on each amendment in the access to emergency services numbers or information on the location of the calling party, and in relation to the service for which the agreement referred to in Article 107, paragraph (1), of this Law has been entered into;
 - information on all amendments of the conditions limiting the access and/or use of services and application, in accordance with a law;
 - information on any procedure defined by the Operator for traffic measuring and shaping in order to avoid congestion or overloading of the network connections, as well as information on how these procedures would affect on the service quality;
 - information for the subscribers that their personal data are to be included in the directories and the directory enquiry service; and
 - regular information for the subscribers with disability on the products and services intended for them.
- (4) The bylaw referred to in paragraph (2) of this Article should also include information that the operators will send to their subscribers through the same means, such as those usually used for communication with the subscribers, and which may be provided from the respective public authorities in a standardised form, and referring to:
 - the most common methods for using electronic communication services for illegal activities or dissemination of harmful content, especially when it may affect the rights and freedom of other persons, including violations of copyrights and related rights, and the legal consequences thereof; and

- the method for protection against the risks to personal safety, privacy, and personal data when using the electronic communication services.
- (5) An Operator of public mobile communication services shall be obliged to send a free SMS message to a foreign user of electronic communication services when it enters the territory of Republic of Macedonia, stating the information on its prices for the roaming services for public mobile telephone service, SMS and MMS messages, and internet access.
 - (6) The Agency shall publish on its web-site comparable information that will enable the end users and consumers to make their own informed assessment and selection of communications services based on service quality and pricing.
 - (7) The bylaw referred to in paragraph (2) of this Article shall define the type and content of the data published by the Agency in accordance with paragraph (6) of this Article.
 - (8) The accessibility to the data referred to in paragraphs (1) and (6) of this Article and their use shall be free of charge and available to the public.

Article 109

Quality of public communications services

- (1) The operators shall be obliged to publish comparable, adequate, and updated information on the quality of their services and on the measures undertaken to ensure equivalent access to the end users with disabilities. Before publishing these information, the operators shall be obliged to submit them to the Agency, upon request of the latter.
- (2) The Agency may adopt a bylaw stating the service quality parameters that should be measured, including the possible ways to certify the quality, as well as the content, form, and manner of publication of the information referred to in paragraph (1) of this Article, in order to provide for the end users, including the persons with disabilities, access to comprehensive, comparable, reliable, and easily applicable information.
- (3) The operators shall be obliged to provide conditions for controlling and measuring the quality parameters of the public communication services. The Agency may adopt a bylaw prescribing the manner and procedure for controlling and measuring the quality parameters.
- (4) The Agency may impose an obligation on the Operator to provide a minimum service quality in order to prevent service deterioration, as well as to prevent hindering and slowing down of the network traffic.

Article 110

Providing equivalent access and selection of end users with disabilities

- (1) The Agency may, where necessary, establish technical and functional requirements which must be met by the operators in order to enable the following for the persons with disabilities:
 - access to electronic communication services, equivalent to that enjoyed by the majority of end users; and
 - selection of operator and selection of services which are available to the majority of end users.

- (2) The Government of Republic of Macedonia shall adopt a bylaw prescribing the activities to be undertaken for the purpose of encouraging the availability and use of radio and telecommunication terminal equipment intended for end users with disabilities.

Article 111

Additional obligations

In accordance with the bylaw referred to in Article 108, paragraph (2), the Agency may define additional obligations, throughout the whole or on part of the territory of Republic of Macedonia, for the operators providing access to public communication networks and/or public telephone service, such as:

- to enable tone dialling and calling line identification, where it is technically viable or economically justified;
- to provide all or some of the opportunities for controlling the costs as defined in Article 100 of this Law.

.Article 112

Directories and directory enquiry services

- (1) The subscribers of public telephone services shall have the right to be included in the complete directory referred to in Article 94 of this Law, as well as the right to have their data available to the providers of directory enquiry services and/or directories in accordance with paragraph (2) of this Article.
- (2) The operators that have assigned telephone numbers to their subscribers shall be obliged to fulfil all warranted requests for obtaining data on their subscribers from publicly available directory enquiry services and directories, in a previously agreed form, while observing the principles of objectivity, fairness, non-discrimination, and cost based pricing.
- (3) The operators shall be obliged to provide access to directory enquiry services for all users of public telephone services.
- (4) The Agency may impose obligations and conditions on the operators controlling the access to end users, in order to comply with the obligation referred to in paragraph (3) of this Article, which should be objective, fair, non-discriminatory, and transparent.
- (5) The operators assigning telephone numbers to subscribers shall be obliged to inform their subscribers, free of charge and before including them in a directory, on the purpose of the hardcopy or electronic directory, which is also available through the directory enquiry services, where their personal data will be included, as well as on all further possibilities to use their personal data.
- (6) The operators assigning telephone numbers to subscribers shall have the right to include their subscribers in the directories and directory enquiry services, and to publish only the personal data of their subscribers for which said subscribers have given their consent. In case the personal data in the directories are used for purposes different than name based data search of persons, and other necessary minimum identification data, additional consent should be requested from the subscriber thereof.
- (7) The subscribers shall be afforded to define whether and which of their personal data stated in Article 107, paragraph (5) of this Law shall be entered in the directory. Upon prior request submitted to the Operator, the subscriber shall have a right to amend or supplement its personal data referred to in paragraph (6) of this Article, or to revoke its consent to be included in the directories and directory enquiry services, free of charge.

- (8) The provisions referred to in paragraphs (5), (6), and (7) of this Article shall apply only to subscribers who are natural persons, and are not performing a professional activity.

Article 113

Value added services

- (1) When publishing said services, the operators, that is to say, the providers of value added services shall be obliged to provide the description and pricing of their services in an easy and user-friendly way. It shall be prohibited to mislead the service users by giving them wrong or untrue information, or by concealing relevant information, such as the service pricing or the age restriction for the the service users.
- (2) The operators, that is to say, the providers of value added services shall be obliged to announce the price of the call and the time when the charging will commence at the beginning of each call to the value added service, as well as to enable termination of the call within a reasonable period before the call charging commences.
- (3) If the subscribers lodges a complaint to the Operator in regards to its bill for the provided value added services or complaint in regards to the quality of provided services, the Operator shall be obliged to check the complaint and forward it to the providers of the value added service within five days from the date of receipt of the complaint. Along with complaint, the Operator shall be obliged to submit to the provider of value added service the name, surname, and the address of the subscriber, as well as the verified data on the disputed bill or service.
- (4) The provider of the value added service must decide in regards to the complaint within ten days from the date of receipt thereof.
- (5) The mutual obligations referred to in paragraphs (3) and (4) of this Article shall be prescribed in more details in an agreement entered into by the operator and the provider of the value added service. The main provisions of this agreement shall be an integral part of the general conditions for access and use of the operator's public communication services.
- (6) The service users shall access to the value added services via special numbers assigned in accordance with the Numbering Plan.
- (7) The manner and conditions for providing the value added service, including the measures for remedying the fraudulent and unlawful actions related to provision of value added services, shall be prescribed in more details in the regulation referred to in Article 108, paragraph (2), of this Law.

Article 114

Restricted access to and use of services and applications

- (1) The access to and use of services and application through the public electronic communication networks may be limited only on the basis of a court decision in cases defined in a special law.
- (2) The provision referred to in paragraph (1) of this Article shall not apply to the Operator's right to limit the access to, and use of services and application under the conditions defined in this Law.

Article 115

Provisional restriction or interruption of access

- (1) The operators providing access to a public communications network may, without the consent of users, temporarily restrict or interrupt the access to their services, if it is required due to reconstruction, modernization, maintenance, or in the event of technical faults or shortcomings of the network.
- (2) The operators shall be obliged to inform the Agency and notify the users of the restrictions or interruptions lasting longer than 30 minutes:
 - at least 48 hours before the planned reconstruction, modernization or maintenance; or
 - as soon as practicable, however, not later than 48 hours, during restrictions or interruptions caused by technical faults or shortcomings of the network.
- (3) The operators should undertake all necessary measures, to make the restrictions or interruptions last as short as possible.

Article 116

Number portability

- (1) All subscribers of public telephone services (fixed and mobile) shall be entitled to number portability irrespective of the operator providing the service:
 - in case of geographic numbers at a specific location; and
 - in case of non-geographic numbers at any location.
- (2) All operators providing public telephone services (fixed and mobile) shall be obliged to enable number portability to their subscribers.
- (3) The numbers shall not be portable from public fixed communication networks to public mobile communication networks and vice versa.
- (4) The number portability and its activation in the network of another operator must be completed in the shortest possible time. The service interruption during the number portability procedure must not last longer than one work day.
- (5) An Operator may charge the operators and the subscribers and operators a one-time fee for covering the costs for number portability. The one-time fee for covering the number portability costs should be envisaged in the interconnection agreement, and the direct (administrative) costs, if any, shall be charged to the subscribers, and must not be dissuasive to use this service. The Agency may adopt a decision setting the maximum one-time fee that should be envisaged in the interconnection agreements.
- (6) The operators shall be obliged to bear the costs for adapting their networks so as to enable number portability, and the maintenance costs for such facilities.
- (7) The Agency may adopt a bylaw prescribing in more details the implementation of the provisions in this Article.

Article 117

Emergency services numbers and single European emergency number

- (1) All operators providing call origination to numbers from the Numbering Plan, in accordance with this Law, shall be obliged to provide to the subscribers of these services, including the end users of public payphones, free of charge access to the emergency services numbers and the single European emergency number "112".

- (2) The operators referred to in paragraph (1) of this Article shall be obliged to enable the persons with disabilities access to the emergency services numbers and the single European emergency number "112" via voice, sign language, or another form of non-verbal language, that is to say, in a technically viable manner.
- (3) In case the Operator referred to in paragraph (1) of this Article claims that it is not technically viable to fulfil the obligation referred to in paragraph (2) of this Article, shall be obliged to prove this to the Agency.
- (4) The operators referred to in paragraph (1) of this Article shall be obliged to submit, free of charge, to the authority in charge of receiving the calls to the single European emergency number "112", all available data on the completed calls towards the number "112", which shall particularly include all data on the name and surname or the name of the calling party, the calling number, the time and duration of the call, as well as the location from where the call was made, immediately after forwarding the call to the number "112".
- (5) The operators referred to in paragraph (1) of this Article shall be obliged to treat the calls to the number "112" in the same manner as the other calls to emergency services numbers which are still used in the Republic of Macedonia.
- (6) The manner and conditions to use the single European emergency number "112", the technical and other requirements for the operators referred to in paragraph (1) of this Article, and in relation to the compliance with the obligations towards the competent authority referred to in paragraph (2) of this Article, as well as the quality measuring of the emergency service "112", shall be prescribed in more details in a bylaw adopted by the Agency.
- (7) It shall be prohibited to misuse the calls towards the emergency services numbers and the single European emergency number "112", especially the malicious or harassing calls. The bylaw referred to in paragraph (6) of this Article shall prescribe in more details the manner and conditions for implementing the provisional and permanent disconnection of subscriber or user terminal equipment from the electronic communication network in case of established misuse of calls to the emergency services numbers and the single European emergency number "112".
- (8) In cooperation with the competent authority referred to in paragraph (4) of this Article, the Agency shall inform and familiarise the citizens, in an adequate and public manner, of the objectives and the manner of using the emergency services numbers and the single European emergency number "112".

Article 118

Access to numbers and services

- (1) The international calls, and the calls to international telephone services and international telephone networks shall be established by dialling the international calling code "00", before the country code assigned by the International Telecommunication Union (ITU), and the national number from the Numbering Plan, in accordance with this Law.
- (2) All operators providing call origination to numbers in the Numbering Plan, in accordance with this Law, when it is technically and economically viable, and when the called subscriber has not limited the access to callers in specific geographic areas due to commercial reasons, shall be obliged to provide for their end users the following:
 - access and use of services with non-geographic numbers, including the Member States of the European Union;

- access to all numbers in the Numbering Plan, in accordance with this Law, without prejudice to the technology and the devices used by the Operator.
- (3) The operators referred to in paragraph (2) of this Article may, on individual basis, disable the access to numbers and services in case of justified suspicion of fraud or misuse. In this case, the Agency shall adopt a decision ordering the Operator to retain the respective revenue from interconnection or other services.
- (4) The operators referred to in paragraph (2) of this Article shall be obliged to provide for their service users from other countries access to non-geographic numbers in the Numbering Plan, in accordance with this Law, if it is technically and economically viable, except in cases when the called subscriber has restricted the access to callers from specific geographic area due to commercial reasons.

Article 119

European numbers for services of social value

- (1) All operators providing call origination to numbers in the Numbering Plan, in accordance with this Law, shall be obliged to establish all calls to numbers from the number range beginning with 116, intended for services of special social value in accordance with the Numbering Plan, and particularly to the number 116000 intended for the services competent for reporting missing children.
- (2) The operators referred to in paragraph (1) of this Article shall be obliged to enable access to persons with disabilities, to the highest possible extent, to numbers from the number range beginning with 116.
- (3) The Agency shall inform and familiarise the citizens, in an adequate and public manner, of the purpose and manner for using the numbers for the services of social value referred to in paragraph (1) of this Article.

Article 120

Right to complaint and lawsuit

- (1) A subscriber shall be entitled to submit to an Operator a complaint concerning the service provision, complaint concerning the amount charged for the provided service, complaint concerning the quality of the provided service, and complaint concerning a violation of the provisions in the signed agreement for connection setup and use of public communication network and/or public electronic communication services.
- (2) The complaint referred to in paragraph (1) of this Article should be submitted to the Operator in writing. The complaint must contain the facts and evidence on which it is grounded.
- (3) A subscriber may submit the complaint within 15 days from the date when the violation has occurred in accordance with paragraph (1) of this Article.
- (4) In case the complaint referred to in paragraph (1) of this Article has been submitted, the Operator must verify the amount charged to the subscriber or the quality of the provided service, then, on the basis of the conducted administrative and/or technical verification, confirm the amount or the quality of the provided service. In case the complaint has been rejected as groundless, the Operator shall be obliged to issue the subscriber a certificate on the conducted verification, accurately and clearly stating the elements of the administrative

and/or technical verification. The Operator shall be fully responsible for the truthfulness of all findings stated in the certificate.

- (5) In case the subscriber has submitted a complaint to the Operator, and then a request to resolve the dispute before the Agency, and in relation to the bill amount, the Operator must not act in accordance with Article 102, paragraph (1), of this Law, until the adoption of the final decision in accordance with Article 53 of this Law, and the subscriber shall be obliged to pay the amount of the monthly subscription within the set deadline. If the subscriber fails to pay the amount of the monthly subscription within the set deadline, the Operator shall have the right to act in accordance with Article 102, paragraph (1), of this Law.
- (6) If the Operator has already stopped providing the service to the subscriber or has disconnected the subscriber's terminal equipment from the electronic communication network, before receiving a notification from the subscriber or the Agency that a dispute resolution procedure has been opened in accordance with Article 53 of this Law, it shall be obliged to resume the service provision immediately and free of charge until the end of the dispute resolution procedure before the Agency, except in case when the subscriber has terminated the agreement.
- (7) If it has been established that the Operator has violated the provisions in the signed agreement or has terminated the service provision, without any justification, to the subscriber, who has submitted the complaint referred to in paragraph (1) of this Article due to violation of the provisions in the signed agreement or a complaint due to unjustified termination of the service provision, said subscriber shall be entitled to terminate the agreement, without any fee, as well as to recover all unjustifiably monetary funds it has paid.
- (8) The Operator shall be obliged to reply in writing to the subscriber concerning the grounds of the lodged complaint referred to in paragraph (1) of this Article within 15 days from the date of receipt of said complaint.
- (9) In case the subscriber is not satisfied with the adopted decision in regards to the complaint, it shall be entitled to submit to the Agency a request for dispute resolution, in accordance with Article 53 of this Law, within 15 days from the date of receipt of said decision.
- (10) If the Operator fails to address the complaint within the deadline set in paragraph (8) of this Article, the subscriber shall have the right to submit to the Agency request for dispute resolution within 35 days from the date of submission of the complaint to the Operator.

