

MINISTRY OF TRANSPORT AND COMMUNICATIONS

ELECTRONIC COMMUNICATIONS LAW

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Arrangement of Sections

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Law on Electronic Communications

Chapter One GENERAL PROVISIONS

Article 1 Objects of the Law

This Law governs the conditions and the procedures for ensuring business operation in the area of electronic communications in the Republic of Macedonia, the establishment of the Agency for Electronic Communications, construction, maintenance, safety, supervision and use of electronic communications networks and services, interconnection and access to electronic communications, ensuring universal service, ensuring competition, use and control over the radio frequency spectrum, numbering, the relations between the providers and the users of services, management, protection of secrecy and confidentiality of electronic communications, and other issues relating to electronic communications.

Article 2 Purpose of the Law

The purpose of this Law is to provide:

- (a) conditions to meet the needs for communication services;
- (b) protection of interests of the users;
- (c) acceleration of the process for creating competitive market in the field of electronic communications;
- (d) preventing abuse of the market position held by the operators and electronic communication service providers having significant market power especially in cases when the market is not sufficiently competitive or the market mechanisms for ensuring competition are not functioning;
- (e) conditions for ensuring universal service at affordable prices and quality;
- (f) efficient use of the radio frequency spectrum and numbering;
- (g) promotion of the development and incentives for investments in the electronic communications by introducing new technologies and services;
- (h) transparency and non-discrimination in the regulatory processes;
- (i) promotion of the economic development in the Republic of Macedonia.

Article 3 Exceptions from the Application of the Law

This Law shall not apply to:

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- (a) electronic communications networks operated for the needs of the defence of the country and the military forces, the police and the national security service and in the field of international exchange of classified information;
 - (b) electronic communications equipment used solely for the purposes of paragraph (a) of this Article, and
 - (c) the radio and/or television program services broadcasted regardless of the technical means of broadcasting, in coded or not coded form, intended for receipt by the public.

Article 4 **Definitions**

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

1. ***Electronic communications network*** means transmission systems and, where appropriate, switching or routing equipment and other assets which permit the transmission of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit and packet switched, including Internet) and mobile terrestrial networks, electricity cable systems, if they are used for the transmission of communications signals, broadcasting networks and cable television networks, irrespective of the type of information transmitted.
2. ***Electronic communications service*** means a service normally provided for remuneration, which consists wholly or mainly of transmission of signals through electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting or cable television, but excluding the services that enable or perform editing control over the content transmitted through electronic communications networks or services, as well as the Information Society services.
3. ***Electronic mail*** means any message in the form of text, sound or image sent over a public communications network that can be stored in the network or in the recipient's terminal equipment until the recipient collects it.
4. ***Public communications network*** means an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services.
5. ***Public telephone network*** means an electronic communications network which is used to provide publicly available telephone services and which enables the transfer of speech and other communications, such as facsimile and data transfer between network termination points.
6. ***Public fixed telephony network*** is a public telephone network where the network end points are placed on a fixed location.
7. ***Public mobile communication network*** is an electronic communication service, used for providing publicly available mobile communication services.
8. ***Local loop*** means the physical communication circuit, from a pair of copper wires between the subscriber's premises and the main distribution frame or equivalent facility in the fixed public telephone network.

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9. ***Operator of a public communications network*** means a legal entity, which has the right to construct, possess, lease and operate a public communications network and associated facilities and to provide public communication services.
 10. ***Public communications service*** means electronic communications service available to the public.
 11. ***Public communications service provider*** means a legal entity that provides public communications services without having in possession a public communication network.
 12. ***Public telephone service*** means a service available to the general public that includes initiating and receiving local, national and international calls and access to emergency services through the numbers laid down for such services in the Numbering Plan for public communications networks and services, and if possible includes one or more of the following services: directory enquiry services, access to the customer care service for users of public pay phones, directories, provision of premium cost services and provision of special facilities for users with disabilities or other special needs.
 13. ***Radio communications services*** means electronic communications services provided through the emission, transmission, or reception of signs, signals, text, images and sounds, or other intelligence of any nature by radio.
 14. ***Universal service*** means a determined minimum set of publicly available electronic communication services of specified quality available at an affordable price to all users on the territory of the Republic of Macedonia, regardless of their geographic location.
 15. ***Universal service provider*** means legal entity providing universal services.
 16. ***Information Society Services*** means services provided for remuneration, at a distance, with electronic means and upon individual request of the recipient of the service. “At a distance” means that the service is provided without the two parties being present simultaneously. “With electronic means” means that the service is sent from the point of origin and received at the final destination by electronic equipment for processing (including digital compression) and data storage and is sent, transmitted and received wholly via cable, radio waves, optical means, or other electromagnetic means. “Upon individual request of the recipient of the service” means that the services are provided with the transmission of data upon individual request. Information Society Services include, in particular, the sales of goods and services, services of access to information or advertising over the Internet and access to public communications network services, transmission of data, or storing the recipient’s data in the public communications network.
 17. ***Value added service*** means a service, which provides information, by reimbursement through public communication network.
 18. ***Numbering Plan*** of the public communication networks and services of the Republic of Macedonia is a structure of numbers and series of numbers and their allocation for providing access to public communications networks and/or public communications services.
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19. **Numerical geographic area** means an area covering one or more settlements in the Republic of Macedonia with the same transmission code.
20. **Geographic number** means a national number pertaining to a particular geographic area.
21. **Non-geographic numbers** mean national numbers that do not pertain to a particular geographic area and include: numbers for access to public mobile communications networks; value added numbers for access to public communication services; numbers for access to services for which the entire fee for traffic to these services is paid by the provider of such services, that is the person to whom such a number has been assigned (green number); numbers for access to services for which the fee for traffic to these services is in part paid by the caller and in part by the provider of such a service that is the person to whom such a number has been assigned (blue number) pursuant to a predetermined relationship.
22. **Transmitting code** means a number or a combination of numbers without the national prefix, which characterizes the called numerical area and is dialed before the subscriber's number of the called subscriber when the caller and the called subscriber are located in different numerical areas.
23. **Interconnection** means the physical and logical linking of public communications networks used by the same or different operators in order to allow the users of one operator to communicate with users of the same or another operator, or to access services provided by another operator. Interconnection is a specific type of access implemented between public communications network operators.
24. **Access** means the making available of facilities and/or services of any operator under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services. It covers inter alia: access to network elements and associated facilities, which may involve the connection of equipment by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop); access to physical infrastructure including buildings, ducts and masts; access to relevant software systems including operational support systems; access to number portability or systems offering equivalent functionality; access to fixed and mobile networks, in particular for roaming and access to conditional access systems for digital television services.
25. **Network termination point** means the physical point at which a subscriber has access to a public communications network. In the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a subscriber number or name.
26. **Terminal equipment** means equipment connected to a network terminal point and serves for transmitting, reception and processing of communications.
27. **Traffic communication data** means any data processed for the purpose of the transmission of communications on an electronic communications network or for the billing thereof.
28. **Location data** means any data processed in an electronic communications network that indicates the geographic position of the terminal equipment of a user of electronic communications network.
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29. **Calling line identification** is a function that enables the called subscriber to identify the network termination point from which a call originates based on the number or code assigned to that network termination point.
 30. **Connected line identification** is a function that allows the calling user to identify the network termination point where the call ends based on the number or code assigned to that network termination point.
 31. **Subscriber** means any natural person or legal entity that for the use of public communications service is a party to a contract with an operator of public communication networks or a communications services provider.
 32. **User** means any natural or legal entity that uses or requires public communication service.
 33. **End user** means a user that does not possess public communication networks or does not provide public communication service.
 34. **Broadcasting** means transmission of radio or television program services via a terrestrial antenna, electronic communications network or satellite in coded or not coded form, aimed for reception by the public.
 35. **Cable television network** means electronic communication network, which is mainly used for distribution of radio or television program to the public.
 36. **Conditional access system** means any technical measure and/or arrangement whereby access to a protected broadcasting service in unencrypted form is made conditional upon subscription or other form of prior individual authorization.
 37. **Wide-screen television service** means a television service that consists wholly or mainly of programs produced and edited to be displayed on a wide-screen television. The 16:9 format is the reference format for wide-screen television services.
 38. **Number** means the number determined with the Numbering Plan for public communication networks and services in the Republic of Macedonia.
 39. **Call numbers to Emergency service** are numbers in the Numbering Plan for public communication networks and services in the Republic of Macedonia, for the police, the fire service, emergency hospital numbers, warning and notification service including the single European emergency call number "E-112."
 40. **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 radio communications services of other users operating in accordance with this Law.
 41. **Application Program Interface (API)** means a software interface between applications, made available by broadcasters or service providers, and the resources in the enhanced digital television equipment for digital television and radio services.
 42. **Leased line** means a type of electronic communication facility allowing the user transparent transmission connection between network termination points without the function of automatic routing or switching which would be available to the user as part of the functions of leased lines.
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43. ***Associated facilities*** means those facilities associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service. They include conditional access systems and electronic program guides.
44. ***Public pay telephone*** means a telephone available to the public, the use of which is paid for by such means as coins, credit cards, pre-payment cards, including cards for use with coded access.
45. ***Enhanced digital television equipment*** means adjustment equipment (set-top box), equipment that serves for connection of television sets or integrated digital television sets that enable receipt of digital interactive television services.
46. ***Communication*** means information exchanged or transmitted between a limited number of users, but not including information transmitted as part of the broadcasting services via electronic communications network, except in cases where the information may be related to a well-known subscriber or user who receives such information.

Chapter Two

COMPETENCE FOR THE ELECTRONIC COMMUNICATIONS

Article 5

- (1) Competent bodies for regulating issues in the field of electronic communications determined in this Law are:
- The Ministry competent for issues in the field of electronic communications;
 - The Agency for Electronic Communications;

Article 6

Competencies of the Ministry

- (1) The Ministry competent for the activities from the field of electronic communications:
- (a) Carries out the politics of the Government of the Republic in the field of electronic communications;
 - (b) Prepares legislation in the electronic communications field in cooperation with the Agency;
 - (c) Performs activities in relation to the development of electronic communications and information technology, and creation and development of the information society;
- (2) The Minister competent for the activities from the field of electronic communications:
- (1) Prepares the National Strategy for development of electronic communications and information technology taking into account the strategy for development of the
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information society in RM and conducts public outreach prior to its submission for adoption by the Assembly of the Republic of Macedonia;

- (a) Promotes competition in the field of electronic communications and increases the access and use of electronic communications and information technology as determined by the Government of the Republic of Macedonia;
- (d) Coordinates and harmonizes activities in the field of electronic communications and information society;
- (2) Enforces legislation for performing the activities in the field of electronic communications in case of war or state of emergency.
- (e) Cooperates with Ministers of defence and internal affairs regarding issues from the field of electronic communications referring to the defence and security;
- (f) Coordinates the work with the Ministers of defence and internal affairs regarding the use of radio frequencies for defence and security purposes, in cooperation with the Agency for Electronic Communications;
- (g) Recommends to the Government of the Republic of Macedonia for its decision about the appropriate manner and timing of implementation of the European "E-112" single emergency call number in the Republic of Macedonia;
- (h) Performs the activities laid down by this Law and other legislation adopted pursuant thereto, relating to the work of public telecommunication networks in the case of war and state of emergency and in providing public communication services in such circumstances.
- (h) Represents the Republic of Macedonia in international organizations in the field of communications and information society, negotiates and signs bilateral and international agreements in the field of communications and information society on behalf of the Government of the Republic of Macedonia.

Article 7

Independent Regulatory Body

- (3) In the field of electronic communications, an Agency for Electronic Communications shall be established as an Independent Regulatory Body (hereinafter: the Agency).
- (4) The Agency is established as an independent and non-profitable legal person with public authorities determined by this Law.
- (5) The Agency, in its work and in taking the decisions within the scope of its competencies is independent and not subordinated to any state body or other public

legal person or trade company engaged in operating in the field of electronic communications and is impartial towards them.

- (6) The work of the Agency shall be public.
- (7) The Agency shall acquire the status of a legal person by its registration in the court registry.
- (8) The main office of the Agency shall be in Skopje.
- (9) 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.

Article 8

Scope of Work of the Agency

- (1) The Agency shall perform the functions from its scope of work in accordance with this Law and the pertinent regulations, as well as pursuant to the national strategy for development of electronic communications and international agreements in the field of electronic communications, which Republic of Macedonia has signed or acceded to.
- (2) Decisions taken by the Agency within the scope of its work must, as far as possible, be neutral regarding the applied technologies and proportionate to the objectives that are to be achieved thereby.
- (3) The Agency shall promote efficient competition in the provision of electronic communications networks and services, associated facilities and other services by:
 - (a) Enabling users, including disabled users derive the maximum benefits in the sense of choice, price and quality from access to electronic communications services;
 - (b) Ensuring that there is no distortion or restriction of competition in the electronic communications sector;
 - (c) Promoting efficient investment in infrastructure and supporting innovations;
 - (d) Promoting efficient use of radio frequencies and number space as a limited natural resource and

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- (e) Ensuring that in similar circumstances there is no discrimination in the treatment of providers or electronic communications networks and services;

Article 9

Competences of the Agency

For carrying out the activities under Article 8 of this Law, the Agency shall be competent to:

- (a) Supervise, control and monitor electronic communications networks operators' activities and service providers' activities in accordance with this Law, the regulations adopted pursuant thereto and the existing concession agreements;
- (b) Stimulate the establishment of interconnection between electronic communications networks and ensure the interconnection on non-discriminatory terms, on the base of the approved referent offers;
- (c) Initiate activities for ensuring interconnection;
- (ca) Approve the referent offer for interconnection and/or access and the referent offer for unbundled access to local loop of operators with significant market power, and
- (cb) Determine the operators with significant market power in cooperation with the Commission for Protection of Competition;
- (d) Conducts registration of notification of operators of electronic communications networks and providers of the electronic communications services;
- (e) Provide access to the users to public electronic communications networks and public communication services on non-discriminatory base;
- (f) Undertake measures and prescribe protection for the purpose of preventing operators of electronic communications networks and providers of electronic communications services from engaging in non-competitive activities;
- (g) Prepare and administer the Plan for allocation of radio frequencies and the Plan for assignment of the radio frequencies.
- (h) Monitor the use of the radio frequency spectrum in accordance with the Plans from the item (g) of this Article;
- (i) Issue radio frequencies authorizations;

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- (j) Conduct coordination of radio frequencies with the regulatory bodies of the neighbouring and other countries;
 - (k) Adopts and administer the Numbering Plan for electronic communications networks and services of the Republic of Macedonia;
 - (l) Assign numbers and series of numbers to the operators of public communications networks and the providers of public communications services;
 - (m) Manage and monitor the rational use of numbers, pursuant to the Plan from item (k) of this Article, and in the case of determined irregularities to withdraw the numbers and series of numbers;
 - (n) Prepare and administer public tenders for the assignment and use of radio frequencies;
 - (o) Determine the content of the standard agreement between the operators of the electronic communication networks, providers and users of the electronic communications services;
 - (p) Undertake measures pursuant to this Law in cases of violation of provisions of this Law or provisions and conditions contained in the existing concession agreements.
 - (q) Control the prices for communication services and take measures in cases where the electronic communications network operator or electronic communications service provider, either alone or jointly, hold a dominant position in a relevant market for communication services;
 - (r) Control the prices of electronic communications services determined in the referent offers of operators of electronic communications networks and services with significant market power;
 - (s) Control the tariff regimes laid down in the current concession agreements;
 - (t) Manage and administer the Universal Service Fund, collect fees from operators that are not providers of universal services on a separate account on behalf of the Fund, and make disbursement from the Fund for the universal service providers.
 - (u) Resolve disputes between:
 - (i) Operators of electronic communications networks and service providers concerning interconnection and/or access upon a proposal by either party to the dispute, in accordance with this Law;
 - (ii) Operators of electronic communications networks and service providers pursuant to the provisions of this Law and provisions adopted pursuant thereto;
 - (iii) Users and operators of electronic communications network and service providers pursuant to the provision of this Law and provisions adopted pursuant thereto;
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- (t) Create, maintain and update an electronic database containing informations from the electronic communications sector and ensure that the information is available to the public in accordance with the rules on confidentiality and regulations on access to information;
 - (u) Cooperate with bodies and institutions competent for broadcasting and protection of competition;
 - (v) Follow the development of the electronic communications;
 - (w) Gather data and information from electronic communications network operators and electronic communications service providers;
 - (x) Provide information for the users, operators and service providers, as well as for the international organizations and bodies;
 - (w) Adopt and implement the secondary legislation adopted pursuant to this Law;
 - (x) Adopt technical regulations on the base of this Law;
 - (y) Approve the use of radio and telecommunications terminal equipment;
 - (z) Ensure that the operators of the electronic communications networks and service providers abide the obligations which are prescribed in the interest of the defence, security and the public order and in the case of declared war and state of emergency;
 - (aa) Administer the implementation of national and international standards and technical regulations in the field of electronic communications;
 - (bb) Participate in the work of international organizations and associations of national regulatory bodies from the electronic communications sector;
 - (cc) Perform its work in a transparent and non-discriminatory manner, providing opportunity to all interested parties to give their remarks and comments regarding the initiatives, measures and decisions of the Agency and
 - (dd) Administer the procedure for determining the universal service provider and signs the agreement with it upon a previous consent obtained by the Minister in charge of electronic communications.

Article 10

Responsibility of the Work of the Agency

- (10) The Agency is responsible for its work before the Parliament of the Republic of Macedonia.

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- (1) The Agency is obliged to submit an annual report not later than 31 March in the current year for the previous year on its work to the Assembly of the Republic of Macedonia.
 - (2) The Annual Report referred to in paragraph 2 of this Article shall in particular contain:
 - (a) Report on the Agency's work during the previous period;
 - (b) Annual work program for the coming period;
 - (c) Report on the status of assets in the Universal Service Fund and
 - (d) Report for executing the annual financial plan of the Agency.
 - (4) The annual report of the Agency shall be available to the public.

Article 11 **Bodies of the Agency**

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

Article 12 **Commission**

- (1) The Commission consists of five (5) members, including the President, who acts as a chairperson on meetings of the Commission.
 - (2) The President of the Commission shall have a Vice President, elected by the Commission from its membership.
 - (3) The President and members of the Commission shall be appointed by the Assembly of the Republic of Macedonia upon proposal by the Committee on Election and Appointment Issues of the Assembly of the Republic of Macedonia.
 - (3) Candidates for the President and members of the Commission shall be proposed under the condition that they are citizens of the Republic of Macedonia and that they are holders of a university degree in the field of science, law or economy with professional knowledge and experience of more than 5 years, and relevant knowledge of the electronic communications sector.
 - (4) The President and members of the Commission shall be appointed to a term of office of five years, except that the first term of office of the President shall be five years, of two of the members four years, and for the other two members three years.
 - (5) The President and members of the Commission shall not hold office for more than two consecutive terms.
 - (6) The President or the member of the Commission shall be appointed not later than sixty (60) days prior the expiration of the mandate of the their predecessors.
 - (7) If the procedure for appointment has not been completed prior the expiration of the term of office of the President or the member of the Commission, the President and
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Members of the Commission whose terms of office have expired shall continue to hold their office, but within a period not longer than six (6) months.

- (8) For the duration of their mandate, the President and members of the Commission may not be: deputies of the Assembly of the Republic of Macedonia, members of the Government of the Republic of Macedonia, persons performing duties in bodies of the political parties, members of managing and supervisory bodies in public companies, or members of any other form of association of legal and natural persons that might lead to a conflict of interests.
- (10) The President, the member of the Commission, his/her spouse or not married partner, as well as direct relations up to and including the second branch, may not hold equity directly or indirectly in any organization performing activities directly subject to the jurisdiction of the Agency.
- (11) Where the Director or a member of the Commission has direct or indirect private interest in the decision making process of the Agency, s/he shall inform the President of the Commission, after becoming aware of such interest, and shall not take part in consideration of that matter.

Article 13

The Method of Operation and Decision Making of the Commission

- (1) The Commission shall meet at least once a month.
- (2) The Commission shall have a quorum of three members on all its meetings.
- (3) Decisions of the Commission shall be made by a majority of votes of all members of the Commission. In cases where four members are present and the vote is evenly split the President shall cast the deciding vote.
- (4) The President of the Commission shall convene the meetings of the Commission, be the chairperson at meetings of the Commission and represent and act on its behalf, while in case the President is absent or prevented from performing his/her duties, the Vice President shall act as a chairperson at meetings and represent the Commission.
- (5) **President and members of the Commission may hold employment in other legal entity, except in other legal entities that may be subject to the applicable conflict of interest provisions of this Law.**
- (6) The President and members of the Commission shall be entitled to a monthly fee and expense reimbursements determined by the Statute of the Agency.
- (7) The monthly fee and other costs of the President and members of the Commission shall be paid from assets of the Agency determined with the annual financial plan.

Article 14

Competencies of the Commission

The Commission shall have the following competencies:

- (a) to adopt a statute and other acts of the Agency;
- (b) to adopt the annual financial plan of the Agency and final statement of accounts;
- (c) to adopt annual work program for the Agency;
- (d) to adopt annual work report;
- (e) to appoint the Director of the Agency in compliance with this law;
- (f) to follow the implementation of the annual and other work programs and initiatives of the Agency;
- (g) to decide upon complaints in second instance;
- (h) to cooperate with other state bodies and institutions, units of the local self-government and non-governmental organizations and associations of citizens;
- (i) to submit reports, recommendations and suggestions to the Assembly of the Republic of Macedonia and other state bodies and institutions from the electronic communications sector and
- (j) to undertake other activities as regulated by this Law and the Statute of the Agency.

Article 15

Removal of the President and Members of the Commission

- (1) The Assembly of the Republic of Macedonia, upon proposal by the Committee on Election and Appointment Issues of the Assembly of the Republic of Macedonia, may remove the President or a member of the Commission prior the expiration of their term of office in the following cases:
 - (a) upon their own request;
 - (b) if s/he is sentenced for a criminal act in duration of more than six (6) months or a safety measure has been imposed for prohibition to perform his/her professional activities and duties in duration of more than six (6) months and
 - (c) if s/he is absent from the three consecutive meetings of the Commission or from five meetings in aggregate during any twelve month period of his term of office.
- (2) Non-submission of required annual reports of the Agency to the Assembly of the Republic of Macedonia may be ground for collective dismissal of the Commission.

Article 16

Director of the Agency

- (1) The Commission appoints the Director of the Agency by way of public competition where s/he must be a citizen of the Republic of Macedonia and a holder of university degree in the field of science, law or economics with professional experience of more than 5 years and has organizational and managing abilities.
- (2) The Commission shall appoint the Director no later than 30 days prior the expiration of the mandate of his predecessor.

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- (3) The Director, his/her spouse or not married partner, and direct relations up to and including the second branch, may not hold majority shares, directly or indirectly in any organization performing activities directly subject to the jurisdiction of the Commission.
 - (4) The Director shall be engaged by the Agency as a professional full-time employee.

Article 17

Competences of the Director of the Agency

- (1) The Director manages the work of the Agency and is responsible for the lawful work thereof, and in performing his/her duties, s/he is authorized to:
 - (a) execute contracts on behalf of the Agency;
 - (b) issue decisions upon issues for which the Commission does not decide on;
 - (c) prepare acts adopted by the Commission;
 - (d) delegate powers within the scope of his/her jurisdiction;
 - (e) issue decision in first instance;
 - (f) appoints inspectors for electronic communications taking into account the relevant and fair representation;
 - (g) perform other activities set forth in this Law and in the Statue of the Agency;
 - (h) issue acts for the enforcement of this Law;
 - (i) appoint persons on managing positions in the Agency.
 - (2) The Director shall have the right to attend and participate in Commission meetings, where he shall not have the right to vote.
 - (3) The term of office of the Director shall be for five years, where s/he may be reappointed for an additional consecutive term of office.
 - (4) The Director may submit the resignation from his/her term of office to the Commission in writing.
 - (5) Where the term of office of the Director has terminated, while the procedure for the appointment of a new Director has not been completed, the Director shall continue to perform his/her office until the appointment of a new Director, but not longer then six months.
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Article 18

Dismissal of the Director

- (1) The Director may be dismissed by the Commission only in the following cases:
 - (a) upon his/her request;
 - (b) if s/he cannot perform his duties for reasons of illness lasting longer than six (6) months;
 - (c) acceptance of a position or practice that is incompatible with his/her function of a Director;

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- (d) in case of being convicted for a crime by a prison sentence of more than six (6) months or a safety measure has been imposed for prohibition to conduct professional activities and duties in duration of more than six (6) months.
 - (e) violation of the provisions of this Law or the provisions thereunder;
 - (f) abuse of his position;

(2) The Director against whom a procedure for dismissal has commenced shall be informed of the alleged mistrust in advance and shall have the right to defence before the Commission.

Article 19

Organization and Employment by the Agency

- (1) The Agency shall adopt a statute, which in particular will regulate the manner and conditions for employment with the Agency in accordance with the Law on Labour Relations.
- (2) For performing the activities of the Agency, a special office shall be established, the internal organization and manner of work of which shall be regulated by the matters and assignments organization and systematisation acts.
- (3)
- (4) Provisions of the Law on Civil Servants shall not apply to the employees with the Agency.

Article 20

Method of Operation of the Agency

- (1) At least twice a year, the Agency shall organize open meetings with the interested parties for the purpose of enabling them to become acquainted with the Agency's work and present their views on electronic communications.
- (2) In its Statute, the Agency shall more closely define:
 - (a) the rules of procedure for receiving proposals of interested parties;
 - (b) the manner and place of publication of its decisions and acts;
 - (c) the method of access to data and information that the Agency is obligated to make publicly available, as well as other data and information and
 - (d) the form of cooperation with representatives of organizations of users of electronic communications services.

Article 21

Cooperation with Other State Bodies and Institutions

- (1) The Agency shall cooperate in the performance of its functions with other state organs and bodies, which are related to the electronic communications.
- (2) The Agency and the Commission for protection of competition shall exchange data and information they need in exercising their competences, where the scope of exchange of information shall be limited to data and information that is relevant and proportionate to the purpose for which they are exchanged.

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- (3) In the implementation of relevant market analysis and determination of operators with significant market power pursuant to this Law, the Agency shall cooperate with the Commission for Protection of Competition.
 - (4) The Agency may exchange available information with other regulatory bodies on their request, provided that the exchanged information is relevant to the competence of the other regulatory bodies and to be exchange under conditions and manner set forth in paragraph (2) of this Article.
 - (5) In the implementation of processes for assignment of frequencies for the purposes of broadcasting, the Agency shall cooperate with the Broadcasting Council

Article 22

EU Harmonization and Other International Cooperation

- (1) The Agency, in its operation, for the purpose of promoting and developing the electronic communications market in the Republic of Macedonia, shall take into account the European Commission and European Union recommendations and the worldwide best practices as may be relevant.
- (2) The Agency shall cooperate with the state bodies responsible for the harmonization of national legislation with the legislation of the European Community and with regulations of the World Trade Organization (WTO).
- (3) The Agency may establish relations and conclude cooperation arrangements with national regulatory bodies for electronic communications of other countries.

Article 23

Providing Data and Information

- (1) Operators of electronic communication networks and electronic communication service providers shall be obligated to make available to the Agency all information, including financial data, which are necessary for the Agency to exercise its competences, including, without any limitation:
 - (a) description of functional and technical parameters of public electronic communications networks and/or services, the manner of their realization, provision of compatible interfaces and applicable electro-magnetic compatibility and their influence on the safety of people and environment;
 - (b) payment of assets into the Universal Service Fund and payment of fee towards the Agency;
 - (c) compliance with the provisions of this Law, provisions adopted pursuant thereto, or individual acts of the Agency, where:
 - a complaint has been received,
 - the Agency has a reason to believe that the provisions of this Law have been violated, or
 - the Agency ex officio conducts an investigation procedure regarding the compliance of operators of the electronic networks and providers of the electronic communications services in accordance within this Law.
 - (d) assessment of request for granting rights to use scarce resources pursuant to this Law;

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- (e) comparative overview of quality and price of services for the benefit of consumers;
 - (f) statistical targets; and
 - (g) market analysis.
- (2) Requests for information by the Agency shall be justified, based on reasonable grounds and proportionate to the purpose for which the will be used.
 - (3) Operators and providers of electronic communications networks and/or services shall supply the information in response to the request of the Agency free of charge and to the extent and within the interval laid down in the request of the Agency.
 - (4) The Agency may only use the confidential information received from another regulatory body for the purposes for which it was requested and shall respect the confidentiality thereof.

Article 24

Records and Storage of Information

- (1) The Agency shall keep records and store documentation containing data on:
 - (a) operators and service providers;
 - (b) users of assigned radio frequencies;
 - (c) users of assigned numbers;
 - (d) referent offers for interconnection of operators and referent offers for unbundled access to local loop (RUO);
 - (e) interconnection contracts established by operators with significant market power at a relevant market of communications services on the basis of approved referent offers;
 - (f) calculations of compensation and costs for universal service provision and;
 - (g) such other data as the Agency may determine.
 - (2) The Agency shall keep records and store 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) title, principal office, registration court number, unique tax number and name and address of the legal representative for legal entities;
 - (b) notification of public communications networks and/or public communications services;
 - (c) the date of commencement, alteration or cessation of the provision of public communications services;
 - (d) decisions determining operators with significant market power in a relevant market;
 - (e) settlement of obligations of operators arising from this Law;
 - (f) prescribed penalties for violation of the provisions of this Law.
 - (4) The Agency shall keep the official records and store data on users of assigned radio frequencies referring to the following:
 - (a) title, principal office, registration court number and unique tax number for legal entities;
 - (b) name, address and identification number for natural persons;
 - (c) authorizations for the use of radio frequencies;
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- (d) settlement of the obligation for the payment of costs for the radio frequency usage;
 - (e) prescribed penalties for violation of the provisions of this Law and;
 - (f) other records that the Agency may determine;
- (5) The Agency shall keep the following official records and store data on users of assigned numbers:
- (a) title, principal office, registration court number and unique tax number for legal entities and name and address of a legal representative for legal entities;
 - (b) the decision on assignment of numbers;
 - (c) settlement of the obligation for the payment of costs for the use of numbers;
 - (d) prescribed penalties for violation of the provisions of this Law;
 - (e) other records that the Agency may determine;
- (6) The Agency may also obtain data listed in this Article from other state bodies and through direct computer or electronic links.
- (7) The Agency shall retain the data from paragraph 3 of this Article as long as the operator provides public communication service pursuant to this Law, and in the form of an archive for additional five (5) years thereafter. The Agency shall retain the data from paragraphs 4 and 5 of this Article for as long as the natural person or legal entity has the right to use the radio frequency or the number, and in the form of an archive for additional five (5) years after the expiry of such rights.

Article 25

Access to Agency Records

- (1) The documentation that the Agency keeps in the information database provided for in Article 24 of this Law shall be made publicly available except for confidential records, upon payment of real net costs.
- (2) Subject to section (1) of this Article, the documentation shall contain:
- (a) records of the Agency from Article 24 of this Law,
 - (b) records of performed supervision and control,
 - (c) data, information, publication of which the Agency believes would contribute to an open and competitive market;
 - (d) other records that the Agency may determine.
- (3) The following records shall not be made publicly available except in cases stipulated in this Law:
- (a) records pertaining to the personnel of the Agency, records of the internal organization and systematisation of the Agency;
 - (b) personnel and medical records, and other records the disclosure of which would constitute an invasion of personnel privacy;
 - (c) records relating to the defence and security of the Republic of Macedonia;
 - (d) records of information obtained from the services of radio frequency monitoring activities by the Agency;
 - (e) records containing information pertaining to the property of operators of electronic communications networks and electronic communications service providers;
 - (f) records of trade secrets, commercial financial or technical information of electronic communication networks and electronic communication service providers;
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- (g) records submitted to the competent court until the conclusion of the procedure;
 - (h) records relating to disputes between operators of electronic communications networks, providers and users of electronic communications services until the conclusion of the procedure;
 - (i) records relating to referent offers until their final approval by the Agency's;
 - (j) records that are not publicly available by the force of law.
- (4) The Agency shall make available records referred to in paragraph (3) of this Article on the request of the courts for court proceedings.
 - (5) The Agency shall be obliged in the forwarding and/or sharing of records with other state bodies containing the information identified in section (3) of this Article to maintain confidentiality applicable to such information.
 - (6) Publicly available records containing information submitted in relation to audits, investigation and examinations shall not be made publicly available until the Agency has acted upon the matter.
 - (7) The Agency in its Statute shall determine the obligations of its personnel pertaining to keeping the confidentiality of records that are not publicly available.

Article 26

Financing, Accounting and Audits of the Agency

- (1) The operation of the Agency shall be financed through:
 - (a) revenues from the reimbursements stipulated under this Law;
 - (b) donations, loans and other financial and technical assistance.
- (2) The Commission adopts an Annual Financial Plan for the Agency and submits it to the Assembly of the Republic of Macedonia for its approval. The Annual Financial Plan of the Agency contains information on the revenues and costs, as well as audits and financial reports for the previous year and the anticipated capital and operational costs for the coming year.
- (3) The audit shall be performed by an external and independent auditor.
- (4) The Agency shall be obliged to keep separate accounting for the assets in the Universal Service Fund and the assets for the operation of the Agency.
- (5) If the reimbursements and other costs determined by this Law are not paid in the manner and within the deadlines provided for in this Law, the Agency shall file a request with the Public Revenue Office for enforcing a collection procedure.

Chapter Three

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

Article 27

Provision of Electronic Communications Networks and Services

- (1) Legal entities and natural persons that construct and/or use electronic communications networks and provide services are obliged to meet the conditions pursuant to this and other laws and the pertinent regulations thereto and not to endanger the public order, human life and health, public security and the defence of the country.

(2) Where the electronic communications network covers the use of radio frequencies, as well the legal entities and natural persons referred to in paragraph 1 of this Article shall be obliged to obtain an approval for use of radio frequencies pursuant to the provisions of Chapter Six of this Law.

Article 28

Notification Procedure

- (1) A notification shall be submitted to the Agency prior to the commencement of construction and/or use of public electronic communications networks and/or providing public electronic communications services, alteration or cessation in providing public communications networks and services.
 - (2) The notification from paragraph 1 of this Article must contain, in particular:
 - (a) the name, principal office, the unique tax number and registration number of the entity filing the notification, as well as a statement of the legal representative including his name, address, contact number, and unique identity number;
 - (b) date of commencement, alteration or cessation of the activities defined in Article 27, paragraph 1 of this Law, and
 - (c) all other information required pursuant to the provisions enacted under this Law.
 - (3) The notification shall have attached –
 - (a) supporting documentation that demonstrates the accuracy and completeness of information from paragraph 1 of this Article, and
 - (b) a declaration that the information is accurate and that they meet the conditions provided for in item (b) of paragraph 2 of this Article.
 - (4) Operators and service providers shall be obliged to report the Agency all the changes in the information provided in the notification, within an interval of thirty (30) days of the occurrence thereof.
 - (5) The Agency shall register the operator or the service provider by recording it in the official records within fifteen (15) days of the receipt of the notification, with a written confirmation of the registration made.
 - (6) Registration in the Agency shall not be a sufficient condition for exercising the rights and obligations of operators or service providers under this Law and the confirmation of registration issued by the Agency shall not by itself create rights and obligations in accordance with this Law, if the conditions stipulated in this or other laws are not fulfilled.
 - (7) Within fifteen (15) days of receipt of a notification request that is lacking any of the information and supporting documentation required by paragraphs (2) and (3) of this Article, the Agency shall inform the operator or the service provider to supplement the notification request as necessary within an interval that shall not be shorter than eight (8) days or longer than thirty (30) days.
 - (8) The Agency shall by a regulation under this Law prescribe in more detail the content and form of the notification request, the supporting documentation and the registration confirmation and it is publicly available.
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Article 29

Construction and Maintenance of Electronic Communications Networks

- (1) Construction, maintenance and operation of public communications network and associated infrastructure are considered as works of public interest.
- (2) Electronic communications networks and associated infrastructure must be constructed and operated in accordance with this Law, the provisions adopted thereunder, the regulations on spatial planning and construction, the regulations on protection of the environment, and in accordance with the valid technical regulations and standards.
- (3) Maintenance of public communications networks and associated infrastructure shall be conducted in accordance with the construction regulations on:
 - (a) completion and upgrading of the existing facilities and equipment for public communications networks;
 - (b) reconstruction of existing antenna systems;
 - (c) restoring and reconstruction of existing facilities of public electronic communications networks;
 - (d) increasing the capacity of existing or installation of new communications systems and public access networks;
 - (e) increasing the existing power supply systems.

Article 30

Joint Use of Facilities and Assets

- (1) Where the economic use of space, the urban planning, protection of the environment requires so, the operators of public communications networks that have the right to construct and install communication property and facilities on public or private property should construct or install them in the manner as to enable their joint use.
- (2) Operators of public communications networks shall be obliged to reach conclude agreement for the joint use of such property or facilities under the circumstances from paragraph 1 of this Article.
- (3) The Agency shall encourage operators of public communication networks to reach an agreement for the joint use of the property or assets.
- (4) For the purpose of ensuring future joint use of facilities and assets, the Agency shall publicly announce the intent for construction of a public communication network, or a significant part of a network, according to Articles 23 and 25 of this Law.
- (5) An operator of public communication network may reject a request for joint use of his communication facilities and assets in the following cases:
 - (a) if the joint use of the communication facilities is technically unfeasible or damages the integrity and safety of the network;
 - (b) if the party asking for joint use does not agree to pay the fee for joint use of the communication property and facilities.

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- (6) Where the operators of public communications networks are not able to reach an agreement among them, the Agency shall at the request of one of the parties initiate a procedure under Articles 122 through 133 of this Law.
 - (7) In instances where the joint use requires reconstruction of the communications facilities and assets, the reconstruction costs shall be covered by the party requesting the joint use. In cases where the operators cannot reach an agreement on the amount of the fee for joint use of communication facilities and assets, the Agency, within 30 days from the date of submission of request by either party shall decide on the amount of the fee.

Article 31

Use of Own-Use Networks for Public Communications Services

- (1) Legal entities whose main activity is in an area other than the provision of electronic communications networks or services, and which possess such networks or services for their own use, shall be obliged to comply with the notification requirement under the provisions of Article 28 of this Law if they are to use them for providing public communications services.
- (2) Legal entities referred to in paragraph 1 of this Article shall provide such public communications networks or services through establishment of another legal entity or keep separate financial accounts for the revenues acquired from the said activities.

Article 32

Remuneration for Supervision of the Market for Electronic Communications

- (1) Operators providing public communications networks and services providers shall pay an annual remuneration for supervision of the market for electronic communication conducted by the Agency.
 - (2) The annual remuneration from paragraph 1 of this Article shall be the most up to 0,5% of the annual gross revenue of the operator or service provider derived from the provision of public communications networks and services during the prior calendar year or such shorter portion of such year in which the operator or the service provider has commenced operations.
 - (3) The operator or the service provider must, no later than by 31 March of each year, pay the annual remuneration for supervision of the market of electronic communications on the account of the Agency on the basis of the previously submitted report for the amount of the gross revenue of paragraph 2 of this Article.
 - (4) If the Agency suspects on reasonable grounds the truthfulness of the reported annual gross revenue, it has the right to estimate the revenue at the operator or service provider's expense.
 - (5) If the estimated gross revenue deviates substantially from the reported gross revenue, in calculating the annual supervision remuneration from paragraph 2 of this Article, the Agency shall oblige the operator or the service provider to pay the calculated deviation.
 - (6) The methodology of calculating the annual remuneration for supervision of the market for electronic communications shall be prescribed by the Agency with a regulation adopted under the law.
 - (7) The methodology of calculating the annual remuneration may not distort the competition or create barriers to market access.
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- (8) The Agency shall, prior the adoption of the regulation referred to in paragraph 6 of this Article, notify in writing the operators and providers of public communications networks and services to submit their opinion and proposals regarding the annual reimbursement, method of calculation and implementation. The deadline for submission of the opinions and proposals may not be shorter than 15 days or exceed two months from the date of receipt of the notification. They may have mutual discussions during this time period.
- (9) The annual reimbursement for supervision of market for electronic communications shall paid in on the Agency's account.

Chapter Four

ENSURING UNIVERSAL SERVICE

Article 33

Universal Service

The universal service shall include:

- (a) connection of the end user to the public telephone network at his/her request by ensuring access to publicly available telephone services at a determined geographical location, enabling users to make and receive calls in the local, national and international telephone traffic, facsimile communications and data communications at a minimum speed of 2400 bit/s.
- (b) ensuring access to information in the single directory and directory enquiry services in the Republic of Macedonia in accordance with Article 34 of this Law;
- (c) ensuring public pay telephones from which it is possible without having to use any means of payment to make emergency calls so as to meet all the reasonable needs of end users in terms of the geographical coverage, the sufficient number of public pay telephones, accessibility for disabled users and the relevant quality of services and
- (d) ensuring conditions for equivalent access to and use of publicly available telephone services for disabled end users, including access to emergency calls services and information in single directory for all subscribers in the Republic of Macedonia, as well as for other end users.

Article 34

Directory Enquiry Services and the Single Directory

- (1) The single directory of all subscribers in the Republic of Macedonia must contain, at minimum, the full name of the subscriber who is natural person, or the title in the case of a legal entity, address, telephone number, i.e. numbers of subscribers of publicly available telephone services, except of those who have requested the said information not to be made public.
- (2) The directory enquiry service in the Republic of Macedonia should contain, at minimum, the full name of the subscriber who is a natural person, or the title in the case of a legal entity, address and telephone number or numbers of subscribers of publicly available telephone services, available at request of interested parties, except for subscribers who have requested the said information not to be made public.
- (3) The Agency shall prescribe the form and contents of the single directory, which may be made public in printed or electronic form.

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- (4) Legal entities and natural persons carrying out business activities shall be obliged to provide data for publishing of at least one telephone number, in the single directory.
 - (5) Data in the single directory of all subscribers in the Republic of Macedonia should be updated regularly, not less than once a year. Information administered by the directory enquiry service should be updated not less than once a month.
 - (6) Operators providing public telephone services shall distribute information about their subscribers to the providers of universal service so that they shall include them without exception in the single directory and in the directory enquiry service. Providers of universal service should immediately notify the Agency if an operator of a publicly available telephone service does not provide the requested data, in which case the Agency shall oblige the operator to provide the universal service providers with the requested data within a set time period.

Article 35 **Ensuring Universal Service**

- (1) The Agency shall designate one or more providers of universal service.
- (2) The Agency may initiate a public tender proceeding for the purpose of electing one or more universal service providers.
- (3) The Agency in the process of electing one or more universal service providers must take into account the principles of effectiveness, objectivity and transparency.
- (4) When certain services under the universal service are not sufficiently present or are not present at all, the Agency may conduct a tender proceeding for electing a provider of such services. In the event the tender fails, the Agency may, after providing the interested parties an opportunity to be heard, elect a universal service provider.
- (5) The Agency shall prescribe the tender procedure, including pre-qualification, on basis of objective and transparent criteria for selection of a universal service provider that shall include:
 - (a) the ability of a provider to provide universal service in a defined area within the period of time defined in the tender documentation, and
 - (b) the amount of the necessary funds for providing the service and the relevant net costs of such provision, and the corresponding amount of compensation from the universal service fund required by the operator to implement its universal service application.
- (6) The Agency signs the agreement with the universal service provider after the completion of the tendering procedure and after the previously given approval by the minister competent for issues regarding electronic communications.
- (7) The Agency shall constantly follow the operation of the universal service provider, and the provider shall be obliged to submit data about its operation to the Agency, at least once a year.

Article 36 **Prices and General Terms**

- (1) The Agency shall monitor changes and level of prices of services provided under the universal service.
- (2) The prices of individual services provided under the universal service must be equal throughout the territory of the Republic of Macedonia.

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- (3) Universal service providers may offer price options or packages for subscribers with low incomes and/or special needs as defined by law that differ from those provided for the remaining subscribers.
 - (4) Universal service providers shall be obliged to determine prices and general terms of payment in such a way that subscribers of specific services provided under the universal service are not obliged to pay for services which are not necessary or not required for the provisions of such services.
 - (5) Prices for universal service should be formed in compliance with the price limitation regime according to the methodology prescribed by the Agency.
 - (6) Universal service providers shall be obliged to provide their subscribers with an opportunity to limit the use of services, such as selective call barring for outgoing calls, itemized billing for the services, free of charge, and pre-payment system to pay for access and use of services.

Article 37

Quality of Universal Service

- (1) The Agency shall prescribe the technical requirements for the quality of universal service, the technical parameters and their measuring, and the minimum quality requirements.
- (2) Universal service providers shall be obliged at least once a year to publish information on the quality of universal service.
- (3) The Agency shall monitor the quality of universal service and may take action as necessary in accordance with this Law.
- (4) If the Agency has a reasonable doubt as regards the truthfulness of information from paragraph 2 of this Article it may order, *ex officio*, an audit to be carried out by an independent audit company at the expense of the universal service provider.
- (5) If the measured values of technical quality parameters for a particular universal service provider fail to achieve the performance targets at least three times in succession, the Agency may initiate a procedure to revoke the designation and designate a new universal service provider.

Article 38

Compensation for Ensuring Universal Service

- (1) Universal service providers shall be entitled to compensation if the provision of services from Article 33, paragraph 1 and Article 36, paragraph 3 of this Law causes extraordinary costs. If the Agency concludes that such costs exist, it shall calculate them as net costs for providing the particular universal service, provided that the Agency considers that it is an unfair burden for the universal service provider.
- (2) The compensation from paragraph 1 of this Article may under no circumstances exceed the real costs for providing the universal service.
- (3) The real costs from paragraph 2 of this Article shall be calculated as the difference between the real costs for providing the universal service and the costs that the universal service provider would have had if he had not been a universal service provider, wherein any benefit to the universal service provider arising from the provision of the universal service, including any intangible benefit, is taken into account.

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- (4) The Agency shall prescribe the method of calculating real costs and intangible benefits that should be taken into account in the calculation of real costs of universal service provision, and in so doing shall take into account the recommendations of the European Union on Universal Service.
 - (5) Providers of universal service shall be obliged to keep separate accounting records for the costs of universal service provision.
 - (6) Universal service providers shall be obliged to send to the Agency by 31 March information about the real costs, revised annual balance sheet and data used in the calculation of the real costs for provision of universal service, otherwise they shall lose the right to claim real costs.
 - (7) The Agency shall appoint an audit company to conduct an audit and approve the annual balance sheet and information from paragraph 6 of this Article upon the conducted audit.
 - (8) The Agency confirms the calculation of real costs for provision of universal service. If the universal service provider was chosen in a public tender, the Agency shall in its assessment take account of the costs of provision of the universal services offered by the provider in the public tender. The Agency shall take different costs into account only in instances where 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 derogation on an objective and transparent basis. The Agency shall make public the results of costs calculation and audit of the information provided by the universal service provider.
 - (9) The Agency Director shall issue a decision determining the level of compensation, wherein on the basis of calculations s/he may decide that the universal service provider is not entitled to compensation or is entitled to less compensation for real costs of universal service provision than the provider proposed.
 - (10) The universal service provider may appeal the decision from paragraph 9 of this Article before the Commission. The appeal shall not postpone the enforcement of the decision.

Article 39

Financing of Universal Service

- (1) Compensation for real costs of universal service provision shall be financed by operators who own public communications networks and/or provide public communications services throughout the territory of the Republic of Macedonia and earn gross revenue, determined by the Agency by sub-regulation.
 - (2) The Agency shall determine the amounts of assets pursuant to paragraph 1 of this Article that shall not be higher than 1% of the total revenues from ensuring public communication networks and providing communication of all operators subject to the payment requirement defined in paragraph 1 of this Article.
 - (3) Operators shall be obliged to pay the contributions from paragraph 1 of this Article on a separate account of the Agency within a time period and in the amount as determined in a decision of the Agency the latest by 30 April of current year for the previous year.
 - (4) Operators shall by 31 March each year inform the Agency of their revenues in the previous year from the provision of public communications networks or services in the Republic of Macedonia. If the operator fails to do so, the Agency shall take into account the information on the total revenues of the operator from the previous year, obtained on the basis of the data contained in the annual report submitted to the Agency.
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- (5) If the Agency has a reasonable doubt as regards to the truthfulness of the information reported by the operator, the Agency or an auditor authorized by the Agency may review the information and estimate the revenue taking into account the costs of that operator. If the estimated revenue significantly deviates from the reported revenue from paragraph 4 of this Article, the Agency shall take the estimated revenue into account in making its calculation.
 - (6) The Agency shall make disbursements from the account for universal service contributions on annual basis to compensate any designated universal service provider in the amount equal to the approved real costs of providing the universal service.
 - (7) The account for the universal service compensations should be audited annually by an independent auditor authorized by the Agency.
 - (8) The Commission shall submit an annual report to the Assembly of the Republic of Macedonia, which shall include:
 - (a) financial report and annual audit report for the universal service compensations account;
 - (b) information, subject to the rules on the confidentiality of proprietary business information, on the calculated real costs of universal service provision, the intangible benefits taken into account in the calculation of real costs, and the compensation of such costs.

Chapter Five -- ENSURING COMPETITION

Article 40 Operators With Significant Market Power

- (1) An operator of public communications network or provider of public communications service shall be deemed to possess significant market power, if in a relevant market of public communications networks or services, in a given geographical area, it has the power and capacity to act independently of the competitors, users and consumers in that market with respect to the prices or offer.
 - (2) If two or more operators operate in a relevant market the structure of which is considered to be conducive to coordinated effects or parallel actions, they may be treated as operators that jointly possess significant market power, even in the absence of structural or other links between them.
 - (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 to the first, where the links between the two markets are such as to allow the market power held in one market to be asserted in the closely related market.
 - (4) In assessing whether an operator has significant market power on a relevant market, the Agency shall take the following criteria into account:
 - (a) the market share of the operator in the relevant market and changes in the market share over time;
 - (b) barriers to entry into the relevant market and their effect on potential competition;
 - (c) the effect of countervailing purchasing power exerted by large users on the power of the operator;
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- (d) elasticity of demand;
 - (e) the stage of development of the relevant market;
 - (f) technological advantages;
 - (g) the development of sales and distribution networks;
 - (h) economies of scale or economies of integration;
 - (i) the degree of vertical integration;
 - (j) the degree of product differentiation; or
 - (k) access to financial resources.
- (5) When assessing whether two or more operators jointly possess significant market power in a relevant market, the Agency shall take into account the following criteria:
- (a) the level of concentration of the relevant market, distribution of market shares in the relevant market and their variation over time;
 - (b) barriers to entry into the relevant market and their effect on potential competition;
 - (c) the effect of countervailing purchasing power exerted by large users on the power of the operator;
 - (d) transparency of the relevant market;
 - (e) the stage of development of the relevant market;
 - (f) homogeneity of products;
 - (g) elasticity of demand;
 - (h) the amount of technical innovations and development of technology;
 - (i) the existence of available (unused) assets;
 - (j) the existence of formal or informal links between the operators;
 - (k) retaliatory mechanisms employed by the operators; or
 - (l) the existence of price competition.
- (6) In assessing significant market power and applying the criteria of this Article, the Agency shall cooperate with the body responsible for protection of competition.

Article 41

Determination of Relevant Markets

- (1) The Agency may determine relevant product, service or geographic market in the electronic communications market in accordance with a law regulating the protection of competition.
 - (2) In the course of determining the relevant product, service or geographic market referred to in paragraph 1 of this Article, the Agency shall cooperate with the body responsible for protection of competition.
 - (3) 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 on an operator or operators with significant market power in that market. Before issuing the decision, the Agency
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shall request an opinion from the body responsible for the protection of competition. The decision for determination of operator with significant market power in the relevant market shall be publicly announced.

Article 42

Review of Relevant Market Determinations

The Agency shall be obliged at regular intervals in cooperation with the body responsible for protection of competition to review its relevant product, service and geographic market determination, where the intervals may not be longer than one (1) year.

Article 43

Obligations of Operators with Significant Market Power

- (1) The operators with significant market power in a certain relevant market, all the stockholders that own more than 10% of shares or stocks in the significant market power operators in a certain relevant market (principals), as well as the companies established by the operators with significant market power in a relevant market, shall not be allowed to acquire ownership of communications networks that will decrease the competition in a certain relevant market and thus limit the selection of users in relation to a certain communication service, without an approval from the Monopoly Administration, i.e. the Commission for Protection of Competition, upon the appointment of members of the Commission.
- (2) If on the basis of the analysis of a relevant market, the Agency finds that there is sufficient competition in that market, i.e. an operator and electronic communications service provider has no power and capacity independently or jointly with other operators or service providers to act independently from competitors and users of that market regarding the prices or offer, it shall not assess any operator as an operator with significant market power. If this market was non-competitive before, the Agency shall be obliged to revoke all decisions assessing operators with significant market power in that market.
- (3) In revoking decisions pursuant to paragraph 2 of this Article, the Agency shall also revoke the obligations of those subject to such decisions as operators with significant market power.
- (4) The Agency shall conduct measures in accordance with this Article, on the basis of previous consultations with interested parties and in cooperation with the Commission for protection of competition.

Article 44

Interconnection and Access

- (1) The operators of the public communication networks are obliged and have the right to negotiate between themselves, regarding the interconnection and access.

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- (2) The operator of the public telecommunications network is obliged to respond to the requests for interconnection to his own public telecommunications network with the networks of other operators within 30 days from the day of submission of request for interconnection and access.
 - (3) The operators with significant market power, determined according to the provisions of Chapter Five of this Law, are obliged to meet the demands for interconnection or access at any point of their networks where it is technically possible, including the access to the points which are not the end interconnection points of the network.
 - (4) The parties are obliged to draw an agreement on technical and financial issues of the interconnection or access, which will not be opposite to the provisions of this Law and approved referent offers.
 - (5) The agreements on interconnection between an operator with significant market power on a relevant market and other operator must:
 - a) be in writing;
 - b) contain the complete agreement between the parties; and
 - c) be submitted to the Agency within fifteen (15) days upon their signing.
 - (6) The agreements on interconnection must be accessible to the public, pursuant to Article 25 of this Law.
 - (7) The Agency will intervene on its own initiative when it is justified by ensuring of interconnection.
 - (8) The parties are 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 enable them competitive advantage, taking into consideration the obligations determined in Articles 45 and 46 of this Law.
 - (9) If the parties fail to reach an agreement pursuant paragraph 4 of this Article, or the agreement is opposite to the provisions of this Law, the Agency, upon request of either party, the Agency shall decide pursuant the provisions from the Article 122 through 133 of this Law.
 - (10) The operator or a provider requesting interconnection or access shall cover the costs for establishing the interconnection or the access, except in cases where the parties have agreed in a different way.

Article 45

Transparency in Interconnection and Access

- (1) The Agency may instruct specific operators with significant market power to ensure transparency with regard to interconnections and/or access by requiring them to publish specific information relating to technical specifications, network characteristics, conditions for use, prices and other information relating to interconnection and/or access.
 - (2) The operators with significant market power in a relevant market are obliged, within 30 days from the date when the decision determining them as operators with significant market power was issued, to submit to the Agency a proposed referent offer for
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interconnection and referent offer for unbundled access to local loop, which must sufficiently itemized in order other operators requesting specific service relating to interconnection or access not to pay for the assets that are not necessary for the service requested.

- (3) A referent interconnection offer and the referent offer for unbundled access to local loop must describe the services offered by the operator with significant market power in relation to interconnection and/or access, separated into discrete components in accordance with market needs and conditions, including the prices relating thereto. If such referent offer is not in compliance with the provisions of this Law, the Agency shall have the right to request amending of the offer. The operator with significant market power shall be obliged to act according to the request of the Agency pertaining to the amending of the proposed referent offer within 30 days from the date of receiving the request.
- (4) The referent offers of paragraphs 2 and 3 of this Article shall be approved by the Agency within 30 days from their submission and the operator shall publish the referent offer within 5 days from the date of receiving the approval by the Agency.
- (5) The Agency shall, with a regulation based on this Law, prescribe the level of detail of information to be published from the referent offers, as well as the manner of publication.
- (6) An operator with significant market power shall not retreat from the terms of the approved referent offer, while executing agreements on interconnection and/or access.
- (7) The Agency may request the operators with significant market power, to make changes in the approved referent offer, i.e. to prepare and submit updated referent offers as commanded by the market conditions, i.e. by the regulation in accordance with this Law, but the operators may do so at their own initiative, as well.

Article 46

Non-Discrimination in Interconnection and Access

- (1) In addition to the general obligation to provide interconnection and access set forth in Article 44 and 45 of this Law, the Agency shall impose an obligation on a particular operator with significant market power on a relevant market to ensure equal treatment in relation to interconnection and/or access.
- (2) The imposition of the obligation from paragraph 1 of this Article, shall in particular ensure that the operator from the previous paragraph:
 - (a) applies equivalent conditions for interconnection to other operators providing equivalent services, and
 - (b) provides quality services and information to other operators in relation to interconnection and/or access under the same conditions as it provides for its own services, or those of its subsidiaries or partners.

Article 47
Account Separation

- (1) An operator with significant market power in a relevant market shall keep separate accounting records for particular activities relating to interconnection and/or access.
- (2) Operators with significant market power in a relevant market shall, on request of the Agency, submit accounting records, including data on revenues received from third parties.
- (3) The Agency may publish such information so as to contribute to an open and competitive market, while at the same time respecting the degree of confidentiality of the received information in accordance with the rules pertaining to business secrets.
- (4) The Agency may by a regulation act govern in greater detail issues arising from the implementation of this Article.

Article 48
Price Control and Cost Accounting Obligations

- (1) The Agency may impose on an operator with significant market power in relevant market obligations to base the service prices on real costs and price controls, including obligations that prices for specific types of interconnection and/or access to local loop be cost-oriented and based on the features and capabilities that will be included in the cost accounting systems.
 - (2) The Agency shall impose the obligations from paragraph 1 of this Article, if it deems on the basis of its analysis of the market that a lack of effective competition means that the operator has charged excessively high prices or engaged in predatory pricing to the detriment of end users.
 - (3) In imposing the obligations from paragraph 1 of this Article, the Agency shall allow the operator a reasonable rate of return of its invested assets subject to the obligation, taking into account the risks involved.
 - (4) All cost recovery mechanisms or pricing methodologies prescribed by the Agency must be calculated so as to promote effective and sustainable competition and increase consumer benefits and the Agency may take account of prices available in comparable competitive markets and from comparable operators.
 - (5) Operators with significant market power subject to the obligation of paragraph 1 of this Article, regarding the cost orientation of its prices, shall be obliged to demonstrate that prices are derived from costs including a reasonable rate of return of investment. In determining the compliance of this obligation, the Agency may apply accounting methods independent of those used by the operators. The Agency may also decide to require an operator to justify and, where appropriate, request the operator to alter its prices. The operator shall bear the burden of proof in proceedings under this Article.
 - (6) The Agency shall be obliged to ensure that, where implementation of a cost accounting system is mandated to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. A certified auditor shall verify the compliance of the cost accounting system and the statement concerning the compliance shall be published annually.
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Article 49
Retail Rate Regulation

- (1) The Agency, on base of market analysis may impose on an operator with significant market power in a specific retail market intended for end users which is insufficiently competitive, obligations relating to regulation of retail services, if it determines that the wholesale regulated market does not achieve the expected results pursuant to the objectives of this Law and the conditions determined in the agreement for providing an universal service. Obligations from this Article may include prohibitions on:
 - (a) charging of excessive prices,
 - (b) obstruction of market entry,
 - (c) restriction of competition by setting excessively high or low prices,
 - (d) giving undue advantages to particular end users, and
 - (e) reasonable packages of particular services.
- (2) The Agency may prescribe one of the following methods of retail rate regulation, which need to be proportional and justified in accordance with the objectives of this Law:
 - (a) retail price capping; (Price cap regime)
 - (b) regulation of individual tariffs;
 - (c) cost-orientated prices;
 - (d) determination of prices according to prices on comparable markets.
- (3) The Agency may also specify the format and accounting methodology to be used by operators, in consultation with the operators.
- (4) In complying with retail rate regulations or other relevant retail controls, operators shall be obliged to use the necessary and appropriate cost accounting systems laid down and/or approved by the Agency.
- (5) A qualified independent auditor shall verify the compliance of the cost accounting system. The Agency shall ensure that the statement of compliance is published annually.

Article 50
Obligation to Provide Minimum Set of Leased Lines

- (1) Where the Agency determines, based on its market analysis that the market for the provision of the minimum set of leased lines is not effectively competitive, it may impose on an operator with significant market power in the relevant market for leased lines the obligation to provide the full minimum set of leased lines or only part thereof under equal, cost-oriented and transparent conditions.
- (2) The Agency shall prescribe the manner and procedure for providing the minimum set of leased lines.

Article 51
Access To and Use of Specific Network Facilities

- (1) The Agency may impose obligations on an operator with significant market power to meet all reasonable requests for access to, and use of, specific network elements and associated facilities.
- (2) The Agency shall impose the obligation from paragraph 1 of this Article where it considers that the denial of access or unreasonable terms and conditions having a similar effect would hinder the establishment of a sufficiently competitive market at the retail level, or would not be in the end user's interest.
- (3) In imposing the obligation of paragraph 1 of this Article on an operator with significant market power in a relevant market, the Agency may impose additional obligations to ensure fairness, reasonableness and timeliness in compliance with other obligations, including, without limitation, an obligation to:
 - (a) give access to specified network elements and/or facilities, including unbundled access to the local subscription lines;
 - (b) negotiate in good faith with operators requesting access;
 - (c) maintain and not withdraw access to facilities already granted;
 - (d) provide specified services on a wholesale basis for resale on the retail market;
 - (e) grant open access to technical interfaces, protocols or other important technologies that are indispensable for the interoperability of services;
 - (f) provide joint use (co-location) on the same location or other forms of facility sharing, including building, cable ducts and mast sharing;
 - (g) provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks; and
 - (h) interconnect networks.
- (4) If the Agency is considering whether to impose the obligations of this Article, and in particular when assessing whether such obligations are proportional to the benefits sought, it shall take into account the following factors:
 - (a) the technical and economic viability of use or installation of competing equipment with regard to the rate of market development and the nature and type of interconnection and access proposed;
 - (b) the technical and economic feasibility of providing the access proposed, in relation to the capacity available;
 - (c) the initial investment by the operator from paragraph 1 of this Article, bearing in mind the risks involved in such investment;
 - (d) the need to safeguard competition in the long term; and
 - (e) where appropriate, any relevant intellectual property rights.
- (5) The Agency shall prescribe in greater detail the issues arising from the implementation of this Article.

Article 52
Operator Selection and Pre-Selection

- (1) The Agency shall impose on operators with significant market power in the relevant market for access to and use of public telephone network at a fixed location, the obligation to enable their subscribers to access the services of any interconnected operator of publicly available telephone services:
 - (a) on a call-by-call basis with the use of a special number of the operator selected;
 - (b) by pre-selection of the operator, which may be overridden during any call by means of the method indent (a) of this paragraph;
- (2) The Agency may, on the basis of user requests, require operators of other public communications networks with significant market power to enable their subscribers to select and pre-select public communications network and service providers.
- (3) The Agency shall assess the requests of subscribers from paragraph (2) of this Article in accordance with the procedure for market analysis.
- (4) Operators shall be obliged to set cost-oriented prices for access and interconnection in relation to operator selection and pre-selection of operator of public communications networks and services.
- (5) Operators from paragraph 4 of this Article may charge subscribers only a one-off sum to cover the costs of provision of operator pre-selection.
- (6) The Agency shall prescribe in greater detail issues relating to this Article.

Article 53
Cooperation with the Competent Body for Protection of the Competition

- (1) Within its competences, the Agency shall supervise the application of the provisions of this Law on competition and compliance with obligations imposed by a decision on operators with significant market power.
- (2) In the performance of its supervisory function, the Agency shall cooperate with the commission for the protection of competition.

Chapter Six --
RADIO FREQUENCY SPECTRUM

Article 54
Management of Radio Frequency Spectrum

- (1) The radio frequency spectrum is a limited natural resource.
- (2) State bodies shall, in accordance with acts of international law applicable in the Republic of Macedonia, ensure the effective and undisturbed use of the radio frequency spectrum of the Republic of Macedonia and shall ensure the rights of the Republic of Macedonia to orbital positions.

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- (3) The Agency shall plan, manage, supervise, monitor, and regulate the use of the radio frequency spectrum in the Republic of Macedonia pursuant to public authorization, including:
- (a) the allocation, assignment, registration, monitoring and control of radio frequencies to be used by all stations operating in the Republic of Macedonia or on any ship, aircraft, vessel, or other floating or airborne contrivance or spacecraft registered in the Republic of Macedonia, with due observance of the provisions of this Law, applicable treaties and international agreements, and applicable regulations adopted pursuant to this Law;
 - (b) adoption and implementation of:
 - (i) Plan of Radio Frequencies Allocations;
 - (ii) Plan for Assignment and Utilization of Radio Frequencies; and
 - (iii) Register of existing frequency assignments and their users;
 - (c) updating on a regular basis and making publicly available the National Plan of Frequency Allocations and the radio regulations;
 - (d) monitoring spectrum utilization;
 - (e) promoting and safeguarding national interests, safety and security relating to the use of radio frequency spectrum; and
 - (f) promoting research into and considering radio propagation problems, with a view to achieving interference-free operation of radio systems, as well as other measurements for managing and control of the radio frequency spectrum.

Article 55

Plan of Radio Frequencies Allocations

- (1) The Agency shall prepare the Plan of Frequency Allocation in accordance with applicable acts of international law in the field of radio communications.

Article 56

Plan for Assignment and Utilization of Radio Frequencies

- (1) The Plan for Assignment and Utilization of Radio Frequencies, issued by the Agency, is in accordance with The Plan for Allocation of Radio Frequency Spectrum, the constituents of which are the plans for allocation and use of the radio frequencies by determined radio services.
- (2) The Plan for Assignment and Utilization of Radio Frequencies defines in greater detail the conditions and method of utilization of radio frequencies in certain radio frequency spectra.
- (3) In adopting the Plan for Utilization of Radio Frequencies, the Agency shall coordinate the activities with:
- (a) the relevant state bodies and agencies responsible for civil aviation with respect to that part of the plan relating to radio frequencies to be used for air traffic safety;

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- (b) the state bodies responsible for the planning and management of radio frequencies with respect to that part of the plan relating to radio frequencies used for defense and national security needs; and
 - (c) the Broadcasting Council in respect to the part of the plan related to the radio frequencies used in the broadcasting.
- (4) In adopting the Plan for Allocation and utilization of the radio frequencies and the Plan for Frequency Allocation, the Agency shall take into consideration the needs of the national security and defense, protection from natural and other disasters and the needs of the air traffic safety.

Article 57

Register of Assigned Radio Frequencies

- (1) The Agency shall keep a Main Frequency Register of existing frequency assignments and their uses in the Republic of Macedonia.
- (2) The Main Frequency Register shall contain data on the natural persons or legal entities to which specific radio frequencies have been assigned, but shall not include specific radio frequencies used for national security and defense needs and for protection against natural and other disasters.
- (3) The Agency shall regularly update the Register of assigned radio frequencies.
- (4) The Agency shall make relevant portions of the Register of assigned frequencies publicly available.

Article 58

Use of Radio Frequencies

- (1) Natural persons or legal entities may only use radio frequencies on the basis of an authorization to use such frequencies issued by the Agency. (hereinafter: authorization)
- (2) If radio frequencies are used in contravention of this Law and pertinent regulations without the valid authorization, the Agency shall take appropriate enforcement action in accordance with this Law.
- (3) A radio frequency authorization shall not be required for radio frequencies used under the National Plan of Frequency Allocations for the purposes of defense and national security.
- (4) Certain radio frequencies may be used without an authorization in accordance with the provisions made under this Law, as well as in compliance with the international rules and obligations accepted by the Republic of Macedonia.

Article 59

Authorization Issuance

- (1) The Agency shall issue an authorization in accordance with the Plan for Allocation and Utilization of Radio Frequencies pursuant to Article 60 of this Law, or by way of a public tender, as provided in Articles 61 through 68 of this Law.

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- (2) The Agency shall only use the public tender procedure in case of restricted resources and if the efficient use of the allocated radio frequencies can only be ensured through restriction of the number of authorizations.
 - (3) The Agency shall issue a radio frequency authorization for broadcasting upon a prior decision for issuing a license for performing broadcasting activities authorization adopted by the Broadcasting Council, which is published in the Official Gazette of the Republic of Macedonia.

Article 60

Authorization Issuance Procedure

- (1) The Agency shall issue an authorization on base of an application for issuance of a radio frequency authorization that must contain the following data:
 - (a) name, address and unique identification number;
 - (b) title, principal office, tax and registration number, register number and statement of the lawful representative for legal entities;
 - (c) explanation about the needs and intended use of radio frequencies; and
 - (d) technical solutions, particularly data on: the geographic area of use, the method of calculation of propagation and the definition of service zone, geodesy data on the location of the transmitter, the power, the modulation and the type of radio emission, the antenna system and the radio equipment.
- (2) The Agency shall be obliged to issue a radio frequency authorization within forty-two (42) days of the date of the application.
- (3) The Agency shall decide to refuse to issue a radio frequency authorization if it determines that:
 - (a) the applicant has had a decision on an assignment revoked in the last five (5) years;
 - (b) the assignment of radio frequencies would not be in accordance with the efficient use of the radio frequency spectrum; or
 - (c) the signal of radio equipment would cause unavoidable harmful interference to other radio equipment, receivers or electrical or electronic systems.

Article 61

Acquisition of Opinions of Interested Parties

- (1) If the Agency considers that interest in a particular band of the radio frequency spectrum could exceed the availability and thereby hinder the efficient use thereof, it shall acquire the opinions of interested parties concerning the conditions of use of such frequencies.
- (5) If an interested party requests that the use of the specific radio frequencies be subject to public tender, the Agency shall publish a public notice stating the deadline for the submission of opinions of interested parties including their opinion on the market value of the radio frequencies, which may not be shorter than thirty (30) days.

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- (3) The Agency shall be obliged to maintain the confidentiality of possible proposals of interested parties regarding the amount of payment of market value for radio frequencies.
 - (4) If the Agency determines on the basis of the response of interested parties that specific radio frequencies will not be sufficient for all interested parties, it shall be obliged to implement a public tender for radio frequencies allocation.

Article 62

Implementation of Public Tenders

- (1) The Agency shall manage public tenders through a special commission, which may include persons not employed in the Agency, and having no conflict of interests.
- (2) Public tenders shall be initiated by a decision of the Agency that must contain:
 - (a) allocation of the radio frequencies which are subject to the public tender, the radio communications services to be provided thereby, and the areas or locations where such radio frequencies are to be used;
 - (b) conditions, requirements and qualifications to be met by bidders, which must comply with the relevant valid legislation and pertinent regulations on spatial planning;
 - (c) criteria for selection of the most favorable bid, the method of their application, and other possible restrictions to be taken into account in the evaluation of bids;
 - (d) initial amount of the market value of radio frequencies as one-off fee for obtaining an authorization for use of radio frequencies as limited natural resource;
 - (e) deadline and manner of submission of bids;
 - (f) address, place and date, and time of public opening of bids;
 - (g) place, time and contact person whom the interested parties may obtain the tender documentation from, the price of tender documentation, and the method of payment for such documentation;
 - (h) the contact person whom the bidders can obtain additional information from; and
 - (i) the interval within which the bidders will be informed of the decision made.
- (3) The Agency shall be obliged to request consent from the Government of the Republic of Macedonia with regard to the initial amount of the fee under item (d), paragraph 2 of this Article.
- (4) The Agency shall publish the decisions issued under paragraph 2 of this Article, in the Official Gazette of the Republic of Macedonia.

Article 63

Interval for Submission of Bids

- (1) The interval for submission of bids may not be less than thirty (30) nor greater than ninety (90) days, and shall start from the date following the publication of the decision to implement a tender proceeding under Article 62 of this Law.

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- (2) The Agency may not accept bids, changes or supplements thereof that have been received after the expiry of the interval from paragraph 1 of this Article.
 - (3) If the bids of paragraph 2 of this Article, are sent by mail, they must be returned sealed to the sender, without being opened previously.
 - (4) The Agency shall be obliged to preserve as commercially confidential the list of bidders and bids submitted until the expiry of the interval from paragraph 1 of this Article.

Article 64 **Tender Documentation**

In the tender documentation, the Agency shall be obliged to clarify all clauses of the decision on initiation of the public tender, clearly stating the selection criteria and indicating which supporting documentations must be provided for the bids to be deemed acceptable.

Article 65 **Proceeding of Public Opening of Bids**

- (1) The opening of bids shall be public.
- (2) The Commission referred to in Article 62, paragraph 1 of this Law shall keep minutes on the procedure of opening of bids, which in particular must contain an archive number of the offer and in cases of an anonymous tender, data on the title or code of the bidder and the bidding price.
- (3) Care must be taken throughout the entire procedure that the bidders' commercial secrets not be disclosed.
- (4) At the public opening of bids it is verified whether the bids contain all documents required by the tender documentation, wherein the content of documents is not reviewed.
- (5) Only bids delivered within the set deadline and correctly completed and marked shall be opened.
- (6) The public tender shall succeed if at least one timely and correct bid meeting the tender specifications is received.
- (7) In the decision on initiation of the public tender, the Agency may stipulate that an individual public tender succeeds if another minimum number of bids meeting the tender conditions is received.

Article 66 **Review and Evaluation of Bids**

- (1) After completing the public opening of bids, the Commission referred to in Article 62, paragraph 1 of this Law shall first determine whether the bid documents meet the tender specifications and whether they are in accordance with the Law.
- (2) The Commission referred to in Article 62, paragraph 1 of this Law shall exclude from procedure the bids that are not in accordance with the law and the tender documentation.

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- (3) After reviewing and evaluating the received bids, the Commission from Article 62, paragraph 1 of this Law shall compile a report presenting the evaluations of individual bids and present a rank list of bids according to the fulfilled selection criteria of the tender documentation.
 - (4) The Commission from Article 62, paragraph 1 of this Law, in the course of reviewing and evaluating bids, must take into account only those criteria for the selection of the most favorable bidder laid down by law and the decision from Article 62, paragraph 2 of this law, and the tender documentation, and in particular the ones that ensure more efficient use of the radio frequency spectrum and the promotion and protection of competition.
 - (5) Assignment of radio frequencies for the provision of broadcasting activities shall be conducted by public tender published and managed by the Broadcasting Council in accordance with the Law on Broadcasting. The Commission from Article 62, paragraph 1 of this Law shall take into account only the issues relating to its technical competence in accordance with this Law.
 - (6) All qualified bidders that fulfill the tender criteria have a status of interested parties.
 - (7) The Commission from Article 62, paragraph 1 of this Law, upon receiving the bids and in compliance with the report of the tender commission shall issue one or more authorizations for use of radio frequencies, within no more than 60 days from the expiration of the term for submission of bids and shall simultaneously inform the public of its decision.
 - (8) The Commission from Article 62, paragraph 1 of this Law may terminate the procedure for issuing or changing radio frequency authorizations if additional harmonization, investigation or other activity is required in accordance with acts of international law applicable in the Republic of Macedonia.

Article 67

Contents of Radio Frequency Authorizations

- (1) Radio frequency authorizations shall contain:
 - (a) data on the holder of the authorization to use radio frequencies;
 - (b) radio frequencies assigned;
 - (c) location and area of coverage;
 - (d) period of validity of the radio frequency authorizations;
 - (e) conditions to be met in the use of the assigned radio frequencies.
 - (2) Where the use of radio frequencies is authorized for the provision of broadcasting, the radio frequency authorization, in addition to data from paragraph 1 of this Article, shall also contain the name for identification while on the air.
 - (3) Users of radio frequencies shall be obliged to report to the Agency all the changes relating to data specified in paragraph 1, indent (a) of this Article, within thirty (30) days from the onset of such changes.
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Article 68
Conditions On the Use of Assigned Radio Frequencies

- (1) Conditions to be met in the use of radio frequencies shall also apply to the electronic communications services or types of electronic communications networks for which the assigned radio frequencies may be used.
- (2) The Agency in radio frequency authorizations shall include conditions that specify:
 - (a) measures to ensure the efficient use of radio frequencies, including, where appropriate, requirements regarding coverage or emission strength;
 - (b) technical and operational conditions necessary for the avoidance of harmful interference and limitation of public exposure to electromagnetic fields;
 - (c) duration of the right to use radio frequencies;
 - (d) transfer of ownership of rights to use radio frequencies and the conditions for such transfer;
 - (e) payment of fees;
 - (f) additional obligations undertaken by the selected bidder during participation in the public tender (for example, regarding the dynamics of construction of an electronic communications network, program contents, etc.);
 - (g) obligations regarding acts of international law applicable in the Republic of Macedonia pertaining to radio frequencies.

Article 69
Duration of Validity of Radio Frequency Authorizations

- (1) The Agency shall issue radio frequency authorizations for a fixed interval not greater than ten (10) years.
- (2) The Agency shall issue radio frequency authorization intended for aeronautical and maritime mobile services, with duration until the cessation of their use.
- (3) The Agency shall issue radio frequency authorizations intended for the purposes of researches, measurement and attestation of radio communication equipment for a restricted area of coverage and for no more than ninety (90) days.
- (4) The Agency shall generally issue radio frequency authorizations intended for special events for no more than sixty (60) days.

Article 70
Extension of Validity of Radio Frequency Authorizations

- (1) The validity of a radio frequency authorization may, at the suggestion of the holder thereof, be extended if at the end of its term all the conditions prescribed for the use of such radio frequencies are met.
- (2) Applications for the extension of radio frequency authorizations must be submitted to the Agency no less than thirty (30) and no more than ninety (90) days prior to their expiration.

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- (3) In the event of extension, the Agency shall issue a new radio frequency authorization, for a period not greater than ten (10) years.
 - (4) The validity of radio frequency authorizations intended for the purposes of research, measurement and attestation of radio communication equipment, and for use of radio frequencies intended for special events may not be extended.

Article 71 **Transfer of Authorization**

- (1) Without a prior decision of consent from the Agency requested in writing, transfer or assignment of the right to use radio frequencies to another natural person or legal entity is prohibited.
- (2) Upon request pursuant to paragraph (1) of this Article, the Agency shall verify that the natural person or legal entity to which the right to use radio frequencies is proposed to be transferred meets all of the conditions laid down by this Law and applicable Agency regulations, and that the proposed transfer will not distort competition or impair the safe, secure, and efficient use of the radio frequency spectrum.
- (3) In the case of frequencies used for broadcasting, prior consent of the Broadcasting Council to a proposed transfer shall also be required.

Article 72 **Amendment of Authorization**

- (1) The Agency may, ex officio, amend a radio frequency authorization if:
 - (a) the Plan for Allocation of Radio Frequency Bands or the Plan for Assignment and Utilization of Radio Frequencies, or the regulations pertaining to the conditions for use of radio frequencies has changed;
 - (b) there is public demand that cannot otherwise be met;
 - (c) the amendment is required for the efficient use of the radio frequency spectrum for the public benefit;
 - (d) harmful interference cannot otherwise be avoided; or
 - (e) the amendment is required by the acts of international law applicable in the Republic of Macedonia.
- (2) In instances pursuant to paragraph 1 of this Article, the Agency shall issue a new radio frequency authorization containing the amendment, which shall include a reasonable period within which the holder must adjust its use of radio frequencies to bring it into conformity with the new radio frequency authorization.
- (3) In appropriate instances in accordance with paragraph 1 of this Article, the Agency may also fully revoke the radio frequency authorization and issue a new radio frequency authorization with new contents.
- (4) The holder of the authorization shall adjust its work according to the changes in the new authorization for use of radio frequencies, at its own expense.

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- (5) The Agency may exceptionally extend the validity of a radio frequency authorization if the costs of adjustment encroach disproportionately upon the benefits held by the party whose use of frequencies is authorized thereby.
 - (6) Users of assigned radio frequencies, the authorization for which has been amended, shall have the right to be assigned other equivalent radio frequencies if the reasons for the amendment or revocation arose through no fault on their part.
 - (7) Should the amendments to a radio frequency authorization be requested by the holder, the new radio frequency authorization may be issued under the terms of this Law and in the manner that does not encroach upon the rights of other users.

Article 73 **Revocation of Authorization**

- (1) The Agency may revoke a radio frequency authorization either at the suggestion of the party to whom it has been issued or *ex officio*.
- (2) The Agency shall be obliged to initiate, *ex officio*, the procedure for revocation of a radio frequency authorization for use of radio frequencies for broadcasting purposes if requested to do so by the Broadcasting Council.
- (3) The Agency may revoke a radio frequency authorization at the suggestion of the holder only if s/he has met all of its obligations under this Law and the terms and conditions of the radio frequency authorization.
- (4) The Agency shall revoke a radio frequency authorization *ex officio* if it determines that:
 - (a) the application for the radio frequency authorization contained false data;
 - (b) the prescribed conditions pursuant to this Law or in the radio frequency authorization itself have been infringed;
 - (c) the deficiencies that the Agency ordered to be removed have not been removed within the stipulated time interval;
 - (d) the fees for use of radio frequencies, calculated on the base of regulations, were not paid following the issuance of a notice by the Agency of delinquency with a request for payment; or
 - (e) it is not otherwise possible to avoid harmful interference caused by the signal of radio equipment to other radio equipment, receivers or electrical or electronic systems.
- (5) Fees paid for the year in which revocation occurs are non-refundable.

Article 74 **Cessation of Validity of Radio Frequency Authorizations**

- (1) Radio frequency authorizations shall cease by force of law:
 - (a) upon the expiry of the interval for which they were issued;
 - (b) if the holder of the authorization has ceased to exist;

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- (d) if the holder of the authorization failed to start using the radio frequencies within one (1) year of the issuance of the radio frequency authorization, unless otherwise stipulated therein;
 - (e) with the cessation of the permission to perform broadcasting activity.
- (2) The Agency shall issue a decision on the cessation of a radio frequency authorization.
 - (3) Fees paid for the year in which cessation occurs are non-refundable.

Article 75

Fee for Use of Radio Frequencies

- (1) Annual radio frequency fees shall be designed to recover the controlling, monitoring, measurement of the radio frequency spectrum and for covering of all other administrative costs of the Agency attributable to its radio spectrum-related functions under Articles 9 and 54 of this Law.
- (2) All users of radio frequencies shall pay an annual radio frequencies usage fee to the Agency.
- (3) When radio frequencies are assigned pursuant to a public tender, an additional value-based tender fee shall also be paid which creates revenues for the Budget of the Republic of Macedonia. When determining the amount of the fee, the following shall be taken into consideration:
 - (a) the supply and demand for tendered frequencies, the status and development of radio communications, stimulation of the efficient use of limited resources of the spectrum and optimal use of the allocated radio frequencies.
 - (b) the minimum amount of the market value of radio frequencies and the method of payment shall be laid down in the decision initiating the public tender procedure.
- (4) The fee shall neither be as high as to hinder the development of innovative services and market competition nor so low as to facilitate inefficient spectrum use.
- (5) The level of the amount for use of the radio frequencies is determined on base of the following criteria:
 - Kind of radio communication service;
 - Assigned radio frequency band;
 - Width of the assigned radio frequency channels;
 - Area of coverage;
 - The extent of the service zone (populated area/number of population);
 - Effective height of the antenna;
 - Joint use of the same frequency; or
 - Combination of some of the foregoing.
- (6) The methodology for calculation of the fee referred to in paragraph 1 of this Article shall be regulated by a regulation adopted by the Agency. The amount of the fee referred to in paragraph 1 of this Article shall be expressed in terms of points. The value of a single point shall be one (1) Euro expressed in Denars, according to the

average exchange rate of National Bank of the Republic of Macedonia on the date of payment.

- (7) The Agency shall, prior to adopting or changing the regulation referred to in paragraph 6 of this Article, inform in writing the interested parties on the possibility to submit their views and suggestions regarding the adoption or changing of the regulation. The term of submission of their views and suggestions shall not be shorter than fifteen (15) days or longer than thirty (30) days from the date of receiving the notification.
- (8) The fee from paragraph 1 of this Article shall be paid in on the account of the Agency for each current year, starting from the date of issuance of authorization for use of radio frequencies.
- (9) Fees shall not be paid for the use of radio frequencies by state bodies, the Public Enterprise Macedonian Broadcasting for transmission of radio and television program services of the Enterprise and the public broadcasting enterprise on a local level that are financed by the broadcasting fees, radio amateurs and the users of civic spectrum (CB), as well as for transmission of program services financed by the broadcasting fee.

CHAPTER SEVEN -- RADIO AND TELECOMMUNICATION TERMINAL EQUIPMENT

Article 76 Use of Terminal Equipment

- (1) Operators may not refuse for technical reasons a reasonable request to connect radio or telecommunications terminal equipment that complies with the requirements from the regulations governing radio and telecommunications terminal equipment.
- (2) Users may not connect to the public communications network radio or telecommunications terminal equipment that does not comply with the requirements from the regulations governing radio and telecommunications terminal equipment.
- (3) The Agency shall with a by-law determine the standards for issuing attests for radio and telecommunications terminal equipment, including the recognition of the attests issued by recognized international institutions.

CHAPTER EIGHT NUMBERING

Article 77 Numbering Plan

- (1) The Numbering Plan determines the structure, length and allocation of the numbers for access to the public communications networks and public communications services.
- (2) The Agency shall manage the Numbering Plan in order to:
 - (a) ensure efficient structuring and use of numbers and series of numbers;
 - (b) satisfy the needs of operators eligible for the allocation of numbers under this Law; and

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- (c) ensure that the allocation and use of numbers is fair and non-discriminatory.
 - (3) The Agency shall keep all data relating to management of the Numbering Plan.
 - (4) The Agency shall publish on its website the allocated numbers and series of numbers and the holders of the allocated numbers or series of numbers.

Article 78 **Use of Numbers**

The numbers and series of numbers of the Numbering Plan may be used only pursuant to a decision of the Agency for allocation of numbers or series of numbers.

Article 79 **Number Allocation**

- (1) Applications for decisions on the allocation of numbers and series of numbers may be submitted by operators of public communications network or provider of a public communications service.
- (2) Applications must contain the following data:
 - (a) name, principal office and evidence of registration of the activity;
 - (b) data on the type, quantity and purpose of use of numbers or series of numbers applied for;
 - (c) assessment plan of needs for the following three (3) years;
 - (d) planned date of commencing the use of the allocated numbers or series of numbers; and
 - (e) such additional data as the Agency may require to manage the use of numbers.
- (3) The Agency shall, by its own act, prescribe in greater detail the contents and format of applications and the type of evidence to be attached to applications.
- (4) The Agency shall decide to refuse the issuance of a decision on the allocation of numbers if it determines that:
 - (a) the application for allocation of numbers contains false data;
 - (b) the applicant is not eligible for allocation of numbers or series of numbers pursuant to this Law;
 - (c) the applicant has had a decision on allocation revoked in the last five (5) years *ex officio*;
 - (d) the intended use does not justify the allocation of the requested quantity or type of numbers;
- (5) Operators may allocate numbers and series of numbers allocated by the Agency, to their end-users.

Article 80
Conditions for the Use of Numbers

- (1) The holder of the right to use numbers pursuant to this Law:
- (a) may book numbers and series of numbers for a period of one (1) year, with a possibility for extension for one (1) more year at the most;
 - (b) is obliged to return back the allocated numbers and series of numbers if they are not in use anymore;
 - (c) may not use the allocated numbers and series of numbers for the purpose other than the one described in the decision for allocation;
 - (d) may not transfer or lease the allocated numbers and series of numbers without a prior approval by the Agency;
 - (e) the allocated numbers and series of numbers may be transferred together with the activity under the condition the new holder to meet the demands for use of numbers and series of numbers in accordance with the decision of the Agency;
 - (f) is obliged to pay annual fee for the use of allocated numbers and series of numbers;
 - (g) should meet the demand for transfer of the number whenever it is required so;
 - (h) is obliged to use the allocated numbers and series of numbers solely for the purpose they are allocated for, and not cause harm to a determined group of users;
 - (i) to fulfill the obligations laid down in the acts of international law relating to number allocation and use, applicable in the Republic of Macedonia.

Article 81
Amendment of Decisions on the Allocation of Numbers and Series of Numbers

- (1) Where appropriate, the Agency may *ex officio* amend previously issued decisions on allocation of numbers and series of numbers in case of changing or appending the Numbering Plan, within thirty (30) days of the date when the changes enter into force, which may be extended for additional thirty (30) days upon notification by the Agency. In such instances the holders of decisions on the allocation of numbers and series of numbers shall not have the right to claim compensation.
- (2) The Agency, if technically feasible, may also amend decisions on the allocation of numbers and series of numbers upon request of the holder thereof.

Article 82
Revocation of Decisions on the Allocation of Numbers and Blocks of Numbers

The Agency, in addition to revoking the decision on the allocation of numbers and series of numbers upon request of the holder thereof, may *ex officio* revoke the decision on the allocation of numbers and series of numbers if it determines:

- (a) that the holder of the decision on allocation of numbers and series of numbers no longer meets the conditions laid down in this Law relating to allocation of numbers and series of numbers;
- (b) that the annual fees for the use of numbers and series of numbers were not paid in due time.

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- (c) that the holder of the allocated numbers and series of numbers has not started to use the assigned numbers and series of numbers within three (3) years from the date of the allocation.
 - (2) The Agency shall issue a notification with an explanation on the revoking of allocated numbers and series of numbers.
 - (3) In cases where the revocation is a result of unpaid annual fee to the Agency, the term for revocation may not be shorter than thirty (30) days from the date of receiving the notification, referred to in paragraph 2 of this Article.
 - (4) Where the decision for allocation of numbers and series of numbers is revoked pursuant to the conditions stipulated in paragraph 1 of this Article, the term for revocation may not be shorter than sixty (60) days from the date of receiving the notification.
 - (5) The revocation of the numbers and series of numbers shall be conducted by way of disconnection from traffic by the operators of public communications networks, upon written notice by the Agency.

Article 83

Fee for Use of Allocated Numbers and Series of Numbers

- (1) Holders of decisions on the allocation of numbers and series of numbers shall pay an annual fee to the Agency for the use of allocated numbers and series of numbers.
- (2) The criteria for calculation of fees shall be based on the type, use, and length of the numbers.
- (3) The methodology for applying the criteria referred to in paragraph 2 of this Article in calculating the fees shall be regulated by a regulation adopted by the Agency, the subject of which shall be covering the fully distributed administrative costs of the Agency for managing, supervising and implementing the Numbering Plan in accordance with Article 77 of this Law, including such elements as planning, processing, data storage, capital expenses, staffing, and operational costs.
- (4) The amount of fees for use of numbers and series of numbers shall be expressed in terms of points. The value of a single point shall be 1 (one) Euro expressed in Denars, according to the average exchange rate of the National Bank of the Republic of Macedonia, on the date of payment.
- (5) Prior the adoption of the regulation referred to in paragraph 3 of this Article, the interested parties may submit their views and suggestions regarding the same, within a time period not shorter than fifteen (15 days) nor longer than thirty (30) days.
- (6) The fee for use of assigned numbers and series of numbers shall be paid to the Agency in advance for each current year, starting from the date of issuance of the decision for allocating numbers and series of numbers, on the Agency's account. Payments shall be made in Denars, the amount of which shall be calculated according to the average exchange rate of Denar-Euro of the National Bank of the Republic of Macedonia on the date of payment.

Article 84

Number Portability

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- (1) The number portability while changing the operator of public communications network or provider of public communications services, is the subscriber's right to retain the existing geographic number or non-geographic number, whenever changing the provider of public communications services.
 - a) in the event of geographic numbers, to a specific location;
 - b) in the event of non-geographic numbers, to any specific location.
 - (2) Geographical portability is the subscriber's right to retain the existing number while changing the geographical interconnection point in the same numerical area and service portability is the subscriber's right to retain the existing number while changing the service.
 - (3) All operators of public communications networks and services in public stationary communications network shall be obliged to enable geographical portability to all their subscribers.
 - (4) All operators of public mobile networks and services are obliged to enable portability to their subscribers while changing the provider of public mobile services.
 - (5) The numbers are not portable from the public stationary (fixed) communications networks to public mobile communications networks and vice versa.
 - (6) Operators may, for the porting of numbers to another operator, only charge the subscribers or the operators a one-off sum for covering the costs of porting the number, while such sum may not be so high as to act as a disincentive for the use of such service.
 - (7) Operators shall be obliged to bear the costs for adapting their networks so as to enable number portability and maintenance costs for such facilities.

Article 85

Implementation of Number Portability

- (1) The Agency shall by a regulation regulate in greater detail the manner and timing of implementation of number portability and the technical and other conditions for compliance with the provisions of Article 84 of this Law.
- (2) In drafting the regulation from paragraph 1 of this Article, the Agency shall consider the manner of implementation of the number portability system, including:
 - (a) the technical feasibility of number portability;
 - (b) technical parameters that are maintained during the number portability in order to ensure that the number portability will not result in degradation of service quality or network reliability;
 - (c) the deployment schedule for number portability implementation, which in no event shall be longer than two (2) years from the effectiveness date of this Law;
 - (d) technical trials of the proposed system for number portability;

Article 86

Emergency Call Service Numbers

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- (1) All operators of public telephone networks shall be obliged to ensure that users of publicly available telephone services, including users of public pay telephones, are able to call emergency call numbers free of charge.
 - (2) All operators of public telephone networks or publicly available telephone services shall be obliged to make available free of charge to emergency call services, identification of the calling number and caller location information, if technically feasible.

Article 87

Non-Geographic Numbers

- (1) Operators of public telephone networks or publicly available telephone services shall be obliged, where technically and economically feasible, to provide a possibility for the users from countries outside of the Republic of Macedonia to be able to call non-geographic numbers determined by the Numbering Plan.
- (2) Operators of public telephone networks or publicly available telephone services shall not be obliged to comply with the obligation from paragraph 1 of this Article where a called subscriber has chosen, for commercial reasons, to limit the calls originating from specific areas.

CHAPTER NINE

MEASURES FOR PROTECTION OF PUBLIC COMMUNICATIONS NETWORKS

Article 88

Withdrawal or Restriction of Ownership Rights

- (1) Ownership or other rights to real estate shall be expropriated or restricted, in events where they are of particular interest for construction, operation and maintenance of public communications networks and associated infrastructure, under the procedures and in the manner laid down by the law governing expropriation, unless otherwise stipulated by this Law.
- (2) Public electronic communications networks must be planned in a manner so as to ensure minimum disturbance and endangering of private property.

Article 89

Expropriation, Right of Use and Easement

- (1) Operators of the public communications networks shall, prior to executing works on the real estate in private property, submit a proposal to the administrative body in charge of expropriation for the purpose of implementing the expropriation or for establishing the right of use in the real estate or easement.

Article 90
Right of Use and Easement

- (1) A right of use and easement in the expropriated real estate in private property, under this Law shall entail:
 - (a) construction, installation and maintenance of electronic communications networks and associated infrastructure;
 - (b) entry upon real estate for the purpose of access to the electronic communications network and associated infrastructure for the purpose of operating and maintaining thereof; and
 - (c) removal of natural barriers in the course of the construction, installation and maintenance of the electronic communications networks.
- (2) An operator shall be obliged to undertake the necessary measures so as to avoid causing damages over the real estate in private property.
- (3) If the owner of the real estate suffers material damage in exercising the right of use of expropriated real estate, the operator shall be obliged to compensate the damages, according to law.

Article 91
Establishment of Right of Use and Easement

- (1) For the purpose of establishing the right of use and easement under Article 90 of this Law, an operator shall submit a proposed contract to the owner of the real estate.
- (2) The proposed contract from paragraph 1 of this Article must spell out the amount of the reimbursement for right of use and easement of the real estate, which must be equal to the market value, without taking into account unusual or personal circumstances and interest.
- (3) If the owner of the real estate fails to agree within ten (10) days of receipt of the proposed contract to sign it, the interested operator may request that the administrative body responsible for decisions concerning expropriation of real estate establish the right of use and easement of the real estate.

Article 92
Cessation of the Right of Use and Easement

- (1) The operator and the owner of the real estate may by agreement establish the period of and the date for the cessation of the right of use and easement of the real estate.
 - (2) The right of use may cease pursuant to an act of the body competent for expropriation if:
 - (a) either of the parties requests so and the competent administrative body determines that the right of use is no longer required; or
 - (b) the owner of the real estate requests so and the competent administrative body determines that the holder of the right of use has failed, for a period of two (2) years following the grant to exercise the right, unless reasonable grounds exist to excuse such failure.
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Article 93
Relocation, Alteration and Subsequent Construction of Current Facilities and Installations

- (1) Operators who intend to construct a public communications network may, in the request to establish the right of use and easement, ask for relocation, or subsequent construction of current facilities and installations, but only in instances where the public communications network may not be built or where the possibilities for joint use of facilities and installations is impossible.
- (2) The costs of relocation, alteration or subsequent construction of current facilities and installations must be covered in full by the party requesting it.
- (3) Subsequent construction of other facilities and installations must be executed so as to avoid disturbing existing public communications networks and associated infrastructure.

Article 94
Relocation and Protection of Existing Public Communications Networks

- (1) Where construction of public utilities and other structures, facilities or installations makes it necessary to relocate or take measures to protect an existing public communications network or associated infrastructure, the investor of the proposed construction shall notify the operator who owns the public communications network or associated infrastructure within a period no less than thirty (30) days prior the planned construction begins and to provide access for supervision over the works. Otherwise the investor of the proposed construction shall be liable for any possible damages caused to the operator.
- (2) The operator and the investor of paragraph 1 of this Article, may by agreement provide for the operator to undertake the relocation or protective measures.
- (3) The costs for relocation or protection shall be covered by the investor of the planned construction.
- (4) The operator, owner of a public communication network or infrastructure, shall be obliged to submit data on the type and location of the network and facilities, to the body responsible for spatial planning in order to be entered in the register of the infrastructure networks and systems, according to law and pertinent regulations.

Chapter Ten--
RIGHTS OF USERS

Article 95
Transparency and Publication of Information

- (1) Operators and providers of public communications service shall publish detailed and transparent information on applicable prices and tariffs and on the general conditions for access to and use of public communications services.

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- (2) The Agency shall prescribe in greater detail the type and content of information that operators of public communications networks and/or public communications services are obliged to publish.
 - (3) The Agency shall publish information that will enable users to make informed choices of communications services based on quality and prices of services.

Article 96

Subscriber Contract

- (1) Operators shall provide connection or access to the public communications networks on the basis of contract concluded with subscribers, which must in particular contain the following:
 - (a) name and address of the operator;
 - (b) services provided, the offered service quality, as well as the time for the initial connection;
 - (c) the type and manner of maintenance of services established;
 - (d) detailed information on prices and tariffs, and the time periods for notifying any changes thereof;
 - (e) information on the entry into force, duration of the subscriber contract, and the conditions for extension and termination of the subscriber contract, as well as the provision of services;
 - (f) any compensation and the refund arrangements which apply if contracted service quality levels are not met;
 - (g) instructions on how to initiate dispute settlement procedures;
 - (h) obligation to notify subscribers of intended modifications to the conditions in the subscriber contract and instructions on how to accept the new conditions for extension or termination of the contract;
 - (i) possibility for the subscribers data not to be publicly accessible in the registry service and the single directory
 - (j) procedures in the event of non-payment or untimely payment of services.
 - (2) If the providers of public communications services establish subscriber contracts with end users, such contracts must also contain the elements listed in paragraph 1 of this Article.
 - (3) Subscribers must be informed of all proposed modifications to the conditions in the subscriber contract within a period not less than thirty (30) days prior to the proposed introduction of a modification, as well as of the right that within the same interval the subscribers may terminate, without notice or consequences, the subscriber contract if they disagree with the proposed modifications.
 - (4) Violation of paragraph (3) of this Article by an operator shall not relieve the subscriber of the obligation to pay due and unpaid liabilities or to comply with contractually agreed obligations prior the introduction of modification in conditions of the subscriber contract.
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Article 97
Quality of Public Communications Services

- (1) The operators of public communications services are obliged to publish comparable, adequate and up-to-date information on the quality of their services.
- (2) The Agency may by regulation define the communications service quality parameters such as: the time needed for initial connection, time for making a call, time for removal of faults in the subscriber's line, unsuccessful call ratio, call set up time, response times for directory enquiry services, and others.

Article 98
Tone Dialing and Calling Line Identification

The Agency may decide to require operators that provide access to public communications networks to make available to their end users tone dialing and calling line identification, if technically feasible or economically viable.

Article 99
Directories and Directory Enquiry Services

- (1) Subscribers to publicly available telephone services shall have the right to an entry in the universal directory.
- (2) Operators and providers of public communications services that allocate telephone numbers to subscribers shall be obliged to approve all reasonable requests for the provision of publicly available directory enquiry services and directories, including all relevant data, in a manner and prices available to the public.
- (3) All end users of publicly available telephone services must have access to the universal directory enquiry services.
- (4) The subscriber has the right, upon a previously submitted request to the operator, to choose the data that will not be included in publicly available directory enquiry services or directories.
- (5) The operators shall be obliged to ensure confidentiality of subscriber data, including its storage, disclosure and usage, in accordance with this and other laws.

Article 100
Operator Assistance

All end users with access to the public communications network must have access to operator assistance.

Article 101
Itemized Billing

- (1) The operator shall be obliged to provide for its subscribers to publicly available telephone services access to itemized billing that enables them to control the sum charged.

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- (2) Such itemization of paragraph 1 of this Article, may not cover calls to toll free phone numbers, including emergency call numbers.
 - (3) Subscribers shall receive itemized billing for various types of telephone services without individual presentation of data from local traffic, while upon request of the subscriber such data will be presented free of charge.
 - (4) The itemized billing for public telephone services shall include at least the following elements:
 - (a) accounting period;
 - (b) the amount of the subscription fee;
 - (c) type and amount of all other possible lump sum payments in the accounting period for which the bill is issued;
 - (d) number of calls and their duration
 - (e) number of accounting units, and amounts appearing separately for:
 - local calls
 - national calls,
 - international calls,
 - calls to mobile public communications networks,
 - data transfer,
 - other additional services.

Article 102

Right of Objection and Complaint

- (1) The method and procedure for dealing with the complaints of end users shall be defined in the general conditions of the subscriber contract.
 - (2) Subscribers shall have the right to object to decisions or actions of operators relating to access to or provision of services, as well as on the grounds of violation of the general conditions for entering into subscribers agreements and the provisions thereof.
 - (3) The objection referred to paragraph 2 of this Article, may be filed in writing within fifteen (15) days from the date of receipt of the decision, i.e. from the initiation of activities subject to the objection.
 - (4) The provisions of the Law on General Administrative Procedure shall apply to the procedure for filing a complaint and the manner of acting upon the complaint, unless otherwise stipulated by this Law.
 - (5) Operators shall decide upon the complaint within fifteen (15) days of its receipt, and shall inform the subscriber thereof in writing.
 - (6) A subscriber shall have the right, within fifteen (15) days of receipt of an unfavorable decision on the complaint, to submit an appeal to the Agency and ask for protection of his/her rights before the Agency.
 - (7) Subscribers shall also have the right to request protection of their rights before the Agency within thirty-five (35) days from the date of submitting the appeal, in the event
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that the operator has failed to act upon the complaint within the required time period, determined in paragraph 5 of this Article.

- (8) Upon receiving the appeal from the subscriber, the Agency shall act in accordance with Article 122 through 133 of this Law.

Article 103

Restriction or Interruption of Access

- (1) Operators providing access to the public communications network may, without the consent of users, temporarily restrict or interrupt the access to their services if required due to upgrading, modernization or maintenance or in the event of faults or damage of the network.
- (2) Operators shall be obliged to inform the Agency and notify the users of the restrictions or interruptions – which last more than thirty (30) minutes
 - (a) at least forty-eight (48) hours in advance in the case of planned upgrading, modernization or maintenance, or
 - (b) as soon as practicable, but in no event later than forty-eight (48) hours, following the occurrence of restriction or interruption caused by faults or damage of the network.
- (3) The operators should undertake all the necessary measures, to make the restrictions and interruptions last as short as possible.

Article 104

Disconnections of the Subscriber

- (1) Operators providing access to the public communications networks may restrict the access to their services and/or may disconnect the subscribers and terminate the subscriber contract only if the subscriber fails to settle his or her liabilities or breaches other conditions laid down in the subscriber contract.
 - (2) Operators of paragraph 1 of this Article, shall stipulate in the general conditions of the subscriber contract the measures that will be taken for specific breaches and the interval within which they are implemented. The measure and interval selected must be proportionate to such breaches and non-discriminatory.
 - (3) In the event of breaches, operators shall be obliged to send, in a reliable manner, a written notice stating the reasonable interval within which the subscriber must meet the contractual obligations.
 - (4) Operators shall not be obliged to notify subscribers in advance of measures if the breach:
 - (a) causes an immediate and serious threat to public order, public safety or health of people and the environment or
 - (b) causes serious material or operational damage.
 - (5) If notice of the specific measure has been stated in the subscriber contract, the non-payment of bills shall not be deemed to be a breach entitling the initiation of measures under the section 1 of this Article.
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- (6) If a subscriber objects to the amount of a bill, the operator may not act in accordance with paragraph 1 of this Article until the final decision is reached, where the subscriber, shall be obliged to pay the amount within the defined time interval.
 - (7) If technically feasible, operators shall be obliged to restrict access only to those services with regard to which the user breaches the subscriber contract, except in instances of abuse, persistent late payment or non-payment of bills.
 - (8) Operators shall not restrict the access to and use of emergency call numbers.

Article 105 **Public Influence**

- (1) The Agency and other state bodies shall be obliged to obtain and take appropriate account of the opinions of interested parties, in formulating measures in the electronic communications market and prior to taking decisions of general application that will significantly influence such market, and in the adoption of acts and regulations.
- (2) Prior to recommending regulations or adopting regulations, the Agency shall publish the proposed instrument and seek the submission in writing of opinions thereon from all interested parties within the published interval, which may not be shorter than thirty (30) days.
- (3) The Agency may also hold a public hearing on the proposed regulation, at which representatives of interested parties may be invited to present their views and opinions on the proposed matter.
- (4) After the expiry of the interval from paragraph 2 of this Article, and prior to the adoption of the regulation, the Agency shall make publicly available the obtained opinions and comments, where the confidential information and data shall not be made public.

Chapter Eleven **THE ELECTRONIC COMMUNICATIONS IN A STATE OF WAR AND** **EMERGENCY**

Article 106 **Emergency Measures for the Provision of Services**

- (1) Operators providing access to public communications network and use of publicly available communications services shall adopt and submit to the Agency a plan of measures to ensure the integrity of the public communications network and to ensure access to the public communications services in the event of breakdown of the network, state of war or emergency, or natural disasters.
 - (2) Emergency measures referred to in paragraph 1 of this Article shall ensure uninterrupted access to and use of emergency call numbers.
 - (3) The plans of measures shall oblige operators to implement emergency measures throughout the duration of the circumstances or the event that led to their application.
 - (4) The Government of the Republic of Macedonia, on recommendation of the Minister in charge of electronic communications and the Agency, may prescribe measures that must be included in the plans of measures referred to in paragraph 1 of this Article.
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Article 107
Measures in the Event of a State of Emergency

- (1) Operators providing public communications networks shall be obliged to adjust their networks so as to give priority over other communications to communications from certain network termination points.
- (2) The Government of the Republic of Macedonia shall by resolution determine the groups of users with the right to priority network termination points pursuant to paragraph 1 of this Article, which priority network termination points may only be used in instances of network breakdown, war, state of emergency, or natural disasters.
- (3) The Government of the Republic of Macedonia may oblige the operators of public communications networks to terminate the operation of the rest of the communications termination points, so as to provide operation of priority network termination points. The Government of the Republic of Macedonia may in such circumstances also stipulate by resolution other measures and restrictions or interruption of operation.
- (4) Resolutions of the Government of the Republic of Macedonia issued pursuant to paragraph 3 of this Article must stipulate the period of time essential for the removal of the emergency circumstances.
- (5) In the event of war or state of emergency, or natural disaster, the Government of the Republic of Macedonia may also give appropriate orders to operators pertaining to the management of the response to the event and its alleviation.
- (6) The Government of the Republic of Macedonia may also prescribe other measures that must be implemented in instances of war, states of emergency, or natural disasters.

Article 108
Reimbursement of Costs

- (1) Operators referred to in Article 106 of this Law, shall have the right to reimbursement of eligible and justified costs for fulfilling the aforementioned obligations.
- (2) At the proposal of the Minister in charge of electronic communications, and upon a prior consultation with the operators, the Government of the Republic of Macedonia shall decide on the level of reimbursement from paragraph 1 of this Article.

Article 109
Provision of Universal Service during Strikes

Universal service providers and/or operators shall be obliged to make a decision by which they will select the employees who must, during strikes, ensure the uninterrupted provision of universal service or fulfilling the obligations of the operator pursuant to Article 106 of this Law.

Chapter Twelve
SECRECY AND CONFIDENTIALITY OF COMMUNICATIONS

Article 110
Protective Measures

- (1) Operators of public communications networks and service providers of communications services shall be obliged individually, and jointly where necessary, to adopt appropriate

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- technical and organizational measures to ensure the security of their networks and/or services.
- (2) Such measures must ensure a level of security and protection appropriate to the reasonable foreseeable risks, the determination of which may take the technical feasibility of the measure into account.
 - (3) Operators of public communications networks and service providers of public communications services shall be obliged to inform their users of particular network security risks and the means whereby users can reduce such risk, as well as of the potential costs covered by the users, if the risk lies outside the scope of measures which the operator may take.

Article 111

Confidentiality of Communications

- (1) Confidentiality of communications shall apply to:
 - (a) the content of communications;
 - (b) traffic data and location data relating to communications; and
 - (c) unsuccessful attempts to establish a connection.
 - (2) All forms of surveillance, tapping, interruption, recording, storage, transfer and diverting of communications and data referred to in paragraph (1) of this Article are hereby prohibited, except in cases where it is necessary for the purpose of conveyance of a message as a fax message, electronic mail, electronic mailbox, voice mail, SMS message, and others or being in compliance with the provisions of Article 115 of this Law.
 - (3) Operators and providers of public communications networks and services, their agents, employees, representatives, and other parties under their direction and control, shall protect the confidentiality of communications, which obligation shall survive the cessation of the activities in which they were obliged to protect such confidentiality.
 - (4) Operators and providers of public communications networks and services, their agents, employees, representatives, and other parties under their direction and control, may obtain, use or provide confidential communications information to others only to the extent essential for the provision of specific public communications services.
 - (5) If operators of public communications networks and providers of public communications services need to obtain information on the content of communications, or copy or store communications and related traffic data, they shall be obliged on entering subscriber contracts or at the start of provision of public communications services to inform the user, and to erase the information on the content of communications or the communications, as soon as technically feasible, after the information or communication is no longer required for the provision of the specific public communications service.
 - (6) Subscribers or users may record communications, but they shall be obliged to inform the sender or recipient of the communication thereof or adjust the operation of the recording device so that the sender or recipient of the communication is informed of its operation.
 - (7) Recording of communications and the associated traffic data shall be permitted with the objective of securing evidence of market transactions or any other business communications, or within organizations receiving emergency calls, for their registration, identification and resolution.
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- (8) The use of electronic communications networks to store data or gain access to data stored in the terminal equipment of subscribers or users for further processing shall only be permitted in cases where the operator of public communications networks and the provider of public communications services:
- (a) informs in advance the subscriber or user of the purpose of processing of such data;
 - (b) gives the subscriber or user the right and opportunity to refuse such processing; and
 - (c) provides the subscriber or user with a designated point of contact to which to communicate such refusal.
- (9) Storage of or access to data shall be permitted for the sole purpose of faster carrying out the transmission of a message over an electronic communications network, or if essential for the provision of an information society service which the subscriber or user explicitly requested.

Article 112

Traffic Communication Data

- (1) Traffic data relating to subscribers and users processed and stored by an operator of public communication network or a provider of public communication service must be erased or made anonymous, as soon as it is no longer needed for the transmission of a message.
- (2) Operators and service providers of public communications networks may store and process traffic data required for billing and interconnection payments until payment for services.
- (3) Providers of public communications services may, for the purpose of marketing electronic communications services or for the provision of value added services, process traffic data only on the basis of the subscriber's or user's prior consent. Subscribers or users must be informed of the types of traffic data processed and the duration of such processing prior to giving consent. Users or subscribers shall have the right to withdraw their consent at any time.
- (4) Operators and service providers of public communications networks shall be obliged to stipulate in the subscriber contract the manner of storage, duration and processing of traffic data and to declare that they shall handle them in accordance with this Law.
- (5) Traffic data may only be processed by the responsible persons with the operator of public communications networks or service provider of public communications who are responsible for billing or traffic management, customer enquiry response, fraud detection, electronic communications services marketing, or provision of value added services, and the processing must be restricted to the extent that is necessary for conducting the activities.
- (6) Operators and service providers of public communications networks shall be obliged to provide the traffic data upon written request by the Agency for the purposes of conduct of dispute resolution and other proceedings pursuant to this Law.

Article 113

Calling and Connected Line Identification

- (1) The operator or service provider of public communications networks who offers calling line identification, shall be obliged to enable the calling user, before each call, to use the possibility, using simple means and free of charge, of preventing the presentation of the calling line identification. The provider of public communications services shall be

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- obliged to provide its subscribers, to automatically and free of charge prevent the identification for all calls from their lines.
- (2) Operators and service providers of public communications networks shall be obliged to override the prevention of calling line identification for emergency calls.
 - (3) The operator or service provider of public communications networks who offers calling line identification, shall be obliged to enable the called user, before each call, to use the possibility, using simple means and free of charge, of preventing the presentation of the calling line identification.
 - (4) If an operator or service provider of public communications networks offers called line identification and the identification is possible prior to the line being established, the called subscriber must have the possibility, using simple means, of rejecting incoming calls where the calling line identification has been prevented by the called user or subscriber.
 - (5) If an operator or service provider of public communications networks offers called line identification, it shall be obliged to enable the called user, to use the possibility, using simple means and free of charge, of preventing the connected line identification to the calling user.
 - (6) If a subscriber requests in writing that the operator trace malicious or nuisance calls, the operator or service provider of public communications network may temporarily record the origin of all calls ending in the network termination point of such subscriber, including those for which prevention of calling line identification has been requested.
 - (7) Data on tracing must be stored and supplied to the subscriber who requested tracing of malicious or nuisance calls and the same are also delivered to the competent body pursuant to the conditions and in the manner stipulated in Article 115 of this Law.
 - (8) Operators and service providers of public communications networks shall be obliged in their general conditions for conclusion of subscriber contracts to determine the possibility of presentation and prevention of calling and connected line identification.
 - (9) Provisions of this Article shall apply to subscriber lines connected to digital exchanges and to analogue exchanges only if such requirements are technically feasible or would not cause disproportionate costs.

Article 114 **Location Data**

- (1) Location data other than traffic data relating to users or subscribers may be processed only in anonymous form or on the basis of a prior consent by the user or subscriber to the extent and for the duration necessary for the provision of a value added service.
 - (2) Users or subscribers may withdraw such consent at any time.
 - (3) Users or subscribers, prior to giving their consent for data processing, must be informed about the following:
 - (a) the type of data to be processed,
 - (b) the purpose and duration of such processing, and
 - (c) the possibility that location data may be transmitted to third parties for the purpose of providing the value added service.
 - (4) Users or subscribers who have consented to the processing of location data from paragraph 1 of this Article shall have the possibility, using simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network or for each transmission of a communication. Processing of location data without the data shall be permitted to persons employed with the operator or service
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provider of public communications services or to third parties providing value added services.

- (5) Location data from paragraph 1 of this Article may only be processed by competent persons with the operator or provider of public communication services or by third parties providing value added service, and the processing must be restricted to the extent that is necessary for the provision of the value added service
- (6) If technically feasible, operators shall be obliged to supply the location data referring to emergency call numbers to the competent body responding to emergency calls.

Article 115

Lawful Interception of Communications

- (1) Operators shall be obliged, at their own expense, to ensure adequate equipment and appropriate interfaces enabling lawful interception of communications in their networks.
- (2) Operators shall be obliged to begin lawful interception of communications at a particular point in the public communications network immediately upon the receipt of an order of the competent court stating the point in the public communications network on which lawful interception of communications is to be conducted, along with other data relating to the manner, scope and duration of such measure.
- (3) Operators, together with competent bodies, upon the request of which the interception is conducted shall be obliged to ensure non-erasable registration of lawful interception of communications and protection of such data as official secrets according to law.
- (4) The Minister responsible for electronic communications, in agreement with the Minister responsible for internal affairs and the Minister responsible for defense shall prescribe the type of equipment and determine appropriate interfaces from paragraph 1 of this Article.

Article 116

Automatic Call Forwarding

- (1) Subscribers must have the possibility, using simple means and free of charge, of stopping automatic call forwarding by a third party to their terminal equipment.
- (2) The provision from paragraph 1 of this Article shall apply only if the implementation is technically feasible or would not cause disproportionate costs.

Article 117

Unsolicited Communications

- (1) The use of automated calling systems for making calls to the subscribers' telephone numbers without human intervention (eg. facsimile machines or electronic mail), for the purposes of direct marketing, may only be allowed if subscribers have given their prior consent.
- (2) Natural or legal entities having electronic mail addresses from the customers of their products or services may use such addresses for direct marketing of their similar products or services, but they shall be obliged to give their customers the possibility at

any time, free of charge and using simple means, of preventing such use of their electronic address.

- (3) The sending of electronic mail for the purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the message is sent, or without a valid address to which the recipient may send a request that such communications cease, shall be prohibited.

Article 118

Subscriber Data

- (1) Operators may obtain the following data on their subscribers:
- (a) name or title of the subscriber;
 - (b) identity number for natural persons, and tax and registration numbers for legal entities;
 - (c) activity of the subscriber, at his request;
 - (d) address of the subscriber;
 - (e) subscriber's number;
 - (f) at the request of the subscriber, academic title before, and occupational title after the name of the subscriber;
 - (g) on the basis of payment, additional data if so desired by the subscriber, provided that this does not encroach on the rights of third parties;
 - (h) regularity of payment.
- (2) Data stated in paragraph 1 of this Article may only be used for:
- (a) concluding, monitoring and termination of subscriber contracts;
 - (b) billing for services; and
 - (c) the preparation and issuing of subscriber directories in accordance with this Law.
- (3) On termination of a subscription, data from paragraph 1 of this Article must be stored for one (1) more year from the date of issuance to the subscriber of the latest bill for services provided, and if during such interval an order is issued by the competent body for the storage and transmission of such data, for the period stipulated by the order of the competent body.

Article 119

Directories

- (1) Subscribers must be informed free of charge of the purposes of directories and of the use of such data before being included in printed or electronic directories available to the public. The costs of informing subscribers shall be borne by the publisher of the directory.
- (2) Subscribers must have the opportunity to determine which, if any, of their personal data from paragraph 1 of Article 118 will be included in a public directory. Subscribers may verify their personal data or require their correction or erasure.
- (3) Refusal to be included in a public directory, and verifying, altering or erasing personal data shall be charged on the basis of real costs.

Chapter Thirteen

DIGITAL RADIO AND TELEVISION

Article 120

Digital Radio and Television

- (1) Public communications networks intended for the distribution of digital television services must be planned so as to be appropriate for the distribution of wide-screen television services and programs of wide range.
- (2) Operators providing public communications networks shall be obliged in the receipt and redistribution of wide-screen television services or programs of wide range to maintain their format.
- (3) Operators of public communications networks, at the request of the Agency, shall be obliged to ensure access to application program interfaces or electronic program guides under fair, appropriate and non-discriminatory conditions.
- (4) The Agency shall prescribe the conditions for operation of digital television equipment used by consumers.

Article 121

Conditional Access Systems

- (1) Conditional access systems for digital television or radio services need to have the necessary technical capability to allow the possibility for full control by the public communications network operators.
- (2) Operators that offer conditional access services, which provide access to digital television and radio services shall be obliged to offer to all broadcasters, under fair, reasonable and non-discriminatory conditions, technical assistance that enable their subscribers to access their services by means of decoders.
- (3) Operators that offer conditional access services shall be obliged to keep accounting for the provision of conditional access services separate from other activities.

Chapter Fourteen

DISPUTES

Article 122

Dispute Resolution

- (1) The Agency shall resolve disputes in cases prescribed by this Law and pertinent regulations thereto, between operators of communications networks and providers of communications services.
- (2) In the matters referred to in paragraph 1 of this Article, the Agency shall initiate a dispute resolution procedure ex officio or at the request by a party to the dispute.
- (3) Unless otherwise stipulated by this Law, the Agency shall apply the provisions of the Law on General Administrative Procedure to the dispute resolution procedures of the Agency.
- (4) The Agency is obliged to resolve the dispute within 42 (forty-two) days from the date of receiving the proposal for initiation of a dispute resolution procedure. The deadline for

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- resolution of the dispute may be extended if it is necessary due to the complexity of the procedure, by in no case shall exceed four (4) months.
- (5) The Agency shall, during resolution of disputes, be obliged to take into consideration the objectives of ensuring effective competition and protection of users' interests in the market, as provided under this Law.
 - (6) The Agency shall be obliged to publish decisions relating to disputes, where it must take into account the prohibition on publication of the business secrets of parties.

Article 123

Mediation and Arbitration

Operators and service providers of communications networks, may agree in writing, to resolve the dispute by mediation or arbitration, in the manner and procedure determined by this Law.

Article 124

Mediation Procedure

Mediation procedure shall be initiated by delivering a written proposal of the party or parties to the Agency, which must be in compliance with the agreement of parties referred to in Article 123 of this Law.

Article 125

Mediator

- (1) The mediator, pursuant to this Law, shall be an impartial third party, independent of the parties to the dispute, who is authorized to manage and guide joint and separate mediation hearings with the parties, and who proposes a resolution of the dispute.
- (2) Parties from paragraph 1 of this Article shall by agreement appoint the mediator.
- (3) If the parties are unable to agree within seven (7) days on the mediator, any party may request that the Agency appoint a mediator. The Agency shall appoint a mediator within seven (7) days upon receiving the request.

Article 126

Mediation Hearings

- (1) Mediation hearings shall be confidential.
- (6) In general, parties and their authorized representatives shall attend the mediation hearings, while other persons may attend only with the explicit prior consent of the parties and the permission of the mediator.

Article 127
Proposed Settlement

- (1) The mediator compiles a written proposed settlement for resolution of the dispute and deliver it to the parties.
- (2) If the parties accept the settlement from paragraph 1 of this Article, its content shall be entered in a memorandum signed by the parties and the mediator.
- (3) If the parties do not accept the settlement from paragraph 1 of this Article, mediation procedure shall be considered to have failed.

Article 128
Arbitration Procedure

- (1) Arbitration procedure is administered by Arbitration Council, which is elected from the list of arbitrators.
- (2) The arbitration procedure shall be initiated by delivering a written proposal to the Agency by a party to the dispute, which circulate it to the Arbitration council.
- (3) The Agency shall advise the parties to resolve the dispute by way of mediation if in its own discretion considers that mediation might better contribute to a timely resolution of the dispute.

Article 129
List of Arbitrators

- (1) The list of arbitrators shall consist of at least 10 qualified and competent persons with special knowledge in legal, economic or technical fields and be administered by the Agency.
- (2) Arbitrators shall be appointed by the Commission, the Minister responsible for electronic communications and other interested parties.
- (3) The mandate of the arbitrator shall be five years and may be renewed.
- (4) The appointed arbitrators need to be impartial and independent of the parties to the procedure.

Article 130
Establishment of Arbitration Panels

- (1) Arbitration Panels shall be established in the following manner:
 - (a) Each party to the dispute shall appoint one arbitrator to the arbitration panel within seven (7) days of the proposal for initiation of the arbitration procedure from the list of arbitrators;
 - (b) The two arbitrators, appointed by the parties to the dispute, within seven (7) days of their last appointment, shall by agreement appoint a third arbitrator chosen from the list, who shall be Chairperson of the Arbitration Panel.
 - (2) If the appointment of the Chairperson, or any other arbitrator has not been made within the period prescribed in paragraph 1 of this Article, the Director of the Agency shall make the appointment of these persons within five (5) days upon the expiry of that period.
 - (3) The deadline for appointment of arbitrators may be extended by agreement between the parties to the dispute, which agreement shall be noticed to the Agency.
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Article 131
Rules of Procedure

- (1) The parties to a dispute may by agreement select the rules of procedure for the Arbitration Panel.
- (2) In the absence of such an agreement, the Arbitration Panel shall decide its own procedure.
- (3) The Arbitration Panel shall hear the parties, examine the claims and objections and make proposals to the parties with a view to reaching an amicable settlement of the dispute.
- (4) If the amicable settlement of the dispute cannot be reached, the Arbitration Panel shall proceed to resolve the dispute on its own decision.
- (5) The arbitration decision shall be made publicly available pursuant to this Law, but the record of the arbitration itself shall be confidential.

Article 132
Location and Expenses of Arbitration

- (1) Unless otherwise agreed by the parties to the dispute, the Arbitration Panel shall select the location of the arbitration.
- (2) The expenses of the arbitration shall be borne equally by the parties to the dispute, unless the parties reach a different agreement.

Article 133
Arbitrary Decision

- (1) Arbitrations shall end with the issuance of an arbitration decision by the Arbitration Panel.
- (2) Arbitrators shall adopt the arbitration decision by a majority of votes.
- (3) The arbitration decision shall be transmitted to the parties to the disputes and deposited with the Agency.
- (4) The arbitration decision, including any conclusions stated therein regarding the facts or questions of law, shall be binding upon the parties to the dispute and shall be enforced through the courts.
- (5) There shall be no appeals against the arbitration decision.

Chapter Fifteen
SUPERVISION

Article 134
Competencies for Conducting Supervision

- (1) The supervision of the application of this Law, the pertinent regulations, international agreements concluded by the Republic of Macedonia or to which it has acceded from the field of electronic communications shall be conducted by Ministry of Transport and Communications and the Agency, within the scope of its competencies according to this Law.

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- (2) The Agency shall conduct the supervision over the implementation of this Law, the pertinent regulations through its inspectors for electronic communications.

Article 135

Inspectors

- (1) Inspector of electronic communications (hereinafter: inspector) may be a person who has a university degree in electro-technical sciences, law or economy and not less than 3 (three) years of working experience in the field.
- (2) The Director of the Agency shall issue official identification to each inspector, that will serve for proving his/her capacity as an official person and which s/he shall be obliged to show when conducting inspection and supervision, when that shall be requested from him/her.
- (3) The form and content of the official identification referred to in paragraph 2 of this Article and the manner of issuing and revocation thereof, shall be prescribed by the Commission.
- (4) An operator or service provider of public communications networks or other natural person or legal entity that perform activities in the field of electronic communications shall be obliged to enable the inspector when performing supervision to enter a premise, vehicle, ship, vessel or aircraft where the electronic communications equipment and technical means are located and to deliver at the request of the inspector the necessary data and documentation for the purpose of performing the supervision.
- (5) If the inspector while conducting inspection has not been provided entrance in the living premises, s/he may do that with a warrant issued by the competent court.
- (6) Where an operator or service provider of public communications networks or other natural or legal person performing activities in the field of electronic communications fails to act according to an act adopted by the Agency, or perform harmful interferences in the operation and use of other communications networks and means, the inspector shall seal the working premises or communications equipment, the operation of which is not in compliance with this Law.
- (7) The sealing referred to in paragraph 6 of this Article shall be indicated with a mark, the content and form of which, shall be prescribed by the Commission.
- (8) Upon removing the determined irregularities and deficiencies due to which the sealing of working premises has been done, or of the communications equipment, the inspector shall unseal the working premises or communications equipment at the written request by the party subject of the sealing.
- (9) The inspector shall have the right to temporarily seize the equipment of illegal users of radio frequencies for which s/he shall prepare records. The seized equipment shall be kept with the Agency until the conclusion of the dispute. The Agency shall by a regulation prescribe the procedure and conditions for keeping the seized equipment.

Article 136

Violation of Regulations

- (1) In case of violation of the provisions of this Law determined by an inspector, the Director of the Agency, may issue a decision by which it shall:
- (a) order the infringer to undertake measures within a set time period for removing the determined irregularities and deficiencies;
 - (b) prohibit further activities that are contrary to the provisions of this Law and pertinent regulations thereto.

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- (c) initiate procedure in compliance with the Law on Misdemeanors or the Law on Criminal Procedures.
- (2) The Director shall be obliged to issue the decision from paragraph 1 of this Article within fifteen (15) days from the date of determining the breach.

Article 137

Right to Appeal

- (1) An appeal against the decisions of the Director under Article 136 of this Law may be filed by the dissatisfied party to the Commission under Article 14 of this Law within eight (8) days from the date of receipt.
- (2) The Commission shall be obliged to decide upon the appeal within fifteen (15) days from the date of receipt.
- (3) The decision of the Commission upon the appeal shall be final.

Chapter Sixteen

PENALTY PROVISIONS

Article 138

Offences

(1) A fine in the amount of 7 to 10% of the total annual revenue acquired during the commercial year prior the year when the misdemeanor was performed or of the total revenue acquired for a shorter period of the year preceding the misdemeanor, provided that the legal entity commenced its operations during that year shall be imposed to the legal entity if it:

- 1) fails to notify the Agency prior to the commencement of the construction and use of public communications networks or provision of public communications services (Article 28);
 - 2) fails to establish a separate legal entity or to keep separate financial accounts of the income, if it uses electronic communications networks or services for own-use for the provision of public communication services (Article 31, paragraph 2);
 - 3) fails to provide universal service as required by Article 33;
 - 4) acquires ownership that will decrease the competition on a certain relevant market (Article 43, paragraph 1)
 - 5) fails to provide transparency in interconnection or access (Article 45);
 - 6) fails to provide equal treatment for interconnection or access (Article 46);
 - 7) fails to keep separate accounting for activities related to interconnection and/or access (Article 47, paragraph 1);
 - 8) fails to comply with the obligations imposed relating to price control or cost accounting (Article 48);
 - 9) fails to comply with the obligations imposed relating to regulation of services (Article 49);
 - 10) fails to comply with the obligations imposed relating to ensuring the minimum set of leased lines (Article 50);
 - 11) fails to comply with the obligations imposed relating to allowing access to and use of specific network facilities (Article 51);
 - 12) fails to comply with the obligations imposed relating to ensuring the selection or pre-selection of an operator or a public communications service provider (Article 52);
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- 13) uses radio frequencies without an authorization for use of radio frequencies (Article 58, paragraph 1);
 - 14) uses numbers and series of numbers without a valid decision on allocation of numbers and series of numbers (Article 78);
 - 15) fails to submit information on the type and location of the network and the facilities to the body responsible for spatial planning and construction (Article 94, paragraph 4);
 - 16) undertakes surveillance, tapping, interruption, recording, storage and diverting of communications and data in instances forbidden by this Law (Article 111, paragraph 2);
 - 17) fails to ensure at its own expense adequate equipment and appropriate interfaces for lawful tapping of communications (Article 115, paragraph 1);
 - 18) fails to commence lawful tapping of communications after receipt of an order from the court having venue or fails to implement it in the manner, scope and duration laid down in the court order (Article 115, paragraph 2);
 - 19) fails to ensure non-erasable registration of lawful tapping of communications or to protect such data as official secrets (Article 115, paragraph 3);
 - 20) prevents the inspector of electronic communications from entering the room, ship or other maritime facility or aircraft where the communication equipment and technical devices are installed or fails to submit the data and documentation for conducting supervision (Article 135, paragraph 4).
 - (21) exceeds the deadlines stipulated in Article 146 of this Law.
- (3) A fine of between 25,000.00 and 30,000.00 Denars shall be imposed on sole proprietors and the responsible person with the legal entity who has committed a misdemeanor defined in paragraph 1 of this Article.

Article 139

- (1) A fine in the amount of 4 to 7% of the total annual revenue acquired during the commercial year prior the year of performing the misdemeanor or of the total revenue acquired for a shorter period of the year preceding the misdemeanor, provided that the legal entity commenced its operations during that year shall be imposed to the legal entity if it:
- 1) fails to construct and establish the public communications networks and facilities so as to enable their joint use (Article 30, paragraph 1);
 - 2) fails to implement a decision of the Agency setting the amount of the fee for joint use of the facilities for ensuring public telecommunication networks and services (Article 30, paragraph 7);
 - 3) discriminates in the inclusion of data obtained from different operators in the comprehensive directory and the records of the directory enquiry service (Article 34, paragraph 6);
 - 4) fails to set equal prices throughout the territory of the Republic of Macedonia for services provided as universal services (Article 36, paragraph 2);
 - 5) fails to determine prices and general payment conditions for certain universal service in accordance with Article 36, paragraph 4 of this Law;
 - 6) fails to achieve the measured values of quality parameters at least three times in succession (Article 37, paragraph 5);
 - 7) fails to pay the compensation for real costs for provision of universal service within the interval and in the amount laid down by the Agency (Article 39, paragraph 3);
 - 8) fails to submit information to the Agency of revenues from the provision of public communications networks and services (Article 39, paragraph 4);
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- 9) hinders the Agency or the auditor authorized by the Agency in reviewing data and estimating revenues (Article 39, paragraph 5);
 - 10) does not respond to the request for interconnection within the deadline stipulated in Article 44, paragraph 2 of this Law;
 - 11) fails to meet a requirement for interconnection or access (Article 44, paragraph 3);
 - 12) fails to protect confidentiality of data, exchanged when concluding a contract for interconnection or access (Article 44, paragraph 8);
 - 13) assigns or transfers the right to radio frequencies without prior consent of the Agency (Article 71, paragraph 1);
 - 14) fails to enable number portability for its subscribers (Article 84);
 - 15) fails to publish transparent information on applicable prices and tariffs and on the general conditions of access to and use of public communications services (Article 95, paragraph 1);
 - 16) fails to inform users and the Agency of the restriction or termination of access to their services in accordance with Article 103, paragraph 2 of this Law;
 - 17) restricts access to its services, disconnects subscribers or terminates a subscriber contract in a manner not stipulated in the subscriber contract (Article 104, paragraph 1);
 - 18) introduces measures for certain violations in a disproportionate and discriminatory manner (Article 104, paragraph 2);
 - 19) fails to inform the subscriber in writing of the made violation and fails to set a time limit for the fulfillment of the contractual obligations (Article 104, paragraph 3);
 - 20) implements a measure in instances when the subscriber has acted in accordance with Article 104 of this Law;
 - 21) fails to disconnect a user for unpaid or delayed payment of a service even though such disconnection is technically feasible (Article 104, paragraph 7);
 - 22) fails to adopt and submit to the Agency a Plan of Measures in the event of breakdown of the network, war, state of emergency, or natural disasters, or fails to implement such measures for the duration of the circumstances or the event that led to their adoption (Article 106, paragraphs 1 and 3);
 - 23) fails to provide uninterrupted access to and use of emergency call numbers with the measures of the Plan of Measures (Article 106, paragraph 2)
 - 24) fails to adjust its network so as to enable the priority of communications (Article 107, paragraph 1);
 - 25) fails to act according to the instruction of the Government of the Republic of Macedonia pursuant to Article 107 paragraph 3 of this Law;
 - 26) fails to act according to the Minister's order pursuant to Article 107, paragraph 5 of this Law;
 - 27) fails to assign employees during strikes pursuant to Article 109 of this Law;
 - 28) fails to adopt technical and organizational measures for the security of its network and/or services (Article 110, paragraphs 1 and 2);
 - 29) fails to warn its subscribers of the specific risks for the security of the network (Article 110, paragraph 3);
 - 30) fails to protect the confidentiality of electronic communications (Article 111, paragraph 3);
 - 31) acquires for itself or for another party information on the contents, facts and circumstances of transmitted messages in excess of the minimum necessary extent essential for the provision of specific electronic services, or fails to use such
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information solely for the provision of such services and compliance with contractual undertaking relating thereto (Article 111, paragraph 