

Electronic Communications Act

No. 81, 26 March 2003

Entered into force 25 July 2003, cf. however the provisions of Article 76

EEA legislation: Annex XI, Regulation 2887/2000/EC, Directives 1999/5/EC, 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC, 2002/58/EC and 2002/77/EC

CHAPTER I

Objective and scope. Administration of electronic communications affairs

Article 1

Objective and scope

This Act shall apply to electronic communications, electronic communications service and electronic communications networks.

The objective of the Act is to ensure cost-efficient and secure electronic communications in Iceland and encourage effective competition in the electronic communications market.

The Icelandic state shall ensure as far as possible that all Icelanders have access to electronic communications services as provided for in detail in this Act.

Electronic communications which consist exclusively of messages or transmissions via wire connections within the premises of a household, enterprise or institution, such as in hospitals, hotels, schools and factories, shall not fall within the scope of this Act.

This Act shall not apply to content broadcast on electronic communications networks.

Article 2

Administration of electronic communications affairs

The Minister of Communications shall be ultimately responsible for electronic affairs.

The Post and Telecom Administration shall supervise electronic communications within the jurisdiction of the Icelandic state and supervise the enforcement of this Act.

CHAPTER II

Definitions

Article 3

For the purposes of this Act the following definitions shall apply:

1. *Access*: the making available to another undertaking of an electronic communications network, facilities or services under defined conditions for the purpose of providing electronic communications services;
2. *Publicly available telephone service*: a service available to the public for the transmission of national and international calls through terminal equipment which is connected to a fixed network termination point (NTP);
3. *Public pay telephone*: a telephone available to the public for use for payment;
4. *Public telephone network*: an electronic communications network which is used to provide publicly available telephone service. The network supports the transfer between NTPs, for both speech and other types of communication, such as fax and data.
5. *Public communications network*: an electronic communications network which is used wholly or mainly for the provision of publicly available electronic communications services;
6. *Universal service*: limited electronic communications services of a specified minimum quality which are available to all users at an affordable price regardless of their geographical location;
7. *Subscriber*: any natural person or legal entity which is party to a contract with a seller of publicly available electronic communications services for the supply of such services;
8. *Wide-screen television service*: a television service which consists wholly or partially of programmes produced to be displayed in a full-height, wide-screen format.

9. *Carrier pre-selection*: a possibility offered subscribers of telephone services enabling them to direct certain classes of telephone communications to specific service providers, selected in advance, without having to use the prefix of the service provider in question;
10. *Electronic communications undertaking*: a natural person or legal entity which has notified the Post and Telecom Administration (PTA) of the proposed operation of electronic communications services or an electronic communications network;
11. *Electronic communications undertaking with significant market power*: an undertaking defined by PTA as having significant market power;
12. *Electronic communications network*: transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, radio, optical signals, electricity distribution systems, high-voltage lines or other electromagnetic means, including networks for radio and television broadcasting and cable television networks;
13. *Electronic communications infrastructure*: Any sort of device, device components, wiring, equipment or similar objects which are especially intended to establish or operate electronic communications, whether for purposes of transmission or reception;
14. *Electronic communications service*: a service provided wholly or partially by the conveyance of signals on electronic communications networks;
15. *Electronic communications*: any type of transmission and receipt of symbols, signals, writing, images and sounds, or any sort of communication on lines, by radio or other electromagnetic systems;
16. *Application program interface (API)*: 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;
17. *Prefix*: a number which a user selects prior to a telephone number to gain access to a service provider;
18. *Local loop*: a copper line connecting the NTP at a subscriber's residence with the main distribution frame (MDF) or equivalent facility of the public telephone network;
19. *Network termination point (NTP)*: the physical point at which a subscriber is provided with access to a public communications network;
20. *User*: a natural person or legal entity using or requesting to use a public communications network;

21. *Number and address*: a series of symbols used to identify individual subscribers in electronic communications infrastructures;
22. *Co-location*: access to space and technical services required to accommodate rightholders' equipment and connect it without difficulty;
23. *Merger*: the definition of a merger shall be as provided for in the Competition Act;
24. *Interconnection*: physical and logical connection of electronic communications networks enabling users to communicate with other users or gain access to services provided by another electronic communications undertaking. It makes no difference whether the service is provided by the network owner or other parties which may have access to the electronic communications network;
25. *Harmful interference*: interference which endangers the function of, seriously degrades, obstructs or repeatedly interrupts a radio communications service;
26. *Conditional access system*: any technical measure or arrangement providing access to a closed radio or television service;
27. *Value-added service*: a service where value-added factors are added to electronic communications service;
28. *Supplementary charge*: a fee for value-added service which is higher than the general telephone call charge;
29. *Enhanced digital television equipment*: a set-top box intended for connection to a television set or digital television set which can receive digital interactive television services.

CHAPTER III

Authorisation for electronic communications provision

Article 4

Authorisations

Electronic communications undertakings shall have a general authorisation to operate electronic communications networks and provide electronic communications services. This authorisation shall include natural persons and legal entities established within the European Economic Area (EEA) and, in addition, member states of the

World Trade Organisation (WTO), as provided for by the Minister of Communications in a Regulation.¹⁾

Electronic communications undertakings providing electronic communications networks, electronic communications services or access connected with electronic communications networks and services must send notification thereof to the PTA before commencing operation, providing the information required for registration of the undertaking in question and its activities.

PTA shall maintain a register of all electronic communications undertakings which have given notification that they will operate on the basis of a general authorisation. At the request of an electronic communications undertaking, PTA must, within one week of receiving a request, issue a confirmation that the undertaking has sent in a notification for registration.

^{1)Reg. 734/2000.}

Article 5

Minimum rights included in general authorisation

Electronic communications undertakings with a general authorisation, as provided for in Article 4, shall be entitled to operate an electronic communications network or electronic communications service and submit applications to install facilities as referred to in Article 69.

A general authorisation shall entitle undertakings offering or intending to offer public electronic communications and public electronic communications networks to reach agreement on interconnection and, where applicable, gain access or interconnection to other electronic communications undertakings.

A general authorisation shall similarly entitle an undertaking to be considered as a universal service provider.

Article 6

Requirements for general authorisation

PTA shall adopt rules¹⁾ concerning general authorisations. The conditions shall be objective and transparent and ensure non-discrimination in granting authorisations.

The conditions may include one or more of the following:

a. financial contribution to an equalisation fund for universal service, as provided for in Article 22,

- b. that mutual interoperability of services and interconnection of networks, as provided for in Article 24, be ensured,
- c. that subscribers of electronic communications undertakings be ensured access to numbers,
- d. requirements concerning environmental protection and planning, requirements connected with access to public or private property, conditions connected with co-location and facility sharing, financial or technical guarantees required to ensure the proper execution of infrastructure works,
- e. “must carry” obligations concerning the distribution of radio programming, cf. Article 55,
- f. requirements on protection of personal data and privacy,
- g. requirements on consumer protection in the field of electronic communications,
- h. restrictions concerning transmission of illegal content and restrictions on harmful content of television programming,
- i. provision of necessary information concerning registration and supervision,
- j. authorisation to competent authorities for interception of electronic communications networks in accordance with provisions on the processing and treatment of personal data,
- k. ensuring electronic communications between search-and-rescue units and the authorities and emergency radio broadcasts to the public in the case of disasters or natural catastrophes,
- l. measures to limit the risk to the public posed by electromagnetic fields of electronic communications networks,
- m. access obligations apart from those listed in Chapter VII,
- n. requirements to maintain the integrity of public electronic communications networks, including requirements to prevent electromagnetic interference between electronic communications networks or services,
- o. ensuring the security of public networks from illegal access,
- p. concerning the use of frequencies when such use is not subject to individual assignment of rights to use frequencies,
- q. measures to ensure compliance with standards or requirements provided for in Article 59.

PTA may in addition set conditions concerning the operating reliability of networks, ensuring the compatibility of networks and integration of various services.

To ensure the security of the country's electronic communications with the outside world, PTA may set the requirement that electronic communications undertakings operating telephone or data transmission connections with foreign countries use more than one route for the purpose and that the undertakings take measures to transfer telephone and data transmission services from an inoperative or severed route to another viable route within time limits set by the PTA.

PTA may set requirements that owners of an electronic communications undertaking with significant market power do not weaken the undertaking's economic situation or take other abnormal measures which would substantially reduce the undertaking's possibility of fulfilling its obligations under this Act.

PTA may place special obligations on undertakings operating an electronic communications network or electronic communications service, in accordance with the provisions of this Act on access, interconnection and universal service.

¹⁾*Reg. 86/2002.*

CHAPTER IV

Assignment of frequencies and numbers

Article 7

Rights to use frequencies and numbers

Where rights to use specific frequencies and numbers are not covered by subparagraph p of the second paragraph of Article 6, PTA shall, upon receiving an application, assign such rights to electronic communications undertakings which operate or use electronic communications networks or services under a general authorisation. Rights to use frequencies may also be assigned to radio broadcasters following open, transparent and non-discriminatory procedures, if such assignment serves the purpose of the authorities. Rights to use frequencies may also be assigned to parties operating wireless electronic communications equipment for their own purposes. Rights provided for in this Article shall be linked to one name and may not be transferred.

Article 8

Merger and splitting up of undertakings

If an electronic communications undertaking holding rights to use frequencies is involved in a merger, PTA may cancel these rights to use frequencies in part or in full, or change the conditions for the rights if there is a danger that this will interfere with competition or effective use of the frequency spectrum, or if the premises for granting rights to frequencies are substantially altered in other respects or no longer exist.

PTA must be notified of a merger, as referred to in the first paragraph, no later than one week after an agreement thereto is concluded or public notification given of a take-over offer or that a specific party has gained control of an undertaking. PTA shall notify the undertaking concerned within 30 days of receiving satisfactory notification if it sees cause to examine the case. A decision on cancellation or change of rights shall be taken no later than three months after notification by PTA. Should an undertaking fail to fulfil its obligation to give notification as provided for in the first paragraph, PTA may examine the case and take a decision when the Administration learns of the merger in question. Procedure shall be as provided for in this paragraph.

If an undertaking holding the rights to use frequencies is divided into two or more undertakings, PTA may authorise the transfer of rights to use frequencies, or a portion of those rights, to an undertaking created through such division. Such authorisation shall be subject to the condition that it will neither interfere with competition nor effective use of the frequency spectrum and that the new undertaking is regarded as capable of fulfilling the conditions inherent in these rights.

The provisions of the first to third paragraphs shall also apply as appropriate to rights to use numbers.

Article 9

Limits in assignment of rights

PTA may limit the number of assignments of rights to use specific frequencies if such is necessary to ensure efficient use of frequencies. Emphasis shall be placed on users' interests and stimulating competition. All interested parties, including users, shall be given the opportunity to express their views on limits to the rights before PTA takes its decision, which shall be published together with its grounds. The method used to assign rights shall be published and applications invited by advertisement. PTA shall regularly review the limits which have been set, for instance, at the

request of electronic communications undertakings concerned. If further rights to use frequencies can be assigned, an advertisement shall invite applications.

Article 10

Conditions for use of frequencies and numbers

PTA may attach the following conditions to rights to use frequencies:

- a. that assignment of frequencies shall apply only to certain services or types of networks or technology, including as applicable, the assignment of exclusive rights for transmission of special content or for specific audiovisual services;
- b. that use of frequencies is efficient;
- c. that the equipment and operations of an electronic communications undertaking minimise harmful interference and the exposure of the general public to electromagnetic radiation;
- d. that the period of validity for the service in question shall be limited and subject to any changes in the national frequency plan;
- e. that usage fees shall be determined to the extent necessary to ensure the most effective use of frequencies;
- f. that obligations assumed in a selection process are fulfilled;
- g. that obligations under international agreements on use of frequencies are taken into consideration.

PTA may, furthermore, attach the following conditions in assigning numbers:

- a. that assignment of rights to use numbers shall apply only to certain services;
- b. on the supply of a service;
- c. that use of numbers is effective and efficient;
- d. that number portability is offered;
- e. that general public directory information is provided;
- f. that the period of validity of the rights shall be limited and subject to any changes in the national numbering plan;
- g. that the licensee pay usage fees;
- h. that obligations assumed in a selection process are fulfilled;
- i. that obligations under international agreements on use of numbers are taken into consideration.

Article 11

Procedure for assigning of rights to use frequencies and numbers

PTA shall decide on rights to use frequencies and numbers. Such a decision shall be taken, notified and made public as soon as possible after receipt of an application. A decision shall be available within three weeks in the case of numbers assigned for specific purposes within the national numbering plan and within six weeks in the case of frequencies assigned for specific purposes within the national plan.

Applicants for limited rights may be required to submit satisfactory information on their ownership, financial situation and proposed activities, as well as other information deemed necessary for assessment of their applications. Assignment of rights to use numbers and frequencies may be decided by competitive selection procedures. Open procedures shall as a rule be used and the conditions for tendering, in the case of frequencies, shall include a specification of the minimum service area.

The Minister of Communications may decide that assignment shall take place following an auction under special circumstances.

If a decision is taken to hold selection procedures or an auction for assignment of numbers, the time limits for the procedure as provided for in the first paragraph may be extended by three weeks. If a decision is taken to hold selection procedures or an auction for assignment of frequencies, the time limits for the procedure as provided for in the first paragraph may be extended, but no longer than by eight months.

Article 12

Changes to rights

Under special circumstances, for instance when legislation is amended, PTA may in exceptional instances alter the conditions in general authorisations and conditions for assignment of rights.

The interested parties, including users, must be informed of such changes with reasonable notice, which may not, however, be less than one month.

Article 13

Information on authorisations and rights

PTA shall publish necessary information on rights, conditions, procedures, charges and decisions concerning general authorisations. If part of this information is

held by other authorities, PTA shall publish a summary of such information and where it may be obtained.

Article 14

Use of the frequency spectrum

PTA shall encourage the most effective utilisation of the frequency spectrum, in accordance with international agreements thereto, and minimisation of harmful interference of reception of wireless signals. The Administration shall arrange the use of various sections of the frequency spectrum, record such arrangements, prepare a national frequency plan in accordance with this arrangement and provide information on the frequency plan as necessary.

The Minister of Communications may, in a Regulation, lay down detailed rules on the arrangement and assignment of frequencies to both electronic communications undertakings and users.

Article 15

Arrangement of numbers and addresses

PTA shall maintain the numbering arrangements to be used for all types of electronic communications services, including number codes for networks. Information on the numbering arrangements and all changes thereto must be made public.

PTA shall adopt rules¹⁾ on numbers, number series and addresses.

The Minister of Communications may issue a Regulation on the role of PTA in issuing addresses.

¹⁾Reg. 318/2003.

CHAPTER V

Markets

Article 16

Definition of markets

PTA shall define markets for goods or services and geographical markets in accordance with the principles of competition law and obligations under the

Agreement on a European Economic Area (EEA). It shall consult with the Competition Authority as appropriate.

Article 17

Market analysis

PTA shall, having regard to Article 16, analyse relevant markets taking into consideration obligations under the Agreement on a European Economic Area (EEA). Where appropriate, it shall co-operate with the Competition Authority in preparing such analysis.

The analysing of markets shall provide a basis for decisions as to whether PTA shall place, maintain, amend or cancel obligations on undertakings with significant market power, as referred to in Article 18. Where competition is effective no obligations shall be placed on undertakings on these markets. If there is no effective competition in the market concerned, undertakings with significant market power in this market shall be designated as provided for in Article 18. They may be subjected to obligations as provided for in this Act, or such obligations which have already been imposed may be maintained or amended.

Article 18

Significant market power

An undertaking shall be deemed to have significant market power if it, either individually or jointly with others, holds a position of economic strength on a certain market which enables it to prevent effective competition and to operate to a substantial extent without concern for competitors, customers and consumers.

Where an undertaking either individually or jointly with others holds significant market power on a certain market it may also be deemed to have significant market power on a related market where the links between the two markets are such as to allow the market power held in one market to be used to strengthen market power on the other.

The Minister of Communications may issue a Regulation on detailed market breakdown as referred to in Article 16, on definition of market situations, and on the yardsticks to be used in assessing whether undertakings, individually or jointly, hold significant market power as provided for in this Article.

CHAPTER VI

Universal service and specific electronic communications services

Article 19

Right to universal service

All users shall be entitled to universal service, regardless of location, with the exceptions listed in the second and fourth paragraphs.

If it is considered necessary to ensure satisfactory electronic communications services at moderate prices and such services cannot be provided if only commercial aspects are considered, PTA may instruct an electronic communications undertaking which operates a public electronic communications network or electronic communications services to provide universal service in its area of operation. PTA may in special instances grant service providers an exemption from this provision.

Universal service shall include telephone service, manual service and service to disabled or users with special social needs and data transmission service with a capacity of 128 Kb/s. PTA shall furthermore ensure that users have access to at least one comprehensive telephone directory of all subscribers and comprehensive directory enquiry service. PTA may place obligations on electronic communications undertakings to set up and operate public pay telephones and may decide upon their location.

If an electronic communications undertaking does not feel able to provide certain parties with universal service, as provided for in the first paragraph, for instance, due to distance, cost or other difficulties, any dispute concerning this refusal shall be sent to PTA for a decision.

PTA may set minimum quality requirements for universal service.

Article 20

Universal service obligations

PTA may designate one or more electronic communications undertakings to provide universal services, cf. Article 19, in specific areas or for different types of service.

PTA shall monitor the tariffs charged for universal service and may determine maximum prices. The same tariffs shall apply for universal services everywhere in the country.

The Minister of Communications shall issue a Regulation¹⁾ on universal service.

¹⁾Reg. 641/2000, cf. 813/2000.

Article 21

Financial contributions for universal service

Should an electronic communications undertaking be of the opinion that universal service which it is obliged to provide, cf. Article 20, is operated at a loss or is unprofitable, it may apply to be ensured normal remuneration for the service in question through financial contributions. Such a request shall be submitted to the PTA. Rules for the calculation of the cost of universal service shall be published in a Regulation on universal service, as referred to in Article 20.

Should the Post and Telecom Administration receive a request for financial contributions in accordance with the first paragraph, and the service, which is considered as necessary and may not be discontinued, cannot be ensured through any other more economical means, the Administration shall determine the cost of the universal service obligation.

The PTA shall require the designated electronic communications undertaking to provide detailed information on the losses involved in the service and a breakdown thereof.

In assessing the financial contributions, the PTA may demand a report from a chartered accountant or instruct such a party to evaluate the profitability in the field of operation concerned. The PTA may demand access to the accounts of an electronic communications undertaking in assessing the cost of universal service.

Financial contributions shall as a rule be assigned for one year at a time. Should either of the parties be of the opinion that the premises for the decision on financial contributions have changed substantially either of them may demand a review of the contributions during its period of validity.

If part of the activities of an electronic communications undertaking is dependent upon financial contributions as provided for in these provisions, this aspect of operations shall be kept separate from other activities of the undertaking in its accounts.

Article 22

Equalisation fee¹⁾

To finance the payment of financial contributions as provided for in this Chapter an equalisation fee shall be collected, which shall go to the equalisation fund in the custody of PTA.

The equalisation fee shall be levied on electronic communications undertakings which operate an electronic communications network or service in proportion to the reported turnover of these activities. Reported turnover shall mean the operating income which the electronic communications undertaking receives from the activity in question in this country.

The equalisation fee provided for in this Act shall amount to 0.12% of reported turnover as referred to in the second paragraph. The financial contributions needed for universal service shall be reviewed annually by PTA and the results of this review, together with a proposal for altering this percentage, if considered necessary, shall be submitted to the Minister of Communications. Should expenses prove higher than the amount of the equalisation fee for the year, the difference shall be expensed against the obligations for the next year. Should the amount of the equalisation fee be higher than expenses for the same year, the surplus shall be carried over to the next year.

The equalisation fee may be deducted from the income of the payor in the operating year when its base was formed.

The levying and collection, including pre-payment, of the equalisation fee shall be as provided for in Chapters VII-XIV of Act No. 75/1981, concerning income and property taxes, as subsequently amended, as appropriate, and the collectors shall submit the fees collected to the PTA on a monthly basis.

Each year PTA shall publish information on the calculation of cost due to universal service obligations, a breakdown of payments by individual undertakings to the equalisation fund and an account of the benefits which the Administration considers electronic communications undertakings providing universal service have received.

The Minister of Communications shall, in a Regulation on universal service, lay down more detailed instructions on financial contributions and equalisation fees in electronic communications services, including instructions on calculation of the cost of operating public electronic communications networks or providing public electronic communications service and on calculations of operating losses.

¹⁾ *The provisions of this Article entered into force 1 January 2004 and shall not be implemented until the year 2005 for reported turnover in 2004, cf. Article 76.*

Article 23

Special electronic communications services

If the Minister of Communications requests that undertakings, operations or services are carried out for the public good, for security reasons, or due to environmental considerations or regional interests, which may be expected to be unprofitable and are not included under universal services, PTA shall be entrusted with concluding a contract for such with an electronic communications undertaking following a competitive selection procedure.

Costs which may be attributed to decisions of the Minister of Communications in accordance with the first paragraph shall as a rule be paid by the National Treasury as provided for in the annual budget.

CHAPTER VII

Interconnection of networks and services and access to them

Article 24

Interconnection of networks

Electronic communications undertakings operating public electronic communications networks or public electronic communications services shall have the right to and be obligated to negotiate interconnection of networks and services.

PTA shall endeavour to ensure access and interconnection and interoperability of services in a satisfactory and efficient manner.

PTA shall take measures to prevent restrictions which hinder undertakings in concluding agreements on interconnection.

If PTA is of the opinion that interconnection may cause a danger of operational interference in the interconnected networks, it may issue instructions that the networks shall not be interconnected.

PTA shall make public information on the obligations placed on electronic communications undertakings in accordance with this Chapter, together with information on the goods or service markets and geographical markets concerned.

This information shall be accessible to all parties with interests at stake, provided it is not considered confidential.

Agreements on interconnection and access must be sent to PTA immediately, or no later than one week after their signing.

Article 25

Access to facilities

PTA may oblige an electronic communications undertaking to negotiate agreements on co-location or other types of joint utilisation, including use of cable ducts or pipes, buildings or masts, as provided for in the second to fourth paragraphs.

Where an electronic communications undertaking is entitled to set up or lay subterranean electronic communications facilities in common pasture land, public or private property, or to expropriate property, cf. Article 70, PTA shall encourage joint utilisation of the facilities or property, including co-location. If other electronic communications undertakings do not have access to comparable facilities due to environmental, health or security considerations, PTA may prescribe the joint utilisation of a facility or land. Such decisions shall only be taken following a public presentation and upon receiving opinions of interested parties.

The PTA decision may involve instructions on sharing of cost of the facility or land.

In special instances, involving special geographical locations or where environmental considerations justify joint utilisation, PTA may issue instructions for such even if the provisions of the second paragraph do not apply.

Article 26

Relations between electronic communications undertakings

Electronic communications undertakings which acquire information from other undertakings in negotiating contracts for access or interconnection or after concluding contracts shall use the information solely for the purpose it was provided and shall maintain confidentiality at all times. The information may not be delivered to other parties, including other divisions of the undertaking, its subsidiaries or partners.

Article 27

Obligations of electronic communications undertakings

Where an electronic communications undertaking is deemed to have significant market power, PTA may impose on it obligations concerning transparency, non-discrimination, accounting separation, open access to specific network facilities, price control and cost accounting, as necessary for the purpose of strengthening effective competition.

Article 28

Access to networks and services

PTA may instruct electronic communications undertakings with significant market power to meet normal and reasonable requests for open access to public electronic communications networks, network elements, and associated facilities under certain conditions prescribed by the Administration, cf. however the third paragraph.

Electronic communications undertakings may be required *inter alia*:

- a. to provide access to individual network elements or facilities, including unbundled access to local loops,
- b. to offer specified services on a wholesale basis for resale by third parties,
- c. to authorise open access to technical interfaces, protocols or other key technologies which are necessary to insure interoperability of services or virtual network services,
- d. to offer co-location or joint utilisation, including joint utilisation of cable ducts, buildings or masts,
- e. to offer services which insure interoperability of services to users, including intelligent network services or roaming on mobile networks,
- f. to offer access to operational support systems or similar software systems necessary to ensure competition in the provision of services,
- g. to interconnect networks or network facilities,
- h. to provide access for virtual networks,
- i. to provide access to other essential facilities.

In determining whether to impose the obligations referred to in the first paragraph, PTA shall take into consideration whether it is:

- a. technically and financially realistic to use or install competing facilities in view of market developments and the nature and type of interconnection and access involved,
- b. feasible to provide the access proposed,

- c. justifiable, in view of the original investment by the owner of the facility and the risk taken in making the investment,
- d. to the advantage of competition in the longer term,
- e. inappropriate, in view of intellectual property rights,
- f. conducive to increasing the supply of services.

Article 29

Transparency

In order to increase transparency of interconnection or access to facilities of an electronic communications undertaking, PTA may oblige an electronic communications undertaking with significant market power to make public specified information, e.g. accounting information, technical specifications, network characteristics, terms and conditions for supply and use, and prices. Exemption from the requirement to make public information may be granted if an electronic communications undertaking can demonstrate that such involves important financial or commercial interests which it is reasonable and normal to keep secret.

Where an electronic communications undertaking has obligations of non-discrimination, PTA may require the undertaking to publish a reference offer, including an itemised description of the interconnection or access, together with terms and conditions, including prices. PTA may prescribe changes to the reference offer. It may also adopt rules¹⁾ concerning the substance of agreements on interconnection and reference offers.

¹⁾Reg. 94/2002.

Article 30

Non-discrimination

PTA may impose on electronic communications undertakings with significant market power obligations of non-discrimination in approving interconnection or access. Such obligations shall ensure in particular that an electronic communications undertaking applies equivalent conditions in equivalent circumstances to other undertakings offering electronic communications services and provides services and information to others under the same conditions and of the same quality as those it provides to its own service departments, subsidiaries or partners.

Article 31

Accounting separation

PTA may impose on electronic communications undertakings with significant market power obligations for accounting separation between activities related to interconnection or access and other activities, so that it is possible to divide all income and expenses between operating units which are linked to the various services. In addition, the Administration may require a company operating both electronic communications networks and electronic communications services to make transparent its wholesale prices and its internal transfer prices inter alia to prevent unfair cross-subsidy. PTA may specify the accounting methodology to be used.

To ensure transparency and non-discrimination, PTA may require that it be provided with accounting records, including data on revenues received from third parties.

Article 32

Price control

Where a market analysis indicates that a lack of effective competition means that an electronic communications undertaking with significant market power is demanding excessively high prices or that the difference between wholesale and retail prices is abnormally little, PTA may impose obligations on the electronic communications undertaking for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection or access. Consideration shall be shown for investments made by the electronic communications undertaking and for a reasonable rate of return on capital employed, taking into account the risks involved.

Where an electronic communications undertaking has an obligation that its prices be based on cost plus a reasonable profit, the burden of proof shall lie with the undertaking concerned.

PTA may require an electronic communications undertaking to prepare a cost model for calculation of prices.

PTA may, for the purpose of calculating costs, take into consideration the operating costs for similar services regarded as efficiently operated, take into consideration prices on comparable competitive markets and use cost accounting methods independent of those used by the undertaking.

The Minister of Communications may adopt a Regulation¹⁾ on arrangements for accounting separation of electronic communications undertakings' operations, as provided for in Article 31, including the breakdown by networks and services, and laying down detailed arrangements for cost analysis as provided for in this Article, for instance, with regard to asset valuation, depreciation, required rate of return and preparation of cost models.

¹⁾Reg. 960/2001.

Article 33

Access to leased lines

Where effective competition does not exist on the market for leased lines or specific types of leased lines, PTA shall ensure that at least one electronic communications undertaking with significant market power offer leased lines, of the type which the PTA regards are needed on the electronic communications market, on a wholesale or retail basis.

Article 34

Access to local loops

An electronic communications undertaking with significant market power in public electronic communications networks and telephone services must meet all legitimate and reasonable requests from electronic communications undertakings for access to local loops and facilities associated with such access. Fees for access and facilities shall be based on costs, including a normal return on capital employed. Electronic communications undertakings with significant market power must make public reference offers for access to local loops and associated facilities. PTA may require alterations to a reference offer, including alterations to prices. PTA may adopt rules on the substance of reference offers.

Requests for access to local loops shall only be refused on objective grounds, the necessity of maintaining network integrity or technical reasons. If no agreement can be reached on access, a party may refer the matter to PTA.

The Minister of Communications may issue a Regulation¹⁾ on unbundled access to local loops.

¹⁾Reg. 199/2002.

Article 35

Roaming agreements

Where the establishment or operation of mobile phone stations or networks is not practicable, due to the nature or scope of the investment, or where conditions for the establishment and operation of mobile phone senders or networks are especially difficult, for instance, due to natural conditions, or if it is necessary to encourage effective competition, mobile phone undertakings providing public mobile phone services shall have access to the public mobile phone networks of other mobile phone undertakings.

Electronic communications undertakings shall endeavour to negotiate agreements between themselves on access conditions.

Should they fail to reach agreement, PTA may decide whether roaming agreements shall be concluded and the terms for the same between the operator of a mobile telephone network, as referred to in 1.the first paragraph, and other electronic communications undertakings, provided they already operate their own public mobile telephone networks where such is practicable in the estimation of PTA.

Article 36

Separation of concession activities from electronic communications activities

Electronic communications undertakings or consolidations operating public communications networks or publicly available electronic communications services, which enjoy special or exclusive rights in sectors other than electronic communications, must keep their electronic communications activities financially separate from other activities as if they were two separate undertakings. Care shall be taken to ensure that competitive operations are not subsidised by activities enjoying exclusive rights or protected activities.

This provision shall apply without regard to an undertaking's market power.

CHAPTER VIII

Terms and prices

Article 37

Terms and conditions

Subscribers of electronic communications services in the private individuals' market shall be entitled to a contract with an electronic communications undertaking including at least the following items:

- a. name and address of the service provider,
- b. services to be provided, service quality level and the time for initial connection,
- c. the types of maintenance services offered,
- d. particulars of prices and tariffs, and the means by which up-to-date information on all relevant tariffs and maintenance charges can be obtained,
- e. duration of the contract, conditions for renewal and termination of the contract,
- f. any compensation or refund arrangements which apply if service is not in accordance with the contract,
- g. the method of initiating procedures for settlement of disputes between subscribers and electronic communications undertakings.

Subscribers in the individuals' market shall be entitled to withdraw from their contracts without notice and without penalty upon notification of proposed modifications in the contractual conditions. Private subscribers shall be given at least one month to withdraw from their contracts before the changes take effect and shall be informed at the same time of their right to withdraw, without penalty, from such contracts if they do not accept the new conditions.

Electronic communications undertakings shall, prior to the entry into force of new or altered terms or tariffs, send PTA the terms or tariffs for information purposes in such format as the Administration prescribes. The PTA may require modifications to an undertaking's terms or prices if their substance is considered to violate this Act.

Electronic communications undertakings shall publish the terms and tariffs for all their services in an accessible manner.

Article 38

Subscribers' bills etc.

Subscribers of telephone service shall be entitled to receive itemised bills for their electronic communications services with a breakdown by service provided and subscribers of universal service shall be entitled to such bills without charge.

Electronic communications services may offer subscribers more detailed bills for a reasonable charge.

Calls which are free of charge, including calls to help lines for social services, may not be identified on bills, provided the parties providing such services have previously notified electronic communications undertakings of their activities. In preparing itemised bills, regard shall be had for legislation on personal data and the protection of privacy.

The Minister of Communications may issue a Regulation on the treatment of information which is required for preparing bills, their itemisation and handling of complaints.

If calls are subject to a supplementary charges the service provider shall always indicate the amount of the charge at the beginning of a call. Subscribers shall be entitled to barring of calls to numbers subject to a supplementary charge. More detailed provision for calls and other value-added services in telephone networks subject to a supplementary charge shall be set in a Regulation.

PTA may grant exemption from the information obligation concerning supplementary charges provided for in the fifth paragraph.

Article 39

Non-payment by subscribers

Telephone service may be disconnected due to non-payment of calls other than calls subject to supplementary charge, provided the subscriber has been given written notice at least one month prior to the disconnection. During the first month following disconnection, however, it must be possible to call the subscriber concerned. The subscriber shall also be able to contact the emergency number 112 for an equal length of time. In cases where a subscriber has fraudulently attempted to avoid payment or to transfer responsibility to an unrelated party, an electronic communications undertaking may disconnect the service in question without warning.

Article 40

Limits on liability

Electronic communications undertakings may, in their terms of service, exempt themselves from liability for any damages resulting from connection failure, disruption of electronic communications or other disturbances which may occur in the operations of the electronic communications network, whether this can be attributed to a breakdown of the line, a failure in the connecting station or other causes. Limits

on liability are, however, limited to damages not resulting from major errors on the part of the undertaking's staff.

Article 41

Quality of service

PTA may issue rules concerning the quality of electronic communications services and presentation of information published to enable users to have access to comprehensive, comparable and easily understandable information.

CHAPTER IX

Protection of personal data and privacy

Article 42

Traffic data

Traffic data relating to users processed and stored by electronic communications undertakings must be destroyed or made anonymous once it is no longer needed for the purpose of transmission of a communication.

Traffic data necessary for the purposes of subscriber billing and interconnection payments may be stored until the end of the period during which the bill may be challenged or until it becomes obsolete.

If a subscriber has given his/her consent, an electronic communications undertaking may process the data referred to in the first paragraph, for the purpose of marketing electronic communications or the provision of value-added services to the extent necessary for such services or marketing. This consent may be withdrawn at any time.

A service provider must inform the subscriber in advance of the types of traffic data which are processed and of the duration of such processing.

Processing of traffic data as provided for in this Article must be restricted to persons acting under the authority of electronic communications undertakings who handle billing or traffic management, customer enquiries, fraud detection, marketing electronic communications or providing a value-added service, and must be restricted to what is necessary for the purpose of such activities.

Article 43

Location data

Data on location of equipment in a public electronic communications network or public electronic communications service may only be processed if it has been made anonymous or with the consent of the users.

Notwithstanding the provisions of the first paragraph an electronic communications undertaking may, without the consent of users, send data covered by this Article to companies or institutions handling emergency services and recognised as such, including law enforcement agencies, ambulance services and fire brigades.

PTA shall lay down rules on provision and processing of data.

Article 44

Automatic call forwarding

Any subscriber of electronic communications services shall be able, simply and free of charge, to stop automatic call forwarding by a third party to the subscriber's terminal.

Article 45

Directories of subscribers

Subscribers to electronic communications services shall be entitled to listing in public number and address directories and to view the information listed concerning them. Subscribers shall be entitled to be omitted from directory databases and no charge may be made for such.

Before personal data on subscribers are listed in a printed or electronic directory of subscribers, they shall be entitled to access to this information. Personal data which is listed in printed or electronic directories and with information services for telephone numbers shall be limited to the information necessary in order to identify a subscriber, unless the subscriber has granted a clear authorisation otherwise.

Electronic communications undertakings shall comply with demands from subscribers that a directory indicate that the information listed on them may not be used for direct marketing or that an address be partially or fully omitted.

PTA shall ensure that all users have the possibility of listing in at least one telephone directory containing information on all telephone numbers. PTA shall also ensure that all users have access to at least one telephone information service with

information on all telephone numbers, subject to the provisions of the first paragraph. To this end, PTA may impose suitable obligations on undertakings with a significant market power.

PTA may require all electronic communications undertakings assigning telephone numbers to their subscribers to agree to requests to provide the information in question in such format as the parties agree upon, including computer-readable format, on terms which are fair and based on cost plus a reasonable premium. The information may not be used for any purpose other than to publish a telephone directory or for telephone number information services.

Article 46

Unsolicited communications

The use of automated calling systems, facsimile machines or electronic mail for direct marketing is only allowed if a subscriber has given prior consent.

Notwithstanding the provisions of the first paragraph, electronic mail addresses obtained in the context of the sale of a product or service may be used for direct marketing of own goods or services if customers are given the opportunity to object to such use of addresses free of charge when they are listed and similarly each time a message is sent, if the customer has not initially refused such use.

Apart from that provided for in the first and second paragraphs, unsolicited electronic communications in the form of direct marketing are not allowed to subscribers who do not wish to receive these communications.

The sending of electronic mail for purposes of direct marketing, where the name and address of the party responsible for the marketing is not clearly indicated, shall be prohibited.

Users who use public telephone services as part of their marketing must respect designations in a telephone directory indicating that the subscriber in question does not wish to receive such calls to his/her number.

Article 47

Security and confidentiality

An electronic communications undertaking providing public electronic communications services must take appropriate measures to ensure the security of its services, in consultation with the operators of electronic communications networks

where applicable. If there is a particular risk of a breach of the security of a certain network, the service provider must inform the subscribers of such risk.

All persons working with electronic communications facilities, whether personnel of electronic communications undertakings or others, shall be obliged, both during their period of employment and after its conclusion, not to reveal to unauthorised parties anything which has passed through the electronic communications facilities, whether this involves the substance of messages or conversations or whether electronic communications have taken place and between whom.

Without a prior court ruling to this effect, no unauthorised parties may be permitted to see messages, other documents or records of communications which pass through the electronic communications facilities or to listen to conversations transmitted or record them. With regard to access by law enforcement officers to electronic communications data, the provisions of the Criminal Proceedings Act shall apply.

No one employed by electronic communications facilities, networks or services may conceal messages, data, images or other signals which are submitted for telecommunication or assist others in such actions.

Anyone who by chance, by mistake or without express authorisation receives telegrams, images or other electronic communications signals or symbols, or listens to telephone conversations, may not record anything of this or take advantage of such in any way. Furthermore, he/she must notify the sender of having received information in error. Fullest confidentiality shall be observed in such instances.

Article 48

Recording of telephone calls

The party to a telephone conversation wishing to record a conversation shall, when it commences, notify the opposite party of such intent.

A party need not, however, mention the recording of a conversation especially when the opposite party can clearly be assumed to be aware of the recording.

Notwithstanding the first paragraph, public institutions or undertakings entrusted with such tasks by the institutions may record calls they receive when such recording is a normal part of administrative activities and necessary due to national security or public safety.

The recording arrangements and notification of them to the public and employees of the institution shall comply with requirements set by the Data Protection Authority.

Processing of recordings made as provided for in this Article shall comply with legislation on the protection of privacy and processing of personal data.

CHAPTER X Voice telephony

Article 49

Emergency calls

The number 112 shall be reserved for emergency and safety services and may not be used for any other purpose. No charge may be made for calls to the emergency number 112.

Article 50

Call barring

An electronic communications undertaking which has been entrusted with providing universal service must, at the request of a subscriber, bar outgoing calls of defined types or calls to specific number series free of charge.

Article 51

Calling line identification

An electronic communications undertaking providing publicly available telephone services must offer calling line identification service in accordance with provisions of the Act on the Protection of Privacy as regards the Processing of Personal Data. PTA shall adopt rules concerning arrangements for calling line identification.

Article 52

Number portability

Users of public telephone services, including mobile services, shall be able to retain their telephone numbers independently of the undertaking providing the

service. This shall not, however, apply to the porting of numbers between fixed lines and mobile networks.

PTA shall ensure that pricing for number portability is based on cost plus a reasonable premium.

PTA may set more detailed rules¹⁾ on number portability and time limits in this connection and shall resolve disputes on its implementation.

¹⁾Reg. 401/2001, cf. Reg. 840/2001, 508/2003 and 83/2004.

Article 53

Carrier selection and pre-selection

Undertakings with a significant market power for provision of connection to the public fixed line telephone network, shall enable their subscribers to access the services of any interconnected provider of public telephone services. The arrangements for such access may be either by the user dialling a carrier selection code on a call-by-call basis or by means of pre-selection, with a facility to override any pre-selected choice on a call-by-call basis by dialling a carrier selection code.

User requirements for carrier selection or pre-selection on other networks or in other ways than provided for in the first paragraph shall be assessed by PTA on the basis of market analysis. If the conclusion of a market analysis is that competition is not effective, the Administration may impose obligations as provided for in Article 27.

PTA shall ensure that prices for access and interconnection related to the supply of carrier selection and pre-selection shall be based on cost plus a reasonable premium.

PTA may adopt rules¹⁾ concerning carrier selection and pre-selection.

¹⁾Reg. 280/2002.

Article 54

Integrity of the telephone network

Undertakings providing publicly available telephone services must take all necessary measures aimed at ensuring uninterrupted access to the public telephone network and public telephone services, including emergency services.

Users may not cause interruptions or disturbances to the telephone network.

CHAPTER XI Digital broadcasting

Article 55

Must-carry obligations

Must-carry obligations may be imposed on undertakings providing electronic communications networks for the distribution of radio or television broadcasts to the public, where a significant number of users utilise the networks to receive radio and television broadcasts. Such obligations shall only be imposed where there are especially cogent reasons for so doing.

Article 56

Conditional access systems

Conditional access to digital television and radio services must satisfy rules set by PTA on the basis of obligations under the EEA Agreement. These provide, for instance, for the technical characteristics and obligations to grant access.

Article 57

Standards in interactive television services

PTA shall direct undertakings operating digital interactive television services for distribution to the public or selling enhanced digital television equipment to use an open application program interface (API) in accordance with obligations under the EEA Agreement.

Article 58

Requirements for digital broadcasting on public electronic communications networks

Public electronic communications networks established for the distribution of digital television services shall be capable of distributing wide-screen television services and programmes. Electronic communications undertakings which receive and distribute wide-screen television services or programmes shall maintain that wide-screen format.

CHAPTER XII

Electronic communications equipment

Article 59

Electronic communications network equipment

Equipment used in a public electronic communications network shall as a rule comply with technical standards in force in the EEA. PTA may, in special instances, prescribe the use of other standards or recommendations from the International Telecommunication Union. Technical characteristics of NTPs shall always be in accordance with standards. An electronic communications undertaking operating a public electronic communications network must publish information on technical characteristics of NTPs. The Minister of Communications may issue a Regulation¹⁾ on the detailed implementation of these provisions. Wireless electronic communications networks may only be established and utilised upon receiving a licence from PTA. The Administration may, however, issue general licences for wireless electronic communications networks with specific frequency ranges if the radiated power of senders is within the limits set by PTA.

¹⁾Reg. 532/2001.

Article 60

Indoor electronic communications installations

Electronic communications installations on subscribers' premises, including distribution cabinets, shall be the responsibility of the home owners. The location of distribution cabinets and all installations in a building must accord with the drawings of the building approved by the building supervision authority. In multifamily dwellings, distribution cabinets must be sealed or locked and the installations designed so that unauthorised parties will not have open access to individual electronic communications lines. When an electronic communications undertaking receives an application for service from a subscriber, the undertaking shall be entitled to access the distribution cabinet in the building concerned to connect up with it and to the installations of the subscriber in question. PTA shall adopt rules on the design of distribution cabinets and installations for the purpose of safeguarding electronic communications and define the access authorisation of electronic communications undertakings.

Article 61

Terminal equipment for wireless electronic communications

PTA shall supervise the sale of terminal equipment for electronic communications and equipment for wireless electronic communications. The following essential requirements are applicable to all such apparatus:

1. the protection of the health and safety of the user and any other person;
2. the protection requirements with respect to electromagnetic compatibility.

In addition, radio equipment shall be so constructed that it effectively uses the spectrum allocated to terrestrial/space radio communication and orbital resources so as to avoid harmful interference.

Conditions may be set that apparatus within certain equipment classes or apparatus of particular types shall be so constructed that:

- a. it interworks via networks with other apparatus and that it can be connected to interfaces of the appropriate type throughout the EEA;
- b. it does not harm the network or its functioning nor misuse network resources, thereby causing an unacceptable degradation of service;
- c. it incorporates safeguards to ensure that the personal data and privacy of the user and of the subscriber are protected;
- d. it supports certain features ensuring avoidance of fraud;
- e. it supports certain features ensuring access to emergency services;
- f. it supports certain features in order to facilitate its use by users with a disability.

Terminals for digital television must comply with the requirements of interoperability in accordance with rules adopted by PTA on:

- a. common scrambling algorithm and reception without charge;
- b. interoperability of analogue and digital television sets.

Article 62

Wireless transmission equipment

Transmission equipment for wireless electronic communications may only be possessed, established or used with the permission of the PTA. Wireless electronic communications may, however, be operated without special authorisation if it is used solely for public electronic communications services in a specific frequency range. PTA shall issue licences to use wireless communications for limited periods. The

licences may be made subject to conditions, for instance on the transmission power, location, bandwidth, transmission area and connection to public electronic communications networks. Licences shall be issued in the name of the equipment owner and are not transferable. A licensee who sells wireless equipment, for which he/she has obtained a licence, or turns it over to another person permanently is responsible for notifying PTA of the new owner. PTA shall immediately take measures to suspend the operation of wireless transmitters, including broadcasting transmitters, for which no licence has been issued and which are not exempted from licensing obligations. PTA inspectors undertaking such action may not be interfered with, provided they have produced their professional identification. PTA may grant exemptions from the licence provision for specific types of transmission equipment. No licences are required for transmission equipment with a maximum radiated power of 50 milliwatts.

Article 63

Electronic communications equipment in means of transportation

Icelandic vessels, aircraft and other means of transportation shall be equipped with electronic communications equipment in accordance with international conventions and regulations¹⁾ issued by the Minister of Communications.

Electronic communications equipment aboard foreign vessels, aircraft or other means of transportation which are in Icelandic territorial waters or air space may only be used in accordance with Icelandic law and regulations.

PTA may prohibit the use of electronic communications equipment in foreign means of transport within Icelandic jurisdiction if such usage is contrary to Icelandic regulations.

Notwithstanding the provisions of the second paragraph, PTA may authorise the use of equipment approved for use internationally.

¹⁾Reg. 53/2000.

Article 64

Restrictions on electronic communications due to interference

The Post and Telecom Administration may have an electronic communications facility sealed off, in whole or in part, prohibit its use or, depending upon the circumstances, take it into custody under seal, if the electronic

communications facility interferes with other electronic communications or there is a danger of the security of electronic communications being disrupted.

Article 65

Approval of equipment

Other terminals than those which fulfil the essential requirements set out in Article 61 and have the CE mark affixed in confirmation may not be placed on the market.

The manufacturer or its agent in Iceland must ensure that all equipment placed on the market in Iceland is accompanied by information for users in Icelandic on its intended use, the principal characteristics of the equipment and the obligation of buyers to apply for a licence for wireless equipment.

A manufacturer or its agent in Iceland intending to place on the market wireless equipment in frequency ranges where usage has not been co-ordinated in the EEA must notify PTA of such intent with at least four weeks' notice. PTA shall also be sent information on the characteristics of the equipment, including its frequency bands, channel spacing, type of modulation and RF-power. If PTA is of the opinion that there is a risk that the equipment could interfere with other services in the frequency range concerned, the Administration may prohibit its sale and usage.

Article 66

Market supervision

PTA shall provide market supervision for equipment as provided for in Article 61. To this end, the Administration shall have unlimited access to sales outlets for such equipment. If equipment which does not fulfil the essential requirements provided for in this Act is placed on the market, PTA may demand that its sale and use be immediately suspended and the equipment impounded.

PTA may require a manufacturer or its agent to provide it with itemised information and drawings of equipment which it plans to place on the market. Such information shall be treated as confidential.

The Minister of Communications shall issue a Regulation on market supervision of terminals and wireless equipment.

CHAPTER XIII

Qualifications for work on electronic communications facilities

Article 67

Requirements of company employees

Electronic communications undertakings shall ensure that their employees who work on setting up and maintaining electronic communications facilities have received the necessary training. Electronic communications undertakings shall inform their employees of the obligations which they bear in accordance with this Act. The Minister of Communications may issue a Regulation on the qualifications required of persons working on public electronic communications facilities.

Article 68

Authorisation for operating wireless equipment

PTA shall issue licences authorising individuals to operate certain types of wireless equipment.

No special training is required of persons operating wireless equipment except in cases where the equipment serves a security purpose or where transmission power exceeds 100 Watts. PTA shall issue licences for radio operators authorising the holder to operate electronic communications equipment on board vessels and aircraft. The licences grant international rights and must comply with international conventions. The licence, which shall be issued for a specific period, must state what equipment the holder is authorised to operate. An applicant for a licence must produce evidence that he/she has received training in the use of wireless equipment in a recognised educational institution.

PTA may grant foreigners dwelling in Iceland for a limited time exemptions to operate electronic communications equipment, provided they are authorised to do so in their home state.

PTA may adopt detailed rules on authorisations to individuals to operate electronic communications equipment.

PTA shall issue licences to radio amateurs after receiving applications from them and an opinion from amateurs' interest groups. Foreign nationals may apply for a temporary or long-term licence. The Minister of Communications may adopt a Regulation on activities of radio amateurs.

CHAPTER XIV

Installation and integrity of electronic communications facilities

Article 69

Access to land

Should it prove necessary for an electronic communications undertaking to lay lines for electronic communications facilities, either above or below ground, across land owned by another person, or over, on, through or under buildings or other structures on the property, the owner of the property in question is obliged to authorise such, provided full compensation is made. The owners or persons controlling such property or structures shall be consulted as to where the lines shall be laid and care shall be taken to ensure that the interests of the owner are disturbed as little as possible. Persons employed on electronic communications facilities shall take care to cause owners and residents no more inconvenience than is absolutely necessary.

Should the installation or maintenance of electronic communications facilities cause damage to lands, structures or other property which cannot be rectified, or should the installation of electronic communications facilities result in restricting the usefulness of the property concerned, the owner of the electronic communications facility shall make compensation for the damage. Should no agreement be reached on the amount of compensation, a decision on compensation shall be made in accordance with the Expropriation Act.

Article 70

Expropriation

If an electronic communications undertaking needs to acquire land, lots or other property in connection with the installation or operation of public electronic communications facilities and agreement on purchase is not possible, the Minister of Communications may, after having received the opinion of the Post and Telecom Administration, authorise the expropriation of the property, in whole or in part, for recompense which shall be assessed in accordance with the Expropriation Act. The approval of the Minister for the expropriation shall be dependent upon, for instance,

the expropriator providing guarantees for the payment of the estimated expropriation damages and the cost of their assessment. If expropriation damages cannot be obtained from the expropriator, the National Treasury shall guarantee their payment.

Article 71

Integrity of electronic communications facilities

No structures may be built, equipment installed, pipes, electrical wiring or other similar installations laid, the ground disturbed or other measures taken near electronic communications facilities which could cause damage to the electronic communications facilities or interfere with their operations, unless information has been sought in advance as to the where the facilities are situated and the owner of the electronic communications facilities consulted as to arrangements for the structure or installation.

Should it prove necessary, due to a construction project, to move or alter the situation of electronic communications facilities, the parties carrying out such an operation shall bear the entire cost which may result, both directly and indirectly, unless otherwise agreed.

Should disturbance to the ground or other construction have resulted in damage to an electronic communications facility or interference to their operations, the party who has caused this shall notify the owner of the electronic communications facility thereof immediately. The party causing the damage must, moreover, make compensation for all losses which have been caused either directly or indirectly by the damage, including loss of business, unless it can prove that the damage was unavoidable despite the utmost precautions having been taken.

Should it be established that equipment, electrical wiring, pipes, lines or similar installations interfere with the operations of an electronic communications facility, the electronic communications undertaking may demand that the owner rectify the situation without delay, otherwise the electronic communications undertaking may take the necessary measures to prevent the interference resulting therefrom. Should interference of this sort arise from negligence on the part of the owner of the equipment in question, the owner shall pay the entire cost of the improvements.

Seafarers must be on the alert and exercise caution where electronic communications cables have been laid underwater. Should a telecommunication cable

be damaged, either deliberately or through negligence, the party causing the damage shall make compensation for any direct or indirect damage resulting, unless it can demonstrate that he has taken all the necessary precautions to avoid causing damage.

While a vessel, within or outside of Icelandic territorial waters, is laying or repairing a submarine electronic communications cable and displays an international signal or other signals to this effect, other vessels which see or should be able to see these signals shall keep at a distance of no less than one-quarter mile from the cable vessel. Any nets and other fishing gear shall be kept at the same distance. Fishing vessels shall, however, be given 12 hours to remove fishing gear which has been laid at sea.

Should a marker have been set due to the laying or repairing of a submarine cable, vessels shall make sure they and their fishing gear are no less than one-quarter mile from the marker.

If a vessel has been forced to jettison an anchor or sacrifice nets or other fishing gear in order to avoid damaging a submarine cable, it may claim damages from the owner of the underwater cable, provided the threat was not caused by the negligence of the vessel's officers.

If possible, the crew shall immediately enter in the log a report of the damages, which the master of the vessel shall confirm. In addition, the owner of the submarine cable or representative of the owner shall be notified of the incident as soon as possible.

CHAPTER XV

Electronic communications in times of crisis

Article 72

Suspension of electronic communications

In times of hostilities the Minister of Communications may, in accordance with a decision by the national government, prescribe the closure of electronic communications regarded as a threat to national security.

In emergencies, such as during volcanic eruptions, earthquakes, avalanches, etc. the Minister of Communications may, at the request of the National Commissioner of the Icelandic Police and after consulting with the Iceland Civil Defence

Council, prescribe restrictions on electronic communications which can interfere with emergency and security electronic communications. In the same manner instruction may be given that a specified electronic communications facility shall be taken into the service of rescue operations and new electronic communications facilities installed. Any compensation shall be paid for according to an assessment by PTA, from the National Treasury.

CHAPTER XVI

Penalties, etc.

Article 73

Authorisation to suspend operations

Electronic communications undertakings which operate an electronic communications network or services in accordance with a general authorisation or which hold rights to use frequencies and numbers must, at the request of PTA, deliver to the Administration information, as provided for under the Act on the Post and Telecom Administration, which is necessary in order to ascertain that the requirements of general authorisation or special obligations, cf. the fifth paragraph of Article 6, are fulfilled.

Should PTA reach the conclusion that an electronic communications undertaking is not complying with the requirements of general authorisations, conditions connected to rights or special obligations, it must notify the electronic communications undertaking of this conclusion and give the undertaking an opportunity to express itself in this regard or to rectify its violation within one month of the date of such notification, or within a shorter period if the undertaking agrees or PTA prescribes in the case of a repeated violation, or within a longer period if PTA agrees to such.

Should an electronic communications undertaking fail to cease its violation within the prescribed time limit, PTA shall take appropriate measures. In this connection, PTA may apply daily fines, cf. Article 74. The electronic communications undertaking shall be notified of PTA's decision, together with the grounds for it, and allow it a reasonable length of time to comply with the decision.

In addition to the authorisations in the second and third paragraph, PTA may apply daily fines to an electronic communications undertaking which fails to provide the information it is obliged to deliver within a reasonable period determined by PTA.

In the case of serious or repeated violations of the requirements for a general authorisation or conditions connected to rights or special obligations, if measures to ensure compliance with the law have failed, PTA may suspend an electronic communications undertaking's network operations or service or revoke its rights temporarily or permanently.

PTA may, if there is evidence of violation of the requirements for general authorisations or conditions connected to rights or special obligations which result in immediate danger to public health or safety, or could create serious financial or operating difficulties for other electronic communications undertakings or users of electronic communications networks or services, take provisional decision to improve the situation prior to taking a final decision. The electronic communications undertaking concerned shall, following a provisional decision, be granted an opportunity to express its opinions and suggest improvements. If appropriate, PTA may confirm its provisional decision.

Article 74

Penalties

Violations of this Act and Regulations issued by virtue thereof shall be liable to fines or imprisonment of up to six months in the case of serious or repeated violations.

Violations due to negligence shall only be liable to fines.

Violations of Chapter IX of the Act, on Protection of personal data and privacy, shall be liable to punishment as prescribed in the first paragraph. If such a violation is carried out for material advantage, whether of the individual concerned or others, such may be punished by imprisonment of up to three years.

Electronic communications equipment, which has been operated without authorisation, may be confiscated, cf. Article 69 of the Criminal Code, as subsequently amended.

When an electronic communications undertaking does not comply with legal provisions, the requirements for general authorisation, conditions for special rights or individual decisions of PTA, the Administration may decide, in accordance with the

provisions of Article 73, to cancel the undertaking's registration, revoke its rights, add further conditions or apply daily fines amounting from ISK 50,000 to 500,000 to ensure compliance with its instructions.

CHAPTER XVII

Entry into force, etc.

Article 75

General authorisation for regulations

The Minister of Communications shall, in a Regulation¹⁾, lay down detailed instructions on the administration of electronic communications affairs.

¹⁾Reg. 866/2000, Reg. 532/2001, Reg. 298/2002.

Article 76

Entry into force

This Act shall enter into force on 25 July 2003. The provision of Article 22 shall enter into force 1 January 2004 and shall not be implemented until the year 2005 for reported turnover in 2004.

Temporary provisions

I.

Licences for electronic communications and general authorisations valid upon the adoption of this Act shall be amended no later than 25 July 2003 in accordance with this Act. After that, the rules on general authorisations shall apply to all electronic communications undertakings, together with any conditions adopted concerning special rights to use frequencies and numbers as applicable.

Where the implementation of the first paragraph results in reduced rights or increased obligations as compared with the currently valid authorisations, PTA may extend the period of validity of those rights and obligations for up to nine months from 25 July 2003 onward, provided that such does not result in prejudicing the rights of other

electronic communications undertakings. PTA shall notify any such extensions to the EFTA Surveillance Authority.

II.

All obligations currently applicable to electronic communications undertakings offering public electronic communications networks or services, concerning access and interconnection, shall continue until a review of these obligations has taken place following market analysis. The obligations to which this applies concern rights and requirements to agree to interconnection of networks and services, to offer interconnection to undertakings on a non-discriminatory basis and information provision in this connection, the basis for interconnection fees and cost accounting, accounting separation and financial reporting, co-location and facility sharing, number issues, publication of information and access to it, special network access other than that offered through normal NTPs, minimum supply of leased lines and supervision of leased line vendors. Furthermore, obligations concerning retail prices for access and use of public telephone networks, carrier selection and pre-selection, shall remain valid until PTA has completed a market analysis and taken a decision on the imposition, cancellation or maintenance of such obligations.