Chapter Fourteen

RADIO FREQUENCY SPECTRUM

Article 121

Management of the radio frequency spectrum

- (1) The radio frequencies spectrum is a limited natural resource of significant social, cultural, and economic value.
- (2) The state bodies shall, in accordance with the international regulations applicable in Republic of Macedonia, and especially the regulations of the International Telecommunication Union, ensure efficient and uninterrupted use of the radio frequency spectrum, and shall ensure the rights of the Republic of Macedonia to orbital positions.
- (3) The Agency shall manage the radio frequency spectrum of Republic of Macedonia in accordance with this Law.

Article 122

Strategic planning and coordination of the radio frequency spectrum

The Agency and the competent state bodies of Republic of Macedonia shall cooperate with the European Commission, the International Telecommunication Union, and the competent bodies of other countries in relation to the strategic planning and coordination of the radio frequency spectrum. Accordingly, inter alia, the economic, security, and public health interest, the freedom of expression, the cultural, scientific, social and technical aspects of the policies of Republic of Macedonia, and the various interests of the users of the radio frequency spectrum should be taken into account, in order to optimise the use of the radio frequency spectrum and to avoid harmful interferences.

Article 123

Plan for allocation of radio frequency bands

- (1) The Plan for allocation of radio frequency bands, adopted by the Agency, upon prior consent obtained from the Government of Republic of Macedonia, shall be drafted in accordance with the international acts in the field of radio communications.
- (2) The Plan referred to in paragraph (1) of this Article shall particularly define the ranges of the radio frequency bands, the radio communication services that will be provided in the respective radio frequency bands, as well as other issued related to the use of radio frequency bands.

Article 124

Plan for assignment and use of radio frequencies

The Plan for assignment and use of radio frequencies adopted by the Agency shall define in more details the manner for assigning and using of radio frequencies in specific radio frequency bands, as determined in the Plan for allocation of radio frequency bands of this Law, the possibility to transfer or lease the right to use the radio frequencies, and where appropriate, determine the technical parameters for use of radio frequencies.

Article 125

Coordination when adopting the Plan for allocation of radio frequency bands, and the Plan for assignment and use of radio frequencies

- (1) When adopting the Plan for allocation of radio frequencies, and the Plan for assignment and use of radio frequencies, the Agency shall coordinate the activities with:
 - the relevant state bodies and agencies responsible for civil aviation with respect to the portion of the Plan related to radio frequencies to be used for air traffic safety;
 - the state bodies responsible for the planning and management of radio frequencies with respect to the portion of the Plan related to radio frequencies used for the needs of defence and national security; and
 - the regulatory body in charge of broadcasting in respect to the portion of the Plan related to the radio frequencies used for broadcasting.
- (2) When adopting the Plan for allocation of radio frequencies and the Plan for assignment and use of radio frequencies shall take into account the needs of the national security and defence, the protection against natural and other disasters, and the needs of air traffic safety.

Article 126

Technology neutrality

- (1) All technologies, which are used to provide public electronic communication services, and are satisfying the minimum technical requirements defined in the Plan for assignment and use of radio frequencies, may be used for the radio frequency bands as per the Plan for allocation of radio frequency bands.
- (2) By way of derogation from the provision referred to in paragraph (1) of this Article, the Agency may establish in the Plan for assignment and use of radio frequencies proportional and non-discriminatory restrictions for specific technologies for radio networks or wireless access, used for providing electronic communication services, if it is necessary for the purpose of:
 - preventing occurrence of harmful interference;
 - protecting the public health from electromagnetic fields;
 - ensuring the technical quality of the service;
 - ensuring maximisation of the joint use of radio frequencies;
 - protecting the efficient use of the radio frequency spectrum; or
 - achieving an objective of general interest in accordance with Article 127 of this Law.

Article 127

Service neutrality

- (1) The radio frequency bands in the Plan for allocation of radio frequency bands designated for providing public electronic communication services may be used for the provision of all public electronic communication services satisfying the minimum technical requirements, as defined in the Plan for assignment and use of radio frequencies.
- (2) By way of derogation from the provision referred to in paragraph (1) of this Article, the Agency may establish in the Plan for assignment and use of radio frequencies proportionate and non-discriminatory restrictions for specific types of electronic communication services, if it is necessary for the compliance with a requirement in a regulation of the International Telecommunication Union.
- (3) By way of derogation from the provision referred to in paragraph (1) of this Article, the Agency may establish in the Plan for assignment and use of radio frequencies the provision of an adequate public electronic communication service within a specific radio frequency bands, if it is necessary for the purpose of:
 - life safety;
 - encouraging the social, regional, and territorial cohesion;
 - avoiding the inefficient use of radio frequencies; or
 - encouraging the cultural and language diversity and media pluralism, such as radio or television broadcasting.
- (4) The Agency may prohibit in the Plan for assignment and use of radio frequencies the provision of any public electronic communication service within specific radio frequency bands, if it is necessary for the purpose of protecting life safety.

Article 128

Re-examination of the necessity of restrictions on technology neutrality and service neutrality

- (1) The Agency shall be obliged to re-examine the necessity of restrictions on technology neutrality and service neutrality, as defined in Article 126 and Article 127 of this Law, within time periods which may not exceed two years.
- (2) If, during the re-examination referred to in paragraph (1) of this Article, a need has been established to amend the Plan for allocation of radio frequency bands or the Plan for assignment and use of radio frequencies, the Agency shall make the amendment in the manner determined in Article 146 of this Law.

Article 129

Use of radio frequencies

- (1) Legal or natural person may use radio frequencies in Republic of Macedonia pursuant to authorisations for use of radio frequencies, issued by the Agency, as per the Plan for allocation of radio frequency bands and the Plan for assignment and use of radio frequencies for the purpose of:
 - avoiding the occurrence of harmful interference;
 - ensuring the technical quality of the service;
 - protecting the efficient use of the radio frequency spectrum; or
 - achieving objective of public interest by assigning radio frequencies for conducting a broadcasting activity.
- (2) For the radio frequencies from the Plan for allocation of radio frequency bands and the Plan for assignment and use of radio frequencies envisaged for the needs of defence and national security, protection against natural and other disasters, and for air traffic safety, as well as other radio frequencies which may be used without authorisation for use of radio frequencies in accordance with the Plan for assignment and use of radio frequencies, the Agency shall not issue an authorisation for use of radio frequencies.
- (3) The Agency shall adopt a bylaw prescribing in more details the radio frequencies that may be used without an authorisation for use of radio frequencies.

Article 130

Registry of assigned radio frequencies

- (1) The Agency shall keep a Registry of assigned radio frequencies used in the Republic of Macedonia.
- (2) The Registry of assigned radio frequencies shall contain data on the natural or legal persons to whom the radio frequencies have been assigned, with the exception of radio frequencies used for the needs of defence and national security, and for protection against natural and other disasters. The Registry shall contain the following personal data: name and surname,

address and unique identification number of the citizen (EMBG). The personal data shall be kept for five years after the date when the authorisation for use of frequencies has ceased to be valid.

- (3) The Agency shall regularly update the Registry of assigned radio frequencies.
- (4) The Agency shall publish the Registry referred to in paragraph (1) of this Article on its web-site, applying the regulations on personal data protection.

Article 131

Use of radio frequencies by radio amateurs

- (1) The radio amateurs, who have been issued by the Agency authorisations for use of radio frequencies, may use the radio frequencies from the Plan for assignment and use of radio frequencies envisaged for amateur radio and/or amateur radio satellite services.
- (2) Radio amateurs who are not citizens of Republic of Macedonia shall have the right to use the radio frequencies referred to in paragraph (1) of this Article, in case they possess a valid CEPT amateur radio license.
- (3) The Agency shall issue an authorisation for use of radio frequencies by radio amateurs, upon request from a radio amateur who has passed an amateur radio exam.
- (4) The Agency shall prescribe the manner for taking the amateur radio exam, as well as the radio amateur classes.
- (5) The taking of the amateur radio exam referred to in paragraph (4) of this Article shall be conducted in accordance with the Programme of amateur radio exams, published on the Agency web-site.
- (6) The authorisation for use of radio frequencies by radio amateurs shall, inter alia, contain the assigned call sign, as well as the class of the radio amateur.
- (7) The radio amateurs referred to in paragraph (1) and (2) of this Article shall not pay annual fees for the use of radio frequencies in accordance with this Law.

Article 132

Issuing of authorisation for use of radio frequencies

- (1) The Agency shall issue authorisations for use of radio frequencies to natural and legal persons for the purpose of providing electronic communication services.
- (2) When issuing an authorisation for use of radio frequencies, the Agency must observe the principles of objectivity, transparency, non-discrimination, and proportionality, and when issuing an authorisation for use of radio frequencies for the purpose of providing electronic communication services, the achievement of the objectives and regulatory principles established in this Law must be taken into account.
- (3) The Agency shall issue an authorisation for use of radio frequencies upon request for use of radio frequencies, following a completed public tender procedure or following a public tender procedure with public bidding.

Article 133

Issuing an authorisation for use of radio frequencies upon request

- (1) The Agency shall issue an authorisation for use of radio frequencies upon a submitted request for use of radio frequencies in the following cases:
- for the needs of the state institutions and public enterprises in relation to their competences and to diplomatic offices or other organisations with a diplomatic mission status;
 - for provision of non-public electronic communications services;
 - for radio frequencies used within a public electronic communication network, where it is not necessary to restrict the number of authorisations for use of radio frequencies;
 - for use of radio frequencies intended for digital broadcasting, for a broadcaster who is the only one in a specific local service zone, pursuant to a decision for granting a license to perform a broadcasting activity, published in the "Official Gazette of the Republic of Macedonia";
 - for radio frequencies used by broadcaster for analogue broadcasting - radio, following an adopted decision for granting a license to perform a broadcasting activity – broadcasting of radio programme service, adopted and published in the "Official Gazette of the Republic of Macedonia";
 - for the Public Enterprise Macedonian Broadcasting for radio frequencies for building and operation of a electronic communication network for digital terrestrial broadcasting via two national digital multiplex systems;
 - for issuing a provisional authorisation for use of radio frequencies in accordance with this Law.
- (2) The application for issuing an authorisation for use of radio frequencies should particularly contain the following data:
- name and surname, address and unique identification number for citizens;
 - name, head office, tax identification number and account number, registration number and statement of a legal representative for legal entities;
 - short description for the needs and purpose for use of the requested radio frequencies;
 - description of the technical properties of the electronic communication network and associated facilities;
 - date of commencement of the use of radio frequencies;
 - time period when the requested radio frequencies will be used; and
 - contact person data.
- (3) The form and content of the application referred to in paragraph (1) of this Article, as well as the required documentation submitted with the application, shall be prescribed by the Agency in a bylaw.
- (4) In case the application for use of radio frequencies does not contain the data and documentation in accordance with this Law, the Agency shall inform the applicant in writing thereof, and shall afford the applicant seven days from the receipt of the notification to supplement it. If the applicant fails to address the notification from the Agency within the set deadline, it shall be deemed that the application has not been submitted.
- (5) The Agency shall adopt a resolution rejecting the application for use of radio frequencies, if it has established that:

- the requested radio frequencies are not available;
 - the use of the requested radio frequencies would jeopardize the national security or is contrary to the international agreements entered into or joined by the Republic of Macedonia;
 - the applicant is undergoing a bankruptcy or liquidation procedure;
 - the applicant has been pronounced a safety measure – prohibition to provide public electronic communication networks and/or services;
 - the applicant's authorisation for use of radio frequencies, for the same type of service or due to its own fault in the last year, has been revoked; or
 - the operation of the applicant's radio devices would cause harmful interference to the operation of other radio devices and equipment, receivers, electrical or electronic systems.
- (6) The holder of the authorisation for use of radio frequencies shall be obliged to inform the Agency of any changes in the data defined in paragraph (2) of this Article, within 14 days of the date when the change was made.
- (7) The Agency shall issue the authorisations for use of radio frequencies as per the order of submission of the applications referred to in paragraph (1) of this Article, and depending on the available technical capabilities, the Agency may receive the applications via electronic means.
- (8) The Agency shall be obliged to issue the authorisation for use of radio frequencies within 42 days from the date of receipt of the application referred to in paragraph (1) of this Article.

Article 134

Issuing of authorisation for use of radio frequencies with a public tender procedure or public tender procedure with public bidding

- (1) The Agency shall conduct a public tender procedure or a public tender procedure with public bidding for issuing an authorisation for use of radio frequencies, when it is necessary to restrict the number of authorisations for use of radio frequencies.
- (2) It is necessary to limit the number of authorisations for use of radio frequencies in order to ensure efficient use of the radio frequency spectrum, to ensure maximum benefits for the users, and to encourage the competition.
- (3) The Agency shall, upon its own initiative or upon request from an interested party, publish the intention to implement a public tender procedure or public tender procedure with public bidding for issuing a limited number of authorisations for use of radio frequencies in order to enable public debate on the published number of authorisations for use of radio frequencies. The public debate must not last less than 30 days from the date of publishing the intention to conduct a public tender procedure or public tender procedure with public bidding.
- (4) The Agency shall publish the intention referred to in paragraph (3) of this Article in at least two daily newspapers, of which one daily newspaper on the language of a non-majority community, spoken by at least 20% of the citizens in Republic of Macedonia, and on its web-site.

- (5) The publishing of the intention referred to in paragraph (3) of this Article shall particularly contain the following:
1. the radio frequency spectrum for which authorisations for use of radio frequencies will be issued;
 2. the number of authorisations for use of radio frequencies that will be issued;
 3. the rationale of the reasons for the published limited number of authorisations for use of radio frequencies that will be issued;
 4. the deadlines and conditions under which the radio frequencies will be used;
 5. the amount and payment method for the lowest one-time fee for use of radio frequencies; and
 6. sending a letter expressing interest for use of the published radio frequencies within a deadline that may not be shorter than the deadline for the public debate referred to in paragraph (3) of this Article.
- (6) The Agency shall publish on its web-site the results of the public debate, and its position thereof, whereupon the Agency:
- shall publish a public tender or a public tender with public bidding when the number of received letters for expressing interest referred to in paragraph (5), item 6, of this Article does not exceed the published number of authorisations for use of radio frequencies that will be issued;
 - shall conduct the procedure for issuing an authorisation for use of radio frequencies, pursuant to a submitted application for use of radio frequencies, in accordance with Article 133 of this Law, within a deadline set by the Agency, when the number of received letters expressing interest referred to in paragraph (5), item 6, of this Article is lower or equal to the published number of authorisations for use of radio frequencies that will be issued.
- (7) The Agency shall be obliged to adopt a decision for announcing a public tender or a public tender with public bidding, within 21 days after the expiry of the deadline for submission of the letters expressing interest.
- (8) The Agency must, at least once a year or on the basis of a received reasonable request from an interested party, re-examine the reasons for the limited number of authorisations for use of radio frequencies referred to in paragraph (5), item 2, of this Article, in such a way as to enable public debate with all interested parties.
- (9) The Agency may repeal the restriction on the number of authorisations for use of radio frequencies, in case the public debate referred to in paragraph (8) of this Article reveals that the reasons, due to which the Agency limited the number of authorisations for use of radio frequencies, have ceased to exist, or if it is necessary to provide better benefits for the users and encourage the competition.

Article 135

Issuing an authorisation for use of radio frequencies through a public tender

- (1) The Agency shall conduct a public tender procedure for issuing an authorisation for use of radio frequencies on the basis of a decision for announcing a public tender, adopted by the Agency director.

- (2) The decision referred to in paragraph (1) of this Article shall particularly contain the following:
- allocation of the radio frequencies which are subject matter of the public tender, the radio communication services to be provided thereby, and the areas or locations where such radio frequencies are to be used;
 - the number of authorisations for use of radio frequencies that will be issued;
 - the conditions, requirements and qualifications to be met by bidders, which must comply with the relevant valid legislation and pertinent regulations on spatial planning;
 - criteria for selection of the most favourable bid, the method of their application, and other possible restrictions to be taken into account in the bid evaluation;
 - initial amount of the market value of radio frequencies, as a one-time fee for obtaining an authorization for use of radio frequencies, and the payment method;
 - the deadline and manner for bid submission;
 - the address, place, date and time of public bid opening;
 - the place, time and contact person from whom the interested parties may obtain the tender documentation, the price of the tender documentation, and the method of payment for said documentation;
 - the contact person from whom the bidders can obtain additional information; and
 - the deadline within which the bidders will be informed of the adopted decision.
- (3) The selection criteria, on the basis of which the decision for selection of most favourable bidder will be adopted, must be founded on the principles of objectivity, transparency, non-discrimination, and proportionality, taking into account the achievement of the objectives and regulatory principles established in this Law.
- (4) The Agency shall publish the decisions referred to in paragraph (1) of this Article in the "Official Gazette of the Republic of Macedonia".
- (5) The public bidding procedure referred to in paragraph (1) of this Article shall be conducted by a special Commission established by the Agency director, and comprised of employees in the Agency expert service. One of the Commission members must have a law degree.
- (6) In order to prevent the conflict of interest in the procedures for issuing an authorisation for use of radio frequencies through a public tender, the provisions of the Law on Prevention of Conflict of Interests shall apply.
- (7) The president, the deputy president, the members and the deputy members of the Commission referred to in paragraph (5) of this Article, and the Agency director, shall sign a statement for absence of conflict of interests, and that for a period of one year after the adoption of the decision for selection of most favourable bidder they will not be employed in the management bodies of the selected bidder. The statement shall be part of the file for the conducted procedure.
- (8) In case there is conflict of interests for the president, its deputy, the Commission members and their deputies referred to in paragraph (5) of this Article, said persons shall retreat from the work of the Commission and shall be replaced with other persons.

Article 136

Deadline for bid submission

- (1) The deadline for bid submission must not be less than 30 days from the date of publication of the decision for announcing a public tender.
- (2) The Agency shall not accept the bids, and the amendments or supplements thereof, that have been received after the expiry of the deadline referred to in paragraph (1) of this Article.
- (3) If the bids referred to in paragraph (2) of this Article have been sent by mail, they must be returned sealed to the sender, without being opened previously.
- (4) The Agency shall be obliged to keep as confidential the list of the bidders and the submitted bids until the expiration of the deadline referred to in paragraph (1) of this Article.

Article 137

Tender Documentation

In the tender documentation, the Agency shall be obliged to clarify all provisions of the decision for announcement of a public tender, stating the selection criteria, and the supporting documentations that must be provided for the bids to be deemed acceptable.

Article 138

Proceeding for public bid opening

- (1) The bid opening shall be public.
- (2) The Commission referred to in Article 136, paragraph (5), of this Law shall keep minutes on the bid opening procedure, which must, inter alia, contain the archive number of the bid, data on the bidder and the offered price, and case of an anonymous tender, data on the name or code of the bidder.
- (3) It must be provided throughout the entire procedure that the bidders' business secrets are not disclosed.
- (4) At the public bid opening, it shall be verified whether the bids contain all of the required documents as per the tender documentation, wherein the content of the submitted documentation shall not be reviewed.
- (5) Only the bids delivered within the set deadline and correctly completed and marked shall be opened.
- (6) The public tender shall be successful if at least one timely and correct bid, in compliance with the tender conditions, has been received.
- (7) In the decision on the public tender, the Agency may stipulate that the public tender shall be deemed successful if another minimum number of bids, in compliance with the tender conditions, have been received.

Article 139

Bide review and evaluation

- (1) After completing the public bid opening, the Commission referred to in Article 135, paragraph (5), of this Law shall first determine whether all bid documents are in compliance with the tender conditions, and whether said documents are in accordance with the Law.

- (2) The Commission referred to in Article 135, paragraph (5), of this Law shall exclude from the further proceedings the bids that are not in compliance with the law and the tender documentation.
- (3) After reviewing and evaluating the received bids, the Commission referred to in Article 135, paragraph (5), of this Law shall compile a report presenting the bid evaluations and a rank list of bids according to the fulfilled selection criteria from the tender documentation.
- (4) The Commission referred to in Article 135, paragraph (5), of this Law, during the course of reviewing and evaluating the bids, must take into account only those criteria for selection of the most favourable bidder laid down in law and in the decision referred to in Article 135, paragraph (2), of this Law, and the tender documentation, and particularly the ones that will ensure more efficient use of the radio frequency spectrum, and will promote and protect the competition.
- (5) The Agency director shall, in accordance with the Report of the Commission referred to in Article 135, paragraph (5), of this Law, adopt a decision for selection of most favourable bidder, within 10 days from the receipt of said Report. Pursuant to the decision for selection of most favourable bidder, the Agency director shall issue one or more authorisations for use of radio frequencies, within 60 days from the expiry of the deadline for bid submission.
- (6) The decision for selection of most favourable bidder referred to in paragraph (5) of this Article shall be submitted to all bidders participating in the public tender within five days from the date of its adoption, and the Agency shall publish it in the Official Gazette of the Republic of Macedonia, and on its web-site.

Article 140

Issuing an authorisation for use of radio frequencies through a public tender with public bidding

- (1) The Agency shall issue an individual authorisation for use of radio frequencies upon a conducted public tender procedure with public bidding when the sole criterion for selection of most favourable bidder is the price.
- (2) The Agency director shall adopt a decision for conducting a public tender procedure with public bidding, containing the following:
 - the radio frequencies which are subject matter of the public tender, the radio communication services to be provided thereby, and the areas or locations where such radio frequencies are to be used;
 - the number of authorisations for use of radio frequencies that will be issued;
 - the conditions and requirements that should be satisfied by the bidders in order to become eligible for the public bidding procedure;
 - the minimum number of bidders, which must be at least higher by one than the number of authorisations for use of radio frequencies defined in paragraph (2), item b), of this Article;
 - the initial amount of the market value of the radio frequencies, as a one-time fee for obtaining an authorization for use of radio frequencies, including the payment method, whereupon the bidders must not offer the same or lower amount than the initial one;
 - the amount of the deposit to be paid in, which may not exceed 10% of the initial amount of the market value of the radio frequencies, including the payment deadline and the payment method thereof, having in mind that the bidder, who will not be selected as

most favourable bidder in the public bidding procedure, shall get back the paid deposit within five days from the completion of the public bidding, whereas the bidder, who will be selected as most favourable bidder, shall not get back the paid deposit, as it will become part of the selected offered price in the public bidding;

- the payment method and deadline of the highest offered price set during the public bidding;
 - the rules for conducting the public bidding procedure in accordance with this Law; and
 - the period when the Agency will adopt the decision for selection of one or more bidders, which may not exceed 10 days from the completion of the public bidding.
- (3) The public bidding may be conducted in case there are at least two eligible bidders for the same authorisation for use of radio frequencies, subject matter of the public tender with public bidding.
- (4) In case there is only one eligible bidder in the public tender procedure with public bidding for the same authorisation for use of radio frequencies, subject matter of the public tender with public bidding, the Agency director shall, within three days from the receipt of the report of the Commission for implementation of the public tender with public bidding, adopt a decision establishing that the procedure for the public tender with public bidding has been completed.
- (5) The Agency director shall, within ten days from the date of the adoption of the decision referred to in paragraph (4) of this Article, adopt a decision for issuing an authorisation for use of radio frequencies to the eligible bidder referred to in paragraph (4) of this Article.
- (6) In case there are at least two eligible bidders in the public tender procedure with public bidding for the same authorisation for use of radio frequencies, subject matter of the public tender with public bidding, the Agency director shall, upon proposal from the Commission for conducting the public tender with public bidding, within three days from the receipt of the proposal, adopt a decision selecting the bidders who will participate in the public bidding procedure. The decision shall set the place and time of the public bidding, which may not be shorter than 14 days, nor longer than 30 days, from the date of the decision's adoption. The decision, including the invitation to participate in the public bidding, shall be submitted simultaneously to all eligible bidders within three days from the date of its adoption.
- (7) The Agency shall be obliged to publish the decisions referred to in paragraphs (2), (4), and (5) of this Article in the "Official Gazette of the Republic of Macedonia" and on its web-site.
- (8) The provisions in Article 135, paragraphs (5), (6), (7), (8), and (9), as well as the provisions of Article 136, 137, 138, and 139, of this Law, shall respectively apply to the procedure for conducting a public tender with public bidding.

Article 141

Conducting a public bidding

- (1) The public bidding shall be conducted by the president or the deputy president of the Commission for conducting a public tender with public bidding, in accordance with this Law.
- (2) The public bidding shall take place at the premises of the Agency through verbal bidding.
- (3) The public bidding may be conducted in another way, as defined by the Agency in the decision referred to in Article 140, paragraph (2), of this Law, where it must be ensured that each bidder may follow directly and continuously the public bidding of the other bidders in order to be able to submit its bids without any obstacles.

- (4) During the public bidding procedure, with each bid submission, the bidders may not increase their bid by less than three percents of the initial amount of the market value of the radio frequencies referred to in Article 140 of this Law.
- (5) During the public bidding procedure, the president or the deputy president of the Commission referred to in Article 140 of this Law shall announce the initial amount of the market value of the radio frequencies, and shall invite the bidders to begin submitting higher bids. Before establishing the highest bid, the president or the deputy president of the Commission must invite the bidders to submit a higher bid at least three times.
- (6) If, after the third invitation for submission of a higher bid, no higher bid than the existing is submitted, the president or the deputy president of the Commission shall announce that the existing bid is the highest, and no new bids may be subsequently submitted.
- (7) If, during the public bidding procedure, the president or the deputy president of the Commission ascertain that two or more bidders are colluding or coordinating among themselves on the manner and the amount of the public bidding, said bidders may be removed from the further public bidding procedure.
- (8) The Commission referred to in Article 140 of this Law shall keep minutes on the conducted public bidding procedure, and the Agency director shall adopt a decision for selection of most favourable bidder on the basis of said minutes.
- (9) Pursuant to the decision for selection of most favourable bidder, the Agency director shall issue one or more authorisations for use of radio frequencies, within 90 days from the expiry of the deadline for bid submission.
- (10) The decision for selection of most favourable bidder referred to in paragraph (9) of this Article shall be submitted to all bidders the have participated in the public bidding within five days from the date of its adoption, and the Agency shall publish it in the Official Gazette of the Republic of Macedonia, and on its web-site.
- (11) If the selected bidder refuses to be issued an authorisation for use of radio frequencies or fails to pay the offered price from the public bidding using the payment method and within the deadline set in the decision referred to in Article 140, paragraph (2), of this Law, the authorisation for use of radio frequencies shall be offered to the second-ranking bidder. If the second-ranking bidder also refuses to be issued an authorisation for use of radio frequencies, the public tender procedure with public bidding shall end without issuing an authorisation for use of radio frequencies.
- (12) If, during the procedure for issuing an authorisation for use of radio frequencies through a public tender with public bidding, no favourable bidder is selected or no authorisation for use of radio frequencies is issued, the issuing of an authorisation for use of the unassigned radio frequencies shall be conducted following the procedure as per Article 134 of this Law.

Article 142

Content of the authorisation for use of radio frequencies

- (1) The authorisation for use of radio frequencies shall contain the following:
 - a) data on the holder of the authorisation to use radio frequencies;
 - b) the assigned radio frequencies;

- c) the obligation for provision of the service or for the use of the type of technology for which the radio frequencies have been assigned, including the coverage and quality requirements, where applicable;
 - d) the conditions for effective and efficient use of the assigned radio frequencies;
 - e) the technical and operational conditions that should be fulfilled in order to avoid harmful interference or to limit the exposure of the public to electromagnetic fields, where these conditions differ from those determined in this Law;
 - f) the territorial coverage, where applicable;
 - g) date of issuance, validity of the authorisation for use of radio frequencies, and where applicable, on-air identification data;
 - h) viability and conditions for transfer or lease of the right to use the assigned radio frequencies;
 - i) fee for using the radio frequencies as per this Law;
 - j) all of the obligations undertaken by the holder of the authorisation for use of radio frequencies, if it has been issued through a public tender procedure or a public tender with public bidding;
 - k) the obligations arising from international agreements related to use of radio frequencies, where applicable;
 - l) special conditions for experimental use of radio frequencies; and
 - m) the conditions to be met when using the assigned radio frequencies.
- (2) The holder of the authorisation for use of radio frequencies shall be obliged to inform the Agency of any amendments in the data referred to in paragraph (1), item a), of this Article, within 30 days from the date when the amendment occurred.

Article 143

Validity of the authorisation

- (1) The Agency shall issue an authorisation for use of radio frequencies for a period not longer than 20 years.
- (2) The Agency shall issue an authorisation for use of radio frequencies intended for aeronautical and maritime objects, which shall last until their useful life.
- (3) The Agency shall issue a provisional authorisation for use of radio frequencies with a limited coverage area for the purpose of research, measurement and attestation of radio communication equipment, for a period that may not exceed 90 days.
- (4) The Agency shall issue a provisional authorisation for use of radio frequencies for special events, for a period that may not exceed 60 days.
- (5) The Agency shall issue a provisional authorisation for use of radio frequencies with a limited coverage area for experimental purposes, for introduction of new technologies, for a period that may not exceed one year, if it shall not cause harmful interference.

Article 144

Extension of validity of the authorisation

- (1) The validity of the authorisation for use of radio frequencies may be extended upon request of its holder.
- (2) The request for extending the validity of the authorisation shall be submitted to the Agency no less than 30 days and no more than six months prior to its expiration.
- (3) When reviewing the request referred to in paragraph (2) of this Article, the Agency shall take into account the following:
 1. the benefits for the users;
 2. the need to encourage the competition, and the development of new technologies;
and
 3. the regulatory policy in regards to use of radio frequencies.
- (4) If it has been assessed that the conditions referred to in paragraph (3) of this Article have been complied with, the Agency director shall adopt a decision extending the validity of the authorisation for use of radio frequencies within 60 days of the date of receipt of the request referred to in paragraph (2) of this Article. In that case the Agency shall issue a new authorisation, for a period not exceeding twenty years.
- (5) The validity of the provisional authorisations for use of radio frequencies referred to in Article 143, paragraphs (3), (4), and (5), of this Law may not be extended.

Article 145

Transferring or leasing of the right for use of radio frequencies

- (1) Holder of an authorisation for use of radio frequencies may transfer or lease its right to use said radio frequencies to another natural or legal person, if said right for the radio frequencies has been envisaged in the Plan for assignment and use of radio frequencies, and in the authorisation for use of radio frequencies, upon prior decision with consent obtained from the Agency.
- (2) In order to transfer or lease the right to use the radio frequencies referred to in paragraph (1) of this Article, the holder of the authorisation for use of radio frequencies shall submit a written request to the Agency thereof. The Agency shall publish the request on its web-site within three days from the date of receipt of said request.
- (3) Following the request referred to in paragraph (1) of this Article, the Agency shall ascertain whether the applicant has paid all the fees, which it is obliged to pay in accordance with this Law, and whether the natural or legal person to whom the right for use of radio frequencies is proposed to be transferred or leased has met all the conditions determined in this Law, the regulations adopted thereof, and the conditions for use of radio frequencies determined in the authorisation for use of radio frequencies, as well as whether the transfer or lease of the right to use the radio frequencies would disrupt the competition.
- (4) In case the right to use the radio frequencies has been transferred or leased, the Agency shall issue to the recipient natural or legal person a new authorisation for use of radio frequencies valid until the expiration of the validity of the existing authorisation for use of radio frequencies. The new authorisation for use of radio frequencies shall be issued by the Agency without conducting a public tender procedure or public tender procedure with public bidding. The conditions for use of radio frequencies contained in the existing authorisation for use of radio frequencies shall be transferred to the new authorisations, except if the Agency decides otherwise.

- (5) The provisions of this Article shall not apply to the right for use of radio frequencies intended for performing broadcasting activity.

Article 146

Amendment of the authorisation for use of radio frequencies

- (1) The Agency may, ex officio, amend the authorisation for use of radio frequencies, in the following cases:
- a) the data of the holder of the authorisation for use of radio frequencies have changed;
 - b) ensuring the public safety;
 - c) amendments in the Plan for allocation of radio frequency bands, the Plan for assignment and use of radio frequencies, or the regulations pertaining to the use of radio frequencies;
 - d) avoiding harmful interference which may not be avoided otherwise;
 - e) harmonisation with the acts of the international law applicable in Republic of Macedonia;
 - f) existing public interest that may not be satisfied otherwise;
 - g) ensuring efficient use of the radio frequency spectrum; or
 - h) provision of the universal service.
- (2) In cases referred to in paragraph (1) of this Article, items a), b), c), d), and e), the Agency may adopt a resolution to amend the issued authorisation, and it may set a reasonable timeframe, not shorter than 30 days, during which the holder of the authorisation may adapt its operations.
- (3) In the cases referred to in paragraph (1), items f), g), and h), the Agency may adopt a resolution to amend the issued authorisation, informing in writing the holder of the authorisation for use of radio frequencies thereof, and allowing it a period of 14 days from the receipt of the notification to express its opinion in regards to the proposed amendment of the authorisation for use of radio frequencies.
- (4) In the cases referred to in paragraph (1), items f), g), and h), and in case of significant amendment to the authorisation for use of radio frequencies, the Agency shall be obliged to publish the proposed amendment of the authorisation on its web-site, thus allowing a public debate with all interested parties, as per this Law. In this case, the Agency shall repeal the existing authorisation and shall issue a new authorisation for use of radio frequencies, within 30 days from the date of adoption of the resolution repealing the existing authorisation. The validity of the new authorisation for use of radio frequencies shall be until the expiration of the validity of the existing authorisation for use of radio frequencies.
- (5) An authorisation for use of radio frequencies may be amended upon request of the holder of said authorisation for use of radio frequencies.
- (6) In case the request referred to in paragraph (5) of this Article is regarding the cases referred to in paragraph (1) of this Article, items a), b), c), d), and e), the Agency shall adopt a decision amending the authorisation for use of radio frequencies within 30 days from the date of receipt of said request.
- (7) In case the request referred to in paragraph (5) of this Article is regarding the cases referred to in paragraph (1) of this Article, items f), g), and h), the Agency shall adopt a decision amending the authorisation for use of radio frequencies within 60 days from the date of receipt of said request, and upon completing the procedure in accordance with paragraph (3) of this Article.

- (8) In case the request referred to in paragraph (5) of this Article is regarding the cases referred to in paragraph (1) of this Article, items f), g), and h), and in case of significant amendment of the authorisation for use of radio frequencies, the Agency shall act in accordance with paragraph (4) of this Article.

Article 147

Repealing the authorisation for use of radio frequencies

- (1) The Agency may repeal an authorisation for use of radio frequencies, upon request of the holder of said authorisation for use of radio frequencies.
- (2) The Agency shall adopt a resolution repealing the authorisation for use of radio frequencies within five days from the date of receipt of the request referred to in paragraph (1) of this Article.
- (3) The Agency shall repeal the authorisation for use of radio frequencies ex officio, following the procedure defined in Article 48 of this Law, if it has ascertained that:
- a) the authorisation for use of radio frequencies contain inaccurate data, which have been stated in the application for issuing the authorisation for use of radio frequencies;
 - b) the obligations undertaken by the holder of the authorisation for use of radio frequencies, within the public tender procedure or the public tender with public bidding, are not complied with;
 - c) some conditions for use of radio frequencies, as defined in the authorisation for use of radio frequencies, and in accordance with this Law, and the regulations adopted thereof, have been violated;
 - d) the right to use the radio frequencies has been transferred or leased without prior consent obtained from the Agency;
 - e) the fees for use of the radio frequencies has not been paid, even after notification thereof has been sent in accordance with this Law;
 - f) it is not otherwise possible to avoid the harmful interference caused by the signals of radio communication devices to other devices, receivers, electrical or electronic systems; or
 - g) the holder of the authorisation failed to start using the radio frequencies within one year of the issuance of the authorisation, unless otherwise stipulated therein.
- (4) The Agency shall adopt a resolution repealing the authorisation for use of radio frequencies, in case a written notification for withdrawal of a license for television or radio broadcasting has been issued by a regulatory body competent for broadcasting. The Agency shall adopt the resolution within five days from the date of receipt of the notification.
- (5) The fees for use of radio frequencies paid for the year when the authorisation has been repealed shall not be refunded, in the cases referred to in paragraph (3) of this Article.
- (6) The Agency shall erase from the Registry of assigned radio frequencies, referred to in Article 130 of this Law, the data on the holder of the authorisation for use of radio frequencies, whose authorisation has been repealed in accordance with the provisions of this Article. The Agency shall publish the resolution repealing the authorisation for use of radio frequencies on its web-site, within five days from the date of its adoption.

Article 148

Cessation of validity of the authorisation for use of radio frequencies as implied by the law

- (1) The authorisations for use of radio frequencies shall cease to be valid as implied by the law in the following cases:
 - a) upon the expiry of the period for which they were issued;
 - b) the holder of the authorisation shall ceased to exist;
 - c) the holder of the authorisation is undergoing bankruptcy or liquidation procedure;
 - d) the holder of the authorisation has been pronounced a safety measure – prohibition to conduct professional activity; or
 - e) the license for television or radio broadcasting ceased to be valid as implied by the law.
- (2) The Agency shall erase from the Registry of assigned radio frequencies, referred to in Article 130 of this Law, the data on the holder of the authorisation for use of radio frequencies, which has ceased to be valid as implied in the law, in accordance with the provisions of this Article. The Agency shall publish the resolution determining the cessation of validity of the authorisation for use of radio frequencies, as implied by the Law, on its web-site, within five days from the date of its adoption.
- (3) The fees for use of radio frequencies paid for the year when the authorisation has ceased to be valid, with the exception of paragraph (1), item a), shall not be refunded.

Chapter Fifteen

NUMBERING

Article 149

Numbering Plan

- (1) The Numbering Plan shall determine the structure, length, and purpose of the numbers and number ranges used by operators and other legal persons as defined in Article 151 of this Law for the purpose of identification, routing, and charging.
- (2) The Numbering Plan referred to in paragraph (1) of this Article shall be adopted by the Agency in accordance with the Law and the international agreements entered into or joined by Republic of Macedonia in order to:
 - a) ensure efficient structuring and use of numbers and number ranges;
 - b) satisfy the needs of operators and other legal entities eligible for the allocation of numbers and/or number ranges under this Law; and
 - c) ensure allocation and use of numbers and/or number ranges in an objective, non-discriminatory and transparent manner.
- (3) In case of any amendments in the Numbering Plan referred to in paragraph (1) of this Article that may cause significant change in the numbering system and the existing technology used for providing public electronic communication services, said Plan amendment may not be applied before two years from the date of its adoption.
- (4) The Agency shall keep a Registry of allocated numbers and/or number ranges and of holders of allocated numbers and/or number ranges, and shall publish it on its web-site. The form and content of the Registry shall be prescribed by the Agency.

Article 150

Use of Numbers

- (1) The Agency shall adopt a resolution allocating numbers and/or number ranges from the Numbering Plan to operators and other legal entities as defined in Article 151 of this Law.
- (2) The operators shall use the allocated numbers and/or number ranges in accordance with the Resolution referred to in paragraph (1) of this Article and the provisions in Article 116 of this Law.
- (3) The Agency shall allocate the numbers and/or number ranges from the Numbering Plan for an indefinite time period.

Article 151

Procedure for allocation of numbers and/or number ranges

- (1) The Agency shall allocate the numbers and/or number ranges from the Numbering Plan pursuant to a submitted written application thereof. The application for allocation of numbers and/or number ranges may be submitted by an Operator to whom the Agency has issued registration certificate in accordance with this Law, a universal service provider, and other legal persons, who in accordance with this Law or another law are performing activities of public interest.
- (2) The application referred to in paragraph (1) of this Article shall contain the following data:
 - a) name, head office, proof for registration of professional activity and data on the legal representative;
 - b) proof that the applicant is entitled to be allocated numbers and/or number ranges in accordance with this Law;
 - c) data on the type, quantity and purpose of use of the numbers and/or number ranges applied for;
 - d) assessment plan for the next year needs, if the applicant is planning to use more numbers and/or number ranges in that period; and
 - e) planned date of commencing the use of the allocated numbers and/or number ranges.
- (3) The Agency shall adopt an act prescribing in more details the procedure for allocation of numbers and/or number ranges, the content and format of the application, and the data to be enclosed to the application.
- (4) The Agency may decide to reject an application for allocation of numbers and/or number ranges if:
 - a) the application for allocation of numbers and/or number ranges contains inaccurate data;
 - b) the applicant is not eligible to be allocated numbers and/or number ranges in accordance with this Law; or
 - c) the applicant has had its resolution for allocation of numbers and/or number ranges withdrawn, ex officio, in the last five years; and
 - d) the planned use does not justify the allocation of the requested quantity or type of numbers and/or number ranges.
- (5) The Agency director shall adopt a resolution allocating numbers and/or number ranges from the Numbering Plan within 15 days from the date of receipt of the complete application for allocation of numbers and/or number ranges.

- (6) Pursuant to a completed public debate with all interested parties, the Agency may decide to allocate certain numbers and/or number ranges from the Numbering Plan that have significant economic value by conducting a public tender procedure or public tender with public bidding. In that case the provisions in Articles 134, 135, and 140 of this Law shall apply respectively.
- (7) In accordance with the resolution for allocation of numbers and/or number ranges, the allocated numbers and/or number ranges will then be assigned for use by operators to their end users.
- (8) In accordance with the resolution for allocation of numbers and/or number ranges, the operators may assign numbers and/or number ranges to providers of other services pursuant to a signed agreement for a price that should cover only the actual costs of the operator, whereupon the operator should observe the non-discrimination principle.
- (9) The Operator shall be obliged to submit to the Agency the signed agreements referred to in paragraph (8) of this Article with five days of their signing.

Article 152

Content of the resolution for allocation of numbers and/or number ranges

- (1) The resolution for allocation of numbers and/or number ranges referred to in Article 151, paragraph (6), of this Law should particularly contain the following:
 1. data on the holder of the right for use of numbers and/or number ranges;
 2. the assigned numbers and/or number ranges; and
 3. the conditions for using the numbers and/or number ranged in accordance with Article 153 of this Law.
- (2) The holder of the resolution for allocation of numbers and/or number ranges shall be obliged to inform the Agency of any changes in the data referred to in paragraph (1), item 1, of this Article, within 30 days of the date when the change occurred.

Article 153

Conditions for using the assigned numbers and/or number ranges

The conditions for using the numbers and/or number ranges referred to in Article 152, paragraph (1), item 3, of this Law, that may be set in a resolution for allocation of numbers and/or number ranges, shall be as follows:

- a) establishing the service for which the assigned number and/or number series will be used, including the requests for provision of said service, in order to avoid any suspicion thereof, the tariffs and maximum prices that may be used for specific numbers and/or number ranges for the purpose of protecting the users;
- b) effective and efficient use of the assigned numbers and/or number ranges;
- c) the obligations arising from the provision of the number portability service;
- d) the obligation to submit the information required for providing the complete directory in accordance with this Law;
- e) the maximum duration of the period of use of the assigned numbers and/or number ranges, which may not be less than one year;
- f) the transfer of the right to use the assigned numbers and/or number ranges;

- g) the annual fee for use of the assigned numbers and/or number ranges;
- h) the obligations arising from the public tender procedure or the public tender with public bidding, in case said procedures have been conducted; and
- i) the obligations arising from international agreements entered into or joined by Republic of Macedonia.

Article 154

Amendment of a resolution for allocation of numbers

- (1) The Agency may amend, ex officio, a previously adopted resolution for allocation of numbers and/or number ranges in case the Numbering Plan has been amended, within 30 days from the date when the amendment of the Numbering Plan shall be to apply. In such case, the holders of the right for allocation of numbers and/or number ranges shall not have the right to claim compensation.
- (2) The Agency may, if it is technically viable, amend a resolution for allocation of numbers and number ranges upon a request of its holder.

Article 155

Transfer of the right to use the assigned numbers and/or number ranges

- (1) The holder of the resolution for allocation of numbers and/or number ranges may transfer its right to use the allocated numbers and/or number ranges to another legal person, upon prior consent obtained from the Agency.
- (2) The holder of the resolution for allocation of numbers and/or number ranges shall submit to the Agency a written request for transfer of the right to use the allocated numbers and/or number ranges referred to in paragraph (1) of this Article, containing the writing consent thereof from the legal person to whom the allocated numbers will be transferred.
- (3) Following the request referred to in paragraph (2) of this Article, the Agency shall ascertain whether the applicant has paid all fees, that it has been obliged to pay in accordance with this Law, and whether the legal person, to whom it is proposed to transfer the right to use the allocated numbers and/or number ranges, fulfils the conditions for allocation of numbers, in accordance with Article 153, paragraph (1), of this Law.
- (4) The Agency director shall, within 15 days from the date of receipt of the request referred to in paragraph (2) of this Article, adopt a resolution withdrawing the right to use the allocation numbers and/or number ranges from the holder of the resolution for allocation of numbers and/or number ranges referred to in paragraph (1) of this Article, and within the same time period, it shall issue a new resolution for allocation of the same numbers and/or number ranges to the other legal person, to whom the right to use the allocated numbers is transferred.

Article 156

Withdrawing of the right to use the allocated numbers and/or number ranges

- (1) The Agency shall, ex officio, withdraw the right to use allocated numbers and/or number ranges, following the procedure determined in Article 48 of this Law, in case it has established that:
 - a) the application for allocation of numbers and/or number ranges contains inaccurate data;

- b) the holder of the right to use allocated numbers and/or number ranges no longer meets the conditions in accordance with this Law and the resolution for allocation of numbers and/or number ranges;
 - c) the holder of the resolution for allocation of numbers and/or number ranges has transferred the right of use to another legal person in accordance with this Law;
 - d) the annual fees for the use of the allocated numbers and/or number ranges has not been paid in due time; or
 - e) the holder of right to use the allocated numbers and/or number ranges has not started to use the allocated numbers and/or number ranges within one year from the date of effective allocation.
- (2) The Agency shall withdraw the right to use allocated numbers and/or number ranges upon request of the holder of the right to use the allocated numbers and/or number ranges.
- (3) The Agency director shall adopt a resolution withdrawing the right to use the allocated numbers and/or number ranges within five days from the date of receipt of the request referred to in paragraph (2) of this Article.
- (4) The Agency shall erase from the Registry of allocated numbers and/or number ranges the data on the allocated numbers and/or number ranges and on the holder of the resolution for allocation of numbers and/or number ranges, who has its right to use the allocated numbers and/or number ranges withdrawn in accordance with the provisions of this Article. The Agency shall publish the resolution for withdrawal of the right to use of allocated numbers and/or number ranges on its web-site within five days from the date of its adoption.

Article 157

Cessation of validity of the resolution for allocation numbers and/or number ranges as implied by the law

- (1) The resolution for allocation numbers and/or number ranges shall cease to be valid as implied by the law in the following cases:
- a) if the holder of the resolution for allocation of numbers and/or number ranges has ceased to exist;
 - b) if the holder of the resolution for allocation of numbers and/or number ranges is undergoing bankruptcy or liquidation procedure; or
 - c) if the holder of the resolution for allocation of numbers and/or number ranges has been pronounced a safety measure - prohibition to perform professional activity.
- (2) The Agency shall erase from the Registry of allocated numbers and/or number ranges the data on the allocated numbers and/or number ranges and on the holder of the resolution for allocation of numbers and/or number ranges that has ceased to be valid as implied by the Law in accordance with the provisions of this Article. The Agency shall publish the resolution determining the cessation of validity of the resolution for allocation of numbers and/or number ranges, as implied by the Law, on its web-site, within five days from the date of its adoption.

Chapter Sixteen

DIGITAL RADIO AND TELEVISION SERVICES

Article 158

Digital radio and television services, interoperability of digital interactive television services and interoperability of digital television equipment

- (1) The public communications networks used for distribution of digital television services should be planned in such a way so as to ensure broadcasting of widescreen television services and programmes.
- (2) The operators providing the public communications networks referred to in paragraph (1) of this Article shall be obliged to retain the format of widescreen television services and programmes during the reception and retransmission thereof.
- (3) The providers of digital interactive television services, without prejudice to the transmission method, shall be obliged to use an open API.
- (4) The providers of enhanced digital television equipment intended for reception of interactive digital television services from interactive digital television platforms should use an open API in accordance with the minimum requirements of the relevant standards and specifications.
- (5) The Agency may impose an obligation on the operators to provide access to the API and the electronic program guide under fair, adequate, and non-discriminatory conditions.
- (6) The Agency shall adopt a bylaw prescribing the interoperability requirements for the digital interactive television services and for the digital television equipment used by consumers, wherein it shall take into account the interoperability of television services for end users with disabilities.

Article 159

Broadcasting via digital terrestrial system

- (1) An operator of digital terrestrial multiplex, who has been issued by the Agency an authorisation for use of radio frequencies for broadcasting of programme services of broadcasters, who in turn have been issued by the regulatory body competent in the field of broadcasting a license to broadcast via its digital terrestrial multiple, shall be obliged to apply the principles of objectivity, transparency, proportionality, and non-discrimination equally to all broadcasters.
- (2) The Operator referred to in paragraph (1) of this Article shall be obliged to operate in accordance with this Law, and the regulations adopted thereof, as well as in accordance with the Plan for the purpose and allocation of transmission capacities of digital terrestrial multiplex adopted by the regulatory body competent in the field of broadcasting.
- (3) The Operator referred to in paragraph (1) of this Article shall be obliged to publish all conditions and prices for digital broadcasting on its web-site and to submit them to the Agency.
- (4) If the Operator referred to in paragraph (1) of this Article plans to amend the conditions and prices referred to in paragraph (3) of this Article, it shall be obliged to submit to the Agency a written notification with detailed rationale on the planned amendments, within a time period which may not be shorter than 60 days before the date of the planned amendment, in order for the latter to conduct activities for establishing the economic justification of the conditions and prices, and if necessary undertake measures in accordance with this Law, and the regulations adopted thereof.
- (5) The Operator referred to in paragraph (1) of this Article shall be obliged, within 15 days of the date of receipt of the notification from the regulatory body competent in the field of broadcasting in regards to the granted licenses to broadcasters for broadcasting over its digital terrestrial multiplex, to enter into agreements with the broadcaster for digital

broadcasting in accordance with the conditions and prices defined in paragraph (3) of this Article, the conditions in the broadcaster's license, and to commence the digital broadcasting of its programming service. The Agency shall prescribe the agreement template and shall publish it on its web-site.

- (6) The agreement referred to in paragraph (5) of this Article shall be signed for a time period that may not be shorter than the time period for which the broadcaster received its license, and the Operator shall be obliged to submit the agreement to the Agency within seven days of its signing.
- (7) In case the agreement is not signed within the deadline set in paragraph (5) of this Article, any of the parties may request of the Agency to resolve the dispute.
- (8) The Operator referred to in paragraph (1) of this Article shall be obliged to keep separate accounting of the activities related to digital broadcasting.

Article 160

Conditional Access Systems

- (1) The systems for conditional access to digital television or radio services used in Republic of Macedonia should have technical capabilities that will enable to the operators and/or providers of public communication services cost control, that is to say, control over the services provided via these systems at local and regional level.
- (2) The operators offering conditional access services, thus allowing access to digital television or radio services, shall be obliged to provide to all broadcasters, under fair, reasonable, and non-discriminatory conditions, technical services that will enable the reception of the broadcasters' digital programme services by the viewers or listeners via decoders.
- (3) The operators offering conditional access services shall be obliged to keep the accounting for the provision of conditional access services separate from that for other activities.
- (4) The Agency shall cooperate with the State Market Inspectorate in regards to issues referring to conditional access devices.

Chapter Seventeen

RADIO EQUIPMENT AND TELECOMMUNICATION TERMINAL EQUIPMENT

Article 161

Release and use of radio equipment and telecommunication terminal equipment

- (1) The release and use of radio equipment and telecommunication terminal equipment shall be in accordance with the Law on products' safety, and the regulations adopted thereof.
- (2) The import, production, sales, rent, and use of radio equipment that may cause radio frequency interference in the public electronic communication network shall not be allowed only in cases when it is required for the purpose of defence and national security interests.

Article 162

Publication of interface specifications

- (1) Before commencing the provision of public communication services, the operators of public communication networks in Republic of Macedonia shall be obliged to publish and update on their web-site the type and technical specifications of the interface to their public communication networks.

- (2) The technical specifications referred to in paragraph (1) of this Article should contain enough details in order to allow the design of telecommunication terminal equipment that will enable all services, provided via adequate interfaces. The technical specification should particularly contain all information that will allow the manufacturers to conduct adequate tests of their own choosing in regards to the essential requirements, applicable to the telecommunication equipment.

Article 163

Registration of radio equipment

- (1) The consent request shall be submitted to the Agency within a time period which may not be shorter than 30 days from the planned date for release or use of the radio equipment.
- (2) The request referred to in paragraph (1) of this Article shall particularly contain the following:
- name and address of the applicant;
 - name of the radio equipment, the manufacturer, its purpose and technical parameters;
 - the radio frequency bands, the channel allocation, modulation type, and maximum transmitter power; and
 - the identification number of the authorised conformity assessment body.
- (3) The form and the content of the request referred to in paragraph (2) of this Article shall be prescribed in more details by the Agency.
- (4) The Agency shall make a decision in regards to the referred to in paragraph (1) of this Article within 30 days from the receipt thereof.
- (5) The Agency director may adopt a resolution rejecting the request, that is to say, it shall not give the consent referred to in paragraph (1) of this Article, in case it has ascertained that the release or use of the radio equipment referred to in paragraph (1) of this Article is contrary to the provisions of this Law, and the regulations adopted thereof.

Article 164

Interconnection of radio equipment and telecommunication terminal equipment

- (1) If the radio equipment and/or telecommunication terminal equipment is compliant with the conditions set in the Law on products' safety, the regulations adopted thereof, and in this Law, the operators of public communication networks and/or services must not refuse the interconnection of said equipment.
- (2) If the radio equipment and/or telecommunication terminal equipment meeting the conditions referred to in paragraph (1) of this Article causes damage to the network or causes harmful interference or disrupts the functioning of the network, the Operator of public communication network may refuse to interconnect such equipment on its network, may disconnect it, or withdraw it from use, and it shall inform the Agency thereof.
- (3) In specific emergency cases, if necessary to protect the network, and if it may immediately and without any cost thereof offer to the user an adequate alternative solution, the Operator shall immediately disconnect the equipment referred to in paragraph (1) of this Article, and it shall immediately inform the Agency thereof.
- (4) The users may not connect to the public telecommunication network radio equipment or telecommunication terminal equipment, which is not compliant with the conditions prescribed in the Law on products' safety, the regulations adopted thereof, and this Law.

Article 165

Registry of telecommunication terminal equipment

- (1) The Agency shall submit opinions and cooperate with the competent institutions on issues related to import and use of radio equipment and telecommunication terminal equipment.
- (2) The Agency shall keep an electronic registry of telecommunication equipment intended for public mobile telecommunication services.
- (3) The form, content, and manner of keeping the registry referred to in paragraph (2) of this Article, as well as the type of data and the manner of submitting the data required for the registry shall be prescribed by the Agency.
- (4) The operators, the legal and natural persons registered for sales of telecommunication terminal equipment, as well as legal and natural persons who have procured telecommunication terminal equipment intended for public mobile communication services, or have obtained it as a gift or donation from persons outside the territory of Republic of Macedonia, shall be obliged to submit to the Agency the data in accordance with the act referred to in paragraph (3) of this Article.
- (5) Upon request from the Agency, the operators shall be obliged to disconnect from the public mobile communication network, the telecommunication terminal equipment which is not registered in the registry referred to in paragraph (2) of this Article.

Chapter Eighteen

SECURITY AND INTEGRITY OF PUBLIC ELECTRONIC COMMUNICATION NETWORKS AND SERVICES AND PERSONAL DATA PROTECTION

Article 166

Security and integrity of public electronic communication networks and services

- (1) The operators shall be obliged to undertake the adequate technical and organisational measures in order to adequately manage the risks related to the security of networks and services. Taking into account the technical advancements, these measures should ensure level of safety adequate to the risk that has occurred. These measures should be particularly undertaken in order to prevent and minimize the impact of security incidents on the users, and on the mutually interconnected networks.
- (2) The operators of public electronic communication network should undertake all adequate steps in order to ensure the integrity of their networks and, at the same time, the continuity of services provided via said networks.
- (3) For the purpose of implementing the provisions referred to in paragraphs (1) and (2) of this Article, the operators of public electronic communication network or public electronic communication services should adopt and implement security policy which will establish the system's vulnerability, the supervisions and implementation of preventive and corrective measures, as well as measure mitigating the incidents related to network security and integrity.
- (4) The operators shall be obliged to immediately, and not later than 24 hours from the moment of security violation or loss of integrity that has had significant impact on the functioning of the networks and services, inform the Agency thereof via electronic means. If appropriate, the Agency may inform thereof the national regulatory bodies of other countries, and the European Network and Information Security Agency (ENISA). If it is of public interest, the

Agency may inform the public or request of the Operator to do so. Also, if appropriate, and depending on the degree of security or integrity violation of networks or services, the Agency will inform thereof the competent body for computer incidents management of Republic of Macedonia.

- (5) The Agency shall be obliged to submit to the European Network and Information Security Agency (ENISA) a summative annual report on the received notification from operators, and the activities undertaken in accordance with paragraph (3) of this Article.
- (6) In case of significant risk of network security violation, the Operator of public electronic communication services shall be obliged to inform the subscribers of said risk, and if it is outside the scope of measures undertaken by the Operator, inform them of the possible solutions for risk removal, and the potential costs of such solutions.
- (7) In accordance with the Personal Data Protection Directorate, the Agency shall adopt a bylaw prescribing the manner for operators to implement the provisions of this Article, including the mandatory instructions, form, content, and manner of submission of the notifications defined in this Article, and Article 167 of this Law, as well as the form and content, and the manner of keeping the registry of personal data security violations referred to in Article 167, paragraph (6), of this Law.
- (8) The Agency may request of the operators referred to in paragraph (1) of this Article:
 - (a) to submit the required information for assessment of the security and/or integrity of their services and networks, including the adopted security policies; and
 - (b) to perform a security audit carried out by a qualified independent body or competent state authority, and to make the results thereof available to the Agency. The audit costs shall be borne by the Operator.
- (9) The Agency shall have the right to examine the non-compliance cases and the effects thereof on the security and integrity of the networks.

Article 167

Personal data security violation

- (1) In case of security violation of the personal data, the Operator of public electronic communication services shall be obliged to immediately, and no later than 24 hours from the moment the personal data security violation was established, submit to the Agency and to the Personal Data Protection Directorate notification of the personal data security violation.
- (2) If the personal data security violation may have a negative impact on the personal data or the privacy of a subscriber or another natural person, the Operator of public electronic communication services shall be obliged to inform the respective subscriber or natural person thereof within the deadline set in paragraph (1) of this Article.
- (3) The notification referred to in paragraph (2) of this Article should particularly contain the nature of the personal data security violation and the contact points for obtaining more information, as well as the measures recommended for mitigation of the possible negative impact caused by the personal data security violation, whereas the notification referred to in paragraph (1) of this Article should contain description of the consequences arising from the personal data security violation, as well as the proposed or undertaken measures by the Operator for the purpose of remedying the personal data security violation.

- (4) The Operator need not inform the subscriber or any other natural person on the personal data security violation referred to in paragraph (2) of this Article, if, upon the received notification of referred to in paragraph (1) of this Article, the Agency adopts an opinion establishing that the Operator has implemented the adequate technical measures for protection of the personal data affected by the violation, in such a way as to make them incomprehensible by any other person without authorised access. The Agency shall submit the opinion to the Operator and to the Personal Data Protection Directorate.
- (5) The Personal Data Protection Directorate may, irrespective of the obtained opinion referred to in paragraph (4) of this Article, request of the Operator referred to in paragraph (1) of this Article to inform the subscriber or any other natural person of the personal data security violation, taking into account the possible negative effects of said personal data security violation.
- (6) The operators of public electronic communication services shall be obliged to keep a registry of personal data security violations, containing the facts and reasons of the personal data security violation, the consequences caused by said violation, and the undertaken measures for personal data protection, thus enabling the Agency and the Personal Data Protection Directorate to verify the compliance of the Operator with the provisions of this Article.

Article 168

Confidentiality of communications

- (1) Confidentiality of communications shall apply to:
 - a) the content of communications;
 - b) the data on the communication traffic, and the location data which are communication traffic data; and
 - c) the facts and circumstances of connection interruption or the unsuccessful attempts to establish a connection.
- (2) All forms of listening to, monitoring, storing, recording, retaining, and any other form of interception or monitoring of the communications referred to in paragraph (1) of this Article shall be prohibited, without consent of the respective users, except in the cases established in Article 175 and 176 of this Law.
- (3) The prohibition referred to in paragraph (2) of this Article shall not apply to technical storage of data required for transmission of the communication.
- (4) The provisions in paragraphs (2) and (3) of this Article shall not apply to the recording of communications and the respective traffic communication data for the purpose of providing proof of commercial transactions or any other business communication.
- (5) Storage of information or getting access to information which have been already stored in the terminal equipment of the subscriber or the user shall be allowed only if the respective subscriber or user has given its consent, after it has received clear and comprehensive information, particularly on the purpose of processing of said data, in accordance with the regulations on personal data protection. This shall not preclude the technical storage or access to information for the purpose of providing transmission of communications via public electronic communication network, or if it is necessary for the purpose of providing information society service which has been expressly requested by the service subscriber or user.

Article 169

Traffic communication data

- (1) The traffic communication data referring to service subscribers or users that have been processed and stored by the Operator may be erased or made anonymous when they will no longer be required for transmission of communication, except in the cases referred to in paragraphs 2, 3, and 5, of this Article, and in Article 175 and 176 of this Law.
- (2) It shall be permitted to process only the traffic communication data which are necessary to calculate the subscriber costs for use of public electronic communication services, and the network interconnection costs, however, only after the expiration of the legal deadlines until the bill may be contested or paid.
- (3) For the purpose of marketing public electronic communication services or providing value added services, the Operator may process the data referred to in paragraph (1) of this Article, to the extent and for the duration required for such services or marketing, provided the subscriber or user, to whom said data are referring to, has given prior consent thereof. The users or subscribers should be afforded an opportunity to opt-out from the consent for processing of traffic communication data at any moment.
- (4) The Operator of public electronic communication services shall be obliged to inform the subscriber or user of services for which traffic data are processed, and what is the duration of processing of the data for the purposes stated in paragraph (2) of this Article, and before obtaining the consent, for the purposes stated in paragraph (3) of this Article.
- (5) The access to traffic communication data processing, in accordance with paragraphs (1), (2), (3), and (4) of this Article, shall be allowed to authorised persons of the Operator working on subscriber and interconnection cost calculations, communication traffic management, customer applications, fraud detection, marketing of electronic communication services, or provision of value added services, and must be limited to the extent necessary for said operations.
- (6) The operators shall be obliged to provide the traffic communication data for the purpose of resolving disputes related to the subscriber and interconnection cost calculations.
- (7) The operators shall be obliged to store the traffic communication data referred to in paragraphs (2) and (3) of this Article in the Republic of Macedonia.

Article 170

Presentation and restriction of calling party or called party line identification

- (1) An Operator of public electronic communication services, offering calling party line identification, shall be obliged to allow the end user initiating the call, to restrict the calling party line identification for each individual call in a simple manner and at no charges.
- (2) The Operator referred to in paragraph (1) of this Article shall be obliged to allow the called subscriber to restrict the calling party line identification of incoming calls in a simple manner and at no charges, by reasonable use of this option.
- (3) The Operator referred to in paragraph (1) of this Article, offering the option to have the calling party line presented before the connection is established, shall be obliged to allow the called subscriber to reject the incoming calls in a simple manner, in cases when the subscriber or user who initiated the call has restricted its line identification.
- (4) An Operator of public electronic communication services, offering called party line identification, shall be obliged to allow the called subscriber to restrict the called party line identification in a simple manner and at no charges.

- (5) The provisions of this Article shall also apply to incoming and outgoing calls to other countries.
- (6) The operators of public electronic communication services, offering the option for calling party and/or called party line identification, shall be obliged to inform the public of these services and the options referred to in paragraphs (1), (2), (3), and (4) of this Article, in a publicly accessible manner.

Article 171

Location data

- (1) The location data, which are not traffic communication data, and are referring to subscribers or users of public electronic communication network or public electronic communication services, may be processed only if they have been rendered anonymous or upon a prior consent obtained from the service subscriber or user, to the extent and for the duration necessary to provide the value added services.
- (2) The Operator, before receiving the prior consent referred to in paragraph (1) of this Article, shall be obliged to inform the subscriber or the user of services of the type of location data that will be processed, of the purposes and duration of processing, and of the cases when said data will be submitted to third parties for the purpose of providing value added services. The subscriber or user of services must be at any time afforded the option to opt-out of its consent for location data processing.
- (3) When a subscriber or user of services has provided the prior consent referred to in paragraph (1) of this Article, it must be provided, at all times, the option to provisionally refuse the processing of data on the location, on each log-in on the public electronic communication network, or on each transfer of communication, in a simple manner and free of charge.
- (4) The access to the processing of location data, in accordance with the provisions in paragraphs (1), (2), and (3) of this Article, shall be permitted only by authorised persons of the Operator of public electronic communication network or public electronic communication services, or to authorised persons of third parties providing the value added service, and must be limited to the extent necessary to provide the value added service.

Article 172

Exceptions

- (1) In case the subscriber notifies the Operator in writing that it is receiving malicious or disturbing calls, the Operator shall be obliged to provisionally remove the option for restriction of calling party line identification, for a period not exceeding three months from the date of receipt of the notification thereof, in accordance with this Law.
- (2) The Operator shall be obliged to provisionally store, however, no longer than three months from the date of receipt of the notification referred to in paragraph (1) of this Article, all incoming and outgoing calls of the subscriber referred to in paragraph (1) of this Article, including the calls for which the user has been afforded the option to restrict the calling party line identification, and make them available to a competent authority, in accordance with the Law.
- (3) In case of calls to the emergency services, in accordance with the Numbering plan of the public communication networks and services, the Operator of public electronic communication networks and/or services shall be obliged to remove the option for restriction of calling party line identification in accordance with this Law, and shall have the right to

process the location data, even when the subscriber or the user has provisionally refused the processing of location data, or has not consented to the processing of locations data, in accordance with Article 171 of this Law.

Article 173

Automatic call forwarding

An Operator shall be obliged to afford each subscriber the option to stop the automatic call forwarding by a third party to its terminal equipment, free of charge and by using simple means.

Article 174

Unsolicited communications

- (1) The use of automated calling and communication systems for making calls to subscriber telephone numbers without human intervention (automated machines for calls, SMS, MMS), such as facsimile machines or electronic mail, for the purposes of direct marketing, may only be allowed if the subscribers have given consent thereto.
- (2) Natural and legal persons may use the electronic contact data for e-mail obtained from consumers of their products and services, for direct marketing and sales only of their similar products and services, provided they have given to those consumers a clear and unambiguous option to object in a simple manner and free of charge to such use of the electronic contact data when said data are being obtained and when each message is received, in case the consumer have not refused in advance the use of its electronic contact data.
- (3) Unsolicited communications for the purpose of direct marketing, differing from those stated in paragraphs (1) and (2) of this Article (for instance voice telephone calls), shall be permitted only when the subscribers or users have provided consent thereof, and shall be free of charge.
- (4) Sending e-mails for direct marketing or for encouraging visits to specific web-site, by concealing the sender's identity on whose behalf the communication has been made, and without valid address where the communication recipient may send a request for termination of such communication is hereby prohibited.
- (5) The paragraphs (1) and (3) of this Article shall apply only to subscribers who are natural persons.

Article 175

Interception of communications

- (1) The operators shall be obliged to provide all necessary technical conditions in order to allow interception of the communications within their networks, as per the Law on Interception of Communications.
- (2) The operators shall be obliged to provide and maintain the equipment, adequate interface, and to establish electronic communication lines for transmission to the authorised body for interception of communications, in order to enable the interception of communications within their network, in accordance with the Law on Interception of Communications.
- (3) When procuring the equipment and the interface referred to in paragraph (2) of this Article, the operators shall be obliged to request of the authorised body for interception of communications the technical specification for the type and properties of said equipment and interface.

- (4) The authorised body for monitoring of communication referred to in paragraph (2) of this Article shall establish the measures and standards of information security, which should be applied by the Operator of public electronic communication networks and/or services in relation to its obligations for interception of communications referred to in paragraph (2) of this Article.
- (5) In case the operators have introduced compression or encryption of the communication traffic, they shall be obliged to remove it accordingly, before submitting the content of the intercepted communication service to the authorised body for interception of communications.
- (6) The operators shall be obliged to enable the authorised body for interception of communications to intercept the communications in real-time. The information on the intercepted communication should be made available immediately after the completion of the communication, and the interception of the communication should not be interrupted for its whole duration.
- (7) The operators shall be obliged to accurately and uniformly connect the information on the intercepted communication with the content of the intercepted communication.
- (8) The operators should be obliged to ensure that the person, whose communications are intercepted, or any other unauthorised persons may not notice any changes in the quality of the communication service, which might be caused by the application of the measure of interception of communications. The functioning of the intercepted communication service should remain unchanged for the person whose communications are monitored.
- (9) The operators should ensure the same or better security and quality of the intercepted communication service than the security and quality of the communication services provided to the person whose communications are being intercepted.
- (10) The Agency shall conduct a supervisory procedure at an Operator in regards to the compliance with the obligations determined in this Article, upon a request from the authorised body for interception of communications.

Article 176

Obligation to retain the data

- (1) The operators shall be obliged to retain the data on the electronic communications referred to in Article 178 of this Law, that have been generated or processed by them while providing the public electronic communication networks and/or service, in order to allow access to said data for the purpose of preventing or detecting crimes, conducting criminal proceedings, or when necessary in the interest of the defence and security of Republic of Macedonia.
- (2) The operators shall not be obliged to retain the data referred to in paragraph (1) of this Article that they have not generated, nor processed themselves.
- (3) Upon request, the operators shall be obliged to submit the data referred to in paragraph (1) of this Article, and any other necessary information concerning these data, to the competent authorities, under the conditions and following the procedure established by law.
- (4) The operators of public electronic communication networks and/or services shall be obliged to ensure all necessary technical means and organisational measures to retain the data on the electronic communications referred to in Article 178 of this Law, on their own expense.
- (5) All necessary technical means referred to in paragraph (4) of this Article must not be set up outside of the Republic of Macedonia.

Article 177

Data protection and security

The operators shall be obliged to particularly comply with the following security principles concerning the data referred to in Article 178 of this Law:

1. the data shall be of same quality and shall be subject to same security and protection as the data in the electronic communication network;
2. adequate technical and organisational protection measures against incidental or unlawful destruction, accidental loss or modification, or unauthorised or unlawful storing, processing, access, or disclosure, shall be applied in regards to the data;
3. adequate technical and organisational measures, allowing only access by authorised persons of the Operator, shall be applied in regards to the data; and
4. with the exception of the data accessed or stored, the data shall be destroyed after the expiration of the period for their retention set in Article 176, paragraph (3) of this Law.

Article 178

Types of retained data

(1) The operators shall be obliged to retain the following types of data:

(A) Data required for interception and identification of the source of communication:

1. when providing telephone services via fixed or mobile public electronic communication network:
 - (i) calling party telephone number;
 - (ii) name and address of the subscriber or registered user;
2. when providing access to internet, e-mail, and telephone services via internet:
 - (i) assigned user identification code;
 - (ii) user identification code and the telephone number assigned for any kind of communication during access to a public telephone network;
 - (iii) name and address of subscriber or registered user, who has been assigned an internet protocol (IP) address, user identification code, or telephone number during the communication;

(B) Data required to identify the destination of the communication:

1. when providing telephone services via fixed or mobile public electronic communication network:
 - (i) called telephone number and, in case of additional services, such as call forwarding, the number or numbers to which the call has been forwarded;
 - (ii) name and address of the subscriber or registered user;
2. when providing access to internet, e-mail, and telephone services via internet:
 - (i) user identification code or telephone number of the recipient of the telephone call via internet;
 - (ii) name and address of the subscriber or registered user, and the user identification code of the recipient of the telephone call via internet;

(C) Data required for identification of the date, time, and duration of the communication:

1. when providing telephone services via fixed or mobile public electronic communication network: date and time of the start and end of communications;
2. when providing access to internet, e-mail, and to telephone services via internet:
 - (i) the date and time of internet access log-in and log-out for a specific time zone, along with the IP address, irrespective whether it is dynamic or fixed, assigned by the Operator of public electronic communication networks and/or services providing the internet access, and the user identification code of the subscriber or the registered user;
 - (ii) date and time log-in and log-out to the e-mail service or to the telephone services via internet, for a specific time zone;

(D) Data required to identify the type of communication:

1. when providing telephone services via fixed or mobile public electronic communication network: the telephone service that has been used;
2. when providing access to internet, e-mail, and telephone services via internet: the internet service that has been used;

(E) Data required for identification of the communication equipment of the user or the one that is deemed as such:

1. when providing telephone services via fixed public electronic communication network: the calling party and called party telephone numbers;
2. when providing telephone services via mobile public electronic communication network:
 - (i) the calling party and called party telephone numbers;
 - (ii) the international mobile subscriber identity (IMSI) of the calling party;
 - (iii) the international mobile station equipment identity (IMEI) of the calling party;
 - (iv) IMSI of the called party;
 - (v) IMEI of the called party;
 - (vi) in case of anonymous pre-paid service, the date and time of the initial service activation and the location code (cell code) where the service was activated;
3. when providing access to internet, e-mail, and telephone services via internet:
 - (i) calling party telephone number for dial-up access;
 - (ii) the digital subscriber line (DSL) or any other termination point of the party that initiated the communication;

(F) Data required to identify the location of the mobile communication equipment:

1. location code (cell code) at the beginning of the communication;
2. identification data for the geographic location of the cells by forwarding their locations codes (cell codes) for the time period during which the communication data are retained;

- (2) The telephone service referred to in paragraph (1) of this Article shall mean calls (including voice, voice mail, and conference and data calls), additional services (including call

forwarding and call diversion), enhanced sending of messages and multimedia services (including the short messaging service, improved media services, and multimedia services).

- (3) The data referred to in paragraph (1) of this Article shall include the data referring to unsuccessful call attempts. The operators shall not be obliged to retain data of unsuccessful calls.
- (4) The operators must not retain the data disclosing the content of the communication.
- (5) The operators shall be obliged to retain the data referred to in paragraphs (1) and (3) of this Article for a period of 12 months from the date of the performed communication.

Chapter Nineteen

PENALTY AND MISDEMEANOUR PROVISIONS

Article 179

Use of radio frequencies without authorisation for use of radio frequencies

- (1) Legal person who uses radio frequencies without authorisation for use of radio frequencies intended for performing broadcasting activity, and thereby gains financial benefit shall be penalized with a fine between 100 000 denars and 30 million denars.
- (2) The responsible person in the legal person or natural person responsible for the performed offense referred to in paragraph (1) of this Article shall be punished with imprisonment between one and five years.
- (3) In addition to the imprisonment sentence referred to in paragraph (2) of this Article, the responsible person or for the same offense shall also be pronounced a temporary prohibition to perform professional activity or duty between one and three years for the same offense.

Misdemeanours

Article 180

- (1) Misdemeanour fine in the amount between 7% and 10% of the total annual revenue of the legal entity (expressed in absolute terms) throughout the business year, preceding the year of the offense or of the total revenue generated for a shorter annual period which preceded the offense, if that person started the operations in the same year, shall be pronounced against the legal person, provided:
 1. it fails to submit a notification the Agency, prior to the commencement of the provision of public electronic communications networks and/or services (Article 60, paragraph (1));
 2. it fails to respond to a request for access or interconnection, or fails to sign the agreement for interconnection or access within the deadlines set in Article 73, paragraph (4);
 3. it fails to respond to a request for interconnection or access to any point within its networks, where it is technically viable, including access to points which are not termination points of the network(Article 73, paragraph (5));
 4. it fails to submit to the Agency the signed agreements for interconnection or access, in accordance with Article 73, paragraph (7);
 5. it acquires ownership of communications networks, contrary to the prohibition laid down in Article 83;
 - 6.it fails to publish information in accordance with Article 84, paragraphs (1) and (2);

7. fails to submit to the Agency proposal of a reference offer for interconnection or access, in accordance with Article 84, paragraph (3);
8. it fails to publish the reference offer on its web-site within five days following the receipt of the authorisation from the Agency (Article 84, paragraph (5));
9. it fails to apply the prices in the approved reference offer from the first day of the month following the month when the approval has been granted by the Agency (Article 84, paragraph (6));
10. in case it deviates from the approved reference offer when entering into agreements for interconnection or access (Article 84, paragraph (8));
11. it fails to act in accordance with the decision of the Agency within 30 days of its receipt (Article 84, paragraph (9));
12. it fails to apply equivalent conditions in equivalent circumstances for the other operators providing the same services, or fails to provide services and information to other operators under the same conditions and with the same quality as those provided for its own services or those of its subsidiaries or partners (Article 85, paragraph (2));
13. it fails to keep separate accounting for the interconnection or access activities (Article 86, paragraph (1));
14. it fails to submit the accounting data upon the Agency's request, including data on revenues received from third parties (Article 86, paragraph (3));
15. it fails to meet the obligations for access or joint use of specific network facilities in accordance with Article 87, paragraphs (3) and (4);
16. it fails to fulfil the obligation for cost based pricing or fails to fulfil the obligation for cost accounting in accordance with Article 88;
17. it fails to fulfil the obligation to separate the activities associated with providing certain wholesale access services in a separate independent business entity in accordance with Article 89, paragraph (1);
18. it fails to provide products and services for access to all operators in accordance with the Article 89, paragraph (2);
19. it fails to give advance and timely notification to the Agency of its intent to transfer the property of its local access network or a substantial part of the assets to a separate legal person, with different ownership, or of its intention to set up a separate business entity, in accordance with Article 90, paragraph (1);
20. it fails to fulfil its obligations to regulate the retail prices, according to Article 91, paragraph (2);
21. it fails to implement an adequate cost accounting system, in accordance with Article 91, paragraph (4);
22. it uses radio frequencies without authorisation to use radio frequencies (Article 129, paragraph (1));

23. it transfers or leases the right to use radio frequencies to another person or entity without prior consent obtained from the Agency (Article 145, paragraph (1));
 24. it uses numbers and/or number ranges without resolution obtained from the Agency (Article 150, paragraph (1));
 25. it uses numbers and/or number ranges failing to be in accordance with these terms and conditions for use of numbers and/or number ranges (Article 153); and
 26. it releases or uses radio equipment using radio frequency bands which are not harmonized at an EU level without consent from the Agency (Article 163, paragraph (1));
- (2) Fine in the amount of 3 000 to 6 000 EUR in equivalent denars value shall be pronounced against the responsible person in the legal entity or against the sole proprietor for the offense referred to in paragraph (1) of this Article.

Article 181

- (1) Misdemeanour fine in the amount between 4% and 7% of the total annual revenue of the legal person (expressed in absolute terms) generated during the business year preceding the year when the offense was committed, or of the total revenue generated in a shorter period in the year which preceded the offense, if said legal persons has started its business activities that year, shall be pronounced against the legal person, provided:
1. the public electronic communications networks and associated facilities are not built as specified in Article 62 paragraph (4);
 2. the public electronic communications networks and associated facilities are not planned, designed, built, and installed in the manner prescribed in Article 64;
 3. it fails to establish a separate legal entity for provision of public electronic communications networks and/or services, or fails to keep separate accounting for the activities related to the provision of public electronic communications networks and/or services, in accordance with Article 72;
 4. it fails to protect the confidentiality of all data exchanged when entering into an agreement for interconnection or access, in accordance with Article 73, paragraph (3);
 5. it fails to provide access to a fixed location or provide telephone service, in accordance with Article 93;
 6. it fails to provide information for the complete directory (Article 94, paragraph (2));
 7. it fails to provide data on its subscribers to the universal service providers (Article 94, paragraph (6));
 8. it fails to include the data on subscribers in the complete directory or the directory inquiry services, or fails to notify the Agency if any operator has failed to provide the requested data (Article 94, paragraph (7));
 9. it fails to provide calling the emergency services number from public payphones, free of charge (Article 95 paragraph (2));
 10. it fails to undertake special measures for persons with disabilities in accordance with Article 96;
 11. it fails to submit data on its operations to the Agency (Article 97, paragraph (13));

12. it fails to inform the Agency in writing about its intention to transfer its local access network, as a whole or greater part thereof, to another entity that has a different ownership structure, within the period specified in Article 98, paragraph (1);
13. it fails to fulfil the obligation to limit the retail prices or to establish the same price for services provided based on geographic averages (Article 99, paragraph (4));
14. it fails to offer special rates or bundles that differ from those provided at regular commercial terms (Article 99, paragraph (5));
15. the authorisation holder fails to adjust its operations in the period specified in the decision of the Agency (Article 146, paragraph (2));
16. It transfers the right to use the numbers and/or number ranges onto another legal entity without obtaining prior consent from the Agency (Art 155 paragraph (1)).
17. it fails to apply the principles of objectivity, transparency, proportionality or non-discrimination equally to all broadcasters (Article 159, paragraph (1));
18. if it fails to publish on its web-site or fails to submit to the Agency the conditions and the prices for digital broadcasting (Article 159, paragraph (3));
19. it fails to submit to the Agency a written notification with detailed rationale on the planned amendments, or submits the written notification within a period shorter than 60 days from the date of the planned amendments (Article 159, paragraph (4));
20. it fails to enter into an agreement for digital broadcasting with a broadcaster within 15 days from the receipt of the notification from the regulatory body competent in the field of broadcasting (Article 159, paragraph (5));
21. it fails to enter into an agreement for a period shorter than the period of the broadcaster's license, or if, within seven days from the date of signing the agreement, fails to submit it to the Agency (Article 159, paragraph (6));
22. it fails to keep separate accounting for the activities related to digital broadcasting (Article 159, paragraph (8));
23. it fails to undertake adequate technical and organisational measures for the purpose of managing the risks related to the security of networks and services (Article 166, paragraphs (1) and (2));
24. if fails to adopt or to implement the security policy (Article 166, paragraph (3));
25. if fails to submit to the Agency the notification on security violation or loss of integrity that has had significant impact on the functioning of networks and services, in accordance with Article 166, paragraph (4);
26. it fails to inform the subscribers of a significant risk of network security violation, in accordance with Article 166, paragraph (6);
27. it fails to address a request from the Agency, in accordance with Article 166, paragraph (8);
28. it fails to submit to the Agency and the Personal Data Protection Directorate a notification of a personal data security violation, in accordance with Article 167, paragraph (1);
29. it fails to inform the subscriber or the individual in accordance with Article 167, paragraph (2);

30. the notification is not in compliance with Article 167, paragraph (3);
31. it fails to keep a Registry of personal data security violation, in accordance with Article 167, paragraph (6);
32. it performs listening to, monitoring, storing, recording, retaining, and any other form of interception or monitoring of the communications without consent of the respective users (in accordance with Article 168, paragraph (2));
33. it stores information or gives access to information that has been already stored in the terminal equipment of the subscriber or the use, contrary to Article 168, paragraph (5);
34. it fails to erase or make anonymous the traffic communication data, in accordance with Article 169, paragraph (1);
35. it processes traffic communication data contrary to Article 169, paragraphs (2) and (3);
36. it allows access to the processing of traffic communication data to unauthorised persons (Article 169, paragraph (5));
37. it fails to provide the traffic communication data for the purpose of dispute resolution (Article 169, paragraph (6));
38. it fails to store the traffic communication data in Republic of Macedonia (Article 169, paragraph (7));
39. it processes the location data contrary to Article 171, paragraphs (1), (2), and (3);
40. it allows access to location data to unauthorised persons (Article 171, paragraph (4));
41. it fails to provide all necessary technical conditions for interception of communications in its network (Article 175, paragraph (1));
42. it fails to provide or maintain, at its own expense, the equipment, adequate interface, or fails to establish electronic communication lines for transmission to the authorised body interception of communications (Article 175, paragraph (2));
43. it fails to request from the authorised body for interception of communications the technical specification for the type and properties of said equipment and interface (Article 175, paragraph (3));
44. it fails to implement the established information security measures and standards in accordance with Article 175, paragraph (4);
45. it fails to remove the introduced compression or encryption of the communication traffic (Article 175, paragraph (5));
46. it fails to allow the authorised body for interception of communications to intercept the communications in real-time, the information of the intercepted communication is not made available after the completion of the communication, or the interception of communications has not remained uninterrupted for the whole duration (Article 175, paragraph (6));
47. it fails to accurately and uniformly connect the information on the intercepted communication with the content of the intercepted communication (Article 175, paragraph (7));
48. it fails to make the person, whose communications are intercepted, or another unauthorised person, unaware of any changes in the quality of the communication

- service, or the functioning of the intercepted communication service has changed for the person, whose communications are intercepted (Article 175, paragraph (8));
49. it fails to ensure the same or better security and quality of the intercepted communication service than the security and quality of the communication services provided to the person whose communications are being intercepted (Article 175, paragraph (9));
 50. it fails to retain the data on the electronic communications in accordance with Article 176, paragraph (1);
 51. it fails to submit to the competent authorities the data and all other necessary information in accordance with Article 176, paragraph (3);
 52. it fails to provide, at its own expense, all necessary technical means and organisational measures for retaining the data (Article 176, paragraph (4));
 53. all necessary technical means have been set up outside of the Republic of Macedonia (Article 176, paragraph (5));
 54. it fails to observe the data security principles defined in Article 177;
 55. if it fails to retain the types of data set in Article 178, paragraphs (1) and (3);
 56. it retains data that are disclosing the content of the communication (Article 178, paragraph (4)); and
 57. it fails to retain the data for a time period in accordance with Article 178, paragraphs (5).
- (2) Fine between 1 500 and 3 000 EUR, in denar equivalent value, shall be pronounced against the responsible person in the legal entity and against a sole proprietor for the misdemeanour referred to in paragraph (1) of this Article.

Article 182

- (1) Misdemeanour fine in the amount of up to 20 000 EUR, in denar equivalent value, shall be pronounced against a legal person, provided:
1. it fails to ensure uninterrupted supervision or fails to provide all information and data required to conduct the supervision (Article 40, paragraph (1));
 2. it fails to provide the conditions necessary for uninterrupted work or assessment of the actual situation (Article 40, paragraph (2));
 3. it fails to provide access to the premises or documents, which are subject matter of the supervision, within the set deadline (Article 40, paragraph (3));
 4. it fails to comply with the obligations referred to in Article 42 during the supervision procedure;
 5. it, upon a request from the Agency, fails to submit to the Agency, to the extent and within the deadline set in the request (Article 55, paragraph (4));
 6. the maintenance of the public electronic communication network and associated facilities is not performed in the manner determined in Article 62, paragraph (3);
 7. the business or residential building is not planned or built in the manner determined in Article 63;

8. it does not allow an operator of public electronic communication network access to the physical infrastructure under fair conditions, deadlines or prices (Article 66, paragraph (1));
9. it does not allow an access to the minimum information within one month from the date of receipt of an operator's request, or fails to provide said access under proportionate, non-discriminatory or transparent conditions (Article 67, paragraph (4));
10. it does not allow an operator on-site access to the elements of its physical infrastructure, within one month from the receipt of the written request thereof, or fails to observe the principles of proportionality, non-discrimination or transparency (Article 67, paragraph (5));
11. it fails to make available for an operator the minimum information referring to the current or planned construction works, in accordance with Article 67, paragraph (6);
12. it fails to provide the requested information, within 60 days from the date of receipt of the written request, fails to provide them under proportionate, non-discriminatory or transparent conditions, or fails to make them available for the Agency (Article 67, paragraph (7));
13. it fails to provide access to the concentration point of the building in accordance with Article 69, paragraph (1);
14. it fails to submit to the Agency the information for provision of access in accordance with Article 69, paragraph (5);
15. it fails to comply with the obligations for joint use of the same location (co-location) or joint use of network elements and associated facilities in accordance with Article 75, paragraphs (1) and (2);
16. it fails to submit to the Agency the information in relation with the planned construction works in accordance with Article 75, paragraph (5);
17. the prices of individual service covered by the universal service are not equal throughout the whole territory of Republic of Macedonia (Article 99, paragraph (2));
18. it fails to publish the pricing of individual services covered by the universal service on its web-site and/or in such a way as to make them available to the public (Article 99, paragraph (6));
19. it fails to provide the cost control option to its subscribers in accordance with Article 100, paragraph (2);
20. it fails to issue a detailed bill to its subscribers in accordance with Article 101;
21. it fails to meet the quality parameters in accordance with Article 103, paragraph (1);
22. the agreement for connection setup and use of public communication networks and/or public electronic communication services does not contain the data referred to in Article 107, paragraphs (1), (2), and (4);
23. it uses the data for other purposes than those defined in Article 107, paragraph (6);
24. it does not keep the data in accordance with Article 107, paragraph (7);
25. it fails to keep records on all established subscriber relations in accordance with Article 107, paragraph (8);

26. it fails to publish transparent, adequate or updated information, in accordance with Article 108, paragraphs (1), (3), and (4);
27. it fails to publish comparable, adequate or updated information on the quality of its services or on the undertaken measures for ensuring equality in regards to the access for end users with disabilities, or fails to submit said information to the Agency before publishing them (Article 109, paragraphs (1) and (2));
28. it fails to provide conditions for controlling and measuring the quality parameters of the public communication services (Article 109, paragraph (3));
29. it fails to provide a minimum quality of services, as tasked by the Agency (Article 109, paragraph (4));
30. it fails to inform its subscribers, free of charge, and before including them in the directory, for the purpose of the printed or electronic directory, or of any further options for use of their personal data (Article 112, paragraph (5));
31. it has included its subscribers or published personal data of its subscribers, in the directories and directory enquiry services, without prior consent obtained thereof (Article 112, paragraph (6));
32. it fails to afford the subscriber an option to amend or supplement its personal data, free of charge, or to revoke its consent to be included in the directories and directory enquiry services (Article 112, paragraph (7));
33. it misleads the users of services by giving them wrong or untrue information, or by concealing relevant information (Article 113, paragraph (1));
34. it fails to provide an announcement of the call price or the commencement of charging, at the beginning of each call to a value added service, or fails to allow termination of the call within a reasonable time after the announcement, and before the commencement of the call charging (Article 113, paragraph (2));
35. it limits the access to and/or use of services and applications contrary to Article 114;
36. it provisionally limits or terminates the access contrary to Article 115;
37. it fails to provide free of charge access to the emergency services numbers or the single European emergency number "112" in accordance with Article 117, paragraphs (1) and (2);
38. it fails to submit to the body in charge of receiving the calls to the single European emergency number "112", free of charge, all available data on the successful calls to the number "112" (Article 117, paragraph (4));
39. it fails to treat the call to the number "112" in the same manner as the other calls to the emergency services numbers which are still used in the Republic of Macedonia (Article 117, paragraph (5));
40. it fails to provide establishing of all calls to the number range beginning with the number "116" in accordance with Article 119;
41. it fails to act in accordance with the approval for the allocation of radio frequencies (Article 142, paragraph (1));
42. it assigns numbers and/or number ranges to providers of other services without an agreement, or without observing the principle of non-discrimination (Article 151, paragraph (8));

43. it fails to act in accordance with Article 172, paragraph (3) in regards to the calls to emergency service.
- (2) Fine between 1 000 and 1 500 EUR, in denar equivalent value, shall be pronounced to the responsible person in the legal entity and to a sole proprietor for the misdemeanour referred to in paragraph (1) of this Article.

Article 183

- (1) Misdemeanour fine in the amount of up to 10 000 EUR, in denar equivalent value, shall be pronounced against a legal person, provided:
1. it fails to pay the annual fee for market supervision within the deadline set in Article 30, paragraph (5);
 2. it fails to pay the calculated difference in accordance with Article 30, paragraph (7);
 3. it fails to pay the annual fee for use of radio frequencies in accordance in accordance with Article 31, paragraph (5);
 4. it fails to pay the annual fee for use of numbers and/or number ranges in accordance with Article 32, paragraph (6);
 5. it fails to inform in writing the applicant on the rejection of its request, or fails to state the reasons thereof, within the deadline defined in Article 66, paragraph (3);
 6. it fails to comply with a reasonable request for entering into an agreement for mutual coordination of the construction works, in accordance with Article 68, paragraph (1);
 7. it fails to update the data for the complete directory or the complete directory enquiry service, in accordance with Article 94, paragraph (5);
 8. it restricts the access to its services and/or disconnects the subscriber or terminates the agreement for connection setup and use of public communication networks and/or public electronic communication services contrary to Article 102;
 9. it fails to publish the quality data on the services covered by the universal service, or fails to submit them to the Agency (Article 103, paragraph (2));
 10. it fails to make the payment in the Universal Service Compensation Fund within the deadline and in the amount set in a decision of the Agency (Article 106, paragraph (4));
 11. it signs initial agreement for a mandatory duration exceeding 24 months or fails to afford an option to the subscriber to sign an agreement for duration not exceeding 12 months (Article 107, paragraph (9));
 12. it fails to meet the technical or functional requirements in accordance with Article 110, paragraph (1);
 13. it fails to meet the additional obligations on the entire or part of the territory of Republic of Macedonia, in accordance with Article 111;
 14. it fails to fulfil all justified request for obtaining data on its subscribers by the public directory enquiry services or directories, in accordance Article 112, paragraph (2);
 15. it fails to provide access to the directory enquiry services for all end users of public telephone services (Article 112, paragraph (3));
 16. it fails to provide number portability to its subscriber in accordance with Article 116;

17. it fails to provide call origination to numbers from the Numbering Plan in accordance with Article 118, paragraph (2);
18. it fails to provide an option for the users of services from other countries to access non-geographic numbers from the Numbering Plan in accordance with Article 118, paragraph (4);
19. if fails to terminate the agreement, free of charge, or fails to return all unwarranted collected money, in accordance with Article 120, paragraph (7);
20. it uses radio frequencies without valid CEPT amateur radio license (Article 131, paragraph (2));
21. it fails to inform the Agency of any changes in the data defined in the application for issuing an authorisation for use of radio frequencies within 14 days of the date when the change was made (Article 133, paragraph (6));
22. the public communications networks used for transmission of digital television services are not planned in such a way so as to ensure transmission of widescreen television services and programmes (Article 158, paragraph (1));
23. when receiving and re-transmitting the widescreen television services and programmes, it does not maintain their format (Article 158, paragraph (2));
24. the providers of interactive digital television services are not using an open API (Article 158, paragraph (3));
25. the providers of enhanced digital television equipment are using open APIs, which are not in compliance with the minimum requirements of the relevant standards or specifications (Article 158, paragraph (4));
26. it fails to provide to all broadcasters, under fair, reasonable or non-discriminatory conditions, technical services that will enable the broadcasters' programme services broadcasted digitally to be received by the viewers or by the listeners, by using decoders (Article 160, paragraph (2));
27. it fails to keep the accounting for conditional access services separate from that for other activities (Article 160, paragraph (3));
28. it fails to publish or update on its web-site the type and technical specifications of the interface to its public communication network (Article 162, paragraph (1));
29. the technical specifications are not in compliance with Article 162, paragraph (2);
30. it fails to inform the subscriber in accordance with Article 169, paragraph (4);
31. it fails to remove the option for restriction of calling party line identification in accordance with Article 172, paragraph (1);
32. it fails to keep the incoming and outgoing calls of the subscriber in accordance with Article 172, paragraph (2);
33. it fails to enable a subscriber to stop the automatic call forwarding by a third party to its terminal equipment, free of charge and by using simple means (Article 173); and
34. it allows the use of automatic calling and of communication systems for calling subscribers' telephone numbers, without prior consent obtained from said subscribers (Article 174, paragraph (1)).

- (2) Fine between 500 and 1 000 EUR, in denar equivalent value, shall be pronounced to the responsible person in the legal entity and to a sole proprietor for the misdemeanour referred to in paragraph (1) of this Article.

Article 184

- (1) Misdemeanour fine in the amount of up to 5 000 EUR, in denar equivalent value, shall be pronounced against a legal person, provided:
1. it fails to submit a report on the amount of the total revenue within the deadline established in Article 30, paragraph (3);
 2. it fails to inform the Agency of any amendment of the data in accordance with Article 60, paragraph (6);
 3. it fails to inform the Agency of its cessation to provide public electronic communication networks and/or services in accordance with Article 60, paragraph (7);
 4. it fails to provide data on at least one telephone number that will be published in the complete directory (Article 94, paragraph (4));
 5. it fails to submit to the Agency on the data of generated revenues in accordance with Article 106, paragraph (5);
 6. it fails to address a complaint submitted by a subscriber in accordance with Article 113, paragraph (3);
 7. it fails to adopt a decision in regards to the complaint within 10 days from the date of submission of said complaint (Article 113, paragraph (4));
 8. it abuses the calls to emergency services numbers or the single European emergency number "112" in accordance with Article 117, paragraph (7);
 9. it fails to issue to a subscriber, a certificate on the conducted administrative and/or technical verification, or a certificate with accurately and clearly stated elements of the administrative and/or technical verification (Article 120, paragraph (4));
 10. in case of lodged complaint fails to act in accordance with Article 120, paragraph (5);
 11. it fails to, immediately or free charge, resume or continue providing the service (Article 120, paragraph (6));
 12. it fails to reply to a subscriber in writing concerning the grounds of the lodged complaint within 15 days from the date of receipt of said complaint (Article 120, paragraph (8));
 13. it fails to inform the Agency of any change in the data on the holder of the authorisation for use of radio frequencies within 30 days from the date when the change occurred (Article 142, paragraph (2));
 14. it fails to submit to the Agency the signed agreements within five days from the date of their signing (Article 151, paragraph (9));
 15. it fails to inform the Agency of any change in the data on the holder of the right for use of numbers and/or number ranges within 30 days from the date when the change occurred (Article 152, paragraph (2));
 16. it refuses to connect radio equipment and/or telecommunication terminal equipment (Article 164, paragraph (1));

17. it fails to inform the Agency that it has refused the connection of the radio equipment and/or telecommunication terminal equipment, it has disconnected or withdrawn from use said equipment, in accordance with Article 164, paragraphs (2) and (3);
 18. it connects to a public telecommunication network radio equipment or telecommunication terminal equipment, which is not compliant with the conditions prescribed in the Law on products' safety, the regulations adopted thereof, and this Law (Article 164, paragraph (4));
 19. it fails to submit to the Agency the data in accordance with Article 165, paragraph (4);
 20. it fails to disconnect from the public mobile communication network, upon a request from the Agency, telecommunication terminal equipment that is not entered in the Registry (Article 165, paragraph (5));
 21. it fails to enable the end user, who originated the call, to prevent the calling party line identification for each individual call in a simple manner, and free of charge (Article 170, paragraph (1));
 22. it fails to enable the called subscriber to prevent the calling party line identification for incoming calls in a simple manner and free of charge (Article 170, paragraph (2));
 23. it fails to enable the called subscriber to reject the incoming calls, in a simple manner and free of charge, in accordance with Article 170, paragraph (3));
 24. it fails to enable the called subscriber to prevent the called party line identification in a simple manner and free of charge (Article 170, paragraph (4));
 25. it fails to inform the public in accordance with Article 170, paragraph (6);
 26. it uses the electronic contact data for the e-mails obtained from consumers of its products or services contrary to Article 174, paragraph (2);
 27. it makes unsolicited communications contrary to Article 174, paragraph (3); and
 28. it send direct marketing e-mails or e-mails soliciting visits to specific web-site contrary to the prohibition referred to in Article 174, paragraph (4).
- (2) Fine in the amount of up to 500 EUR, in denar equivalent value, shall be pronounced against the responsible person in the legal entity and against a sole proprietor for the misdemeanour referred to in paragraph (1) of this Article.

Article 185

Misdemeanour fine between 1 000 and 1 500 EUR, in denar equivalent value, shall be pronounced against a natural person not performing professional activity, provided:

1. it fails to submit a notification to the Agency, before commencing the provision of public electronic communication networks and/or services (Article 60, paragraph (1));
2. it abuses the calls to emergency services numbers or the single European emergency number "112" in accordance with Article 117, paragraph (7);
3. it uses radio frequencies without an authorisation for the use of radio frequencies (Article 129, paragraph (1));
4. it uses radio frequencies without valid CEPT amateur radio license (Article 131, paragraph (2));
5. it connects to public communication network radio or telecommunications terminal equipment contrary to the provision of Article 164, paragraph (4), of this Law.

Article 186

Misdemeanour sanctions

- (1) For committing a misdemeanour referred to in Articles 180, 181, 182, 183 and 184 of this Law, in addition to the fine, a misdemeanour sanction – prohibition to perform specific professional activity for a period between six month to three years, shall be pronounced against a legal person, and a misdemeanour sanction – seizure of the objects used to commit the misdemeanour, may also be pronounced against said person.
- (2) For committing a misdemeanour referred to in Articles 180, 181, 182, 183, and 184 of this Law, in addition to the fine, a misdemeanour sanction – prohibition to perform an occupation, professional activity or duty for a period between three months to one year, shall be pronounced against a responsible person of a legal entity.
- (3) For committing a misdemeanour referred to in Articles 180, 181, 182, 183, and 184 of this Law, in addition to the fine, misdemeanour sanction – prohibition to perform occupation, professional activity or duty for a period between three months and one year, shall be pronounced against a sole proprietor, and a misdemeanour sanction – seizure of the objects used to commit the misdemeanour, may be also pronounced against said sole proprietor.
- (4) For committing a misdemeanour referred to in Article 185 of this Law, in addition to the fine, misdemeanour sanction – seizure of the objects used to commit the misdemeanour, may also be pronounced against a natural person.

Chapter Twenty

TRANSITIONAL AND FINAL PROVISIONS

Article 187

The members of the Agency Commission and the Agency Director, appointed in accordance with the Law on Electronic Communications (Official Gazette of the Republic of Macedonia no. 13/05, 14/07, 55/07, 98/08, 83/10, 13/12, 59/12, 123/12 and 23/13), shall continue to perform their functions until the expiry of the term in office for which they have been appointed.

Article 188

- (1) The Agency shall adopt the regulations arising of this Law within nine months from the date of entry into force of this Law.
- (2) Until the date of entry into force of the regulations referred to in paragraph 1 of this Article, the valid regulations adopted by the date when this Law enters into force shall apply.

Article 189

- (1) The provision in Article 36, paragraph (5) of this Law shall apply from the 1st of June 2015.
- (2) The Commission for professional examination referred to in Article 36, paragraph (5), of this Law shall be established no later the 1st of July 2015. Within 6 months from the date of its establishment, the Commission shall be obliged to conduct the professional examination for the persons who have been employed in the Agency expert service, referred to in Article 36, paragraph (1), of this Law, before said Law has entered into force.
- (3) The Misdemeanour Commission referred to in Article 50, paragraph (4), of this Law, shall be established within 30 days from the date of entry of this Law.

- (4) The misdemeanour proceedings opened in accordance with the Law on Electronic Communications (Official Gazette of the Republic of Macedonia no. 13/05, 14/07, 55/07, 98/08, 83/10, 13/12, 59/12, 123/12 and 23/13) shall continue to be carried out in accordance with said Law.

Article 190

- (1) The Agency shall ensure the single information point referred to in Article 67, paragraph (1), of this Law within six months from the date this Law enters into force.
- (2) The Agency shall be obliged to start a public campaign for promotion of the single information point referred to in Article 67, paragraph (1), of this Law, within one month from the date when this Law enters into force.

Article 191

The existing universal service providers shall continue to provide the services covered in the universal service in accordance with the signed agreements for provision of universal service, even when this Law enters into force.

Article 192

- (1) The holders of authorisations for use of radio frequencies, issued before this Law enters into force, shall have the right to submit to the Agency a request to re-examine the restrictions from the viewpoint of technology neutrality and service neutrality, established in the authorisations for use of radio frequencies, in the period between the date this Law enters into force and the 25th of May 2016.
- (2) When re-examining the restrictions referred to in paragraph (1) of this Article, the Agency may establish new conditions for use of radio frequencies different to those determined in the issued authorisations for use of radio frequencies, as well as payment of new one-time fee for use of radio frequencies in accordance with Article 33 of this Law, in case the existing authorisation for use of radio frequencies is amended.
- (3) Before making the decision in regards to the request referred to in paragraph (3) of this Article, the Agency shall be obliged to inform the application of the new conditions referred to in paragraph (2) of this Article, such as the payment of the new one-time fee for use of the radio frequencies, and to define a reasonable period when it may withdraw the request, if it refuses to accept the new conditions for use of radio frequencies, and the payment of the one-time fee. In such case, the conditions for use of the radio frequencies set in the existing authorisation for use of radio frequencies shall continue to be valid until the 25th of May 2016.
- (4) After the 25th of May 2016, the Agency shall undertake all required measures in order to ensure that the provisions in Article 126 and 127 of this Law shall apply to all of the remaining holders of authorisations for use of radio frequencies, issued before this Law enters into force, taking into account the fair competition in accordance with this Law.

Article 193

- (1) The operators shall be obliged to align their operations in accordance with the act referred to in Article 166 of this Law, within 18 months from the date when this Law enters into force.
- (2) The operators shall be obliged to provide all technical means and organisational measures referred to in Article 176, paragraph (4), of this Law, within 9 months of the date when this Law enters into force.

Article 194

The existing official identity cards of the electronic communications inspectors issued in accordance with the Law on Electronic Communications (Official Gazette of Republic of Macedonia no. 13/05, 14/07, 55/07, 98/08, 83/10, 13/12, 59/12, 123/12 and 23/13) shall continue to be valid until the adoption of the bylaw referred to in Article 37, paragraph (3), of this Law.

Article 195

The procedures for issuing authorisations for use of radio frequencies and transfer of right to use radio frequencies, initiated in accordance with the Law on Electronic Communications (Official Gazette of Republic of Macedonia no. 13/05, 14/07, 55/07, 98/08, 83/10, 13/12, 59/12, 123/12 and 23/13) shall continue in accordance with this Law.

Article 196

The Law on Electronic Communications (Official Gazette of the Republic of Macedonia no. 13/05, 14/07, 55/07, 98/08, 83/10, 13/12, 59/12, 123/12 and 23/13) shall cease to be valid on the day this Law enters into force.

Article 197

This Law shall enter into force on the eighth day after its publication in the "Official Gazette of Republic of Macedonia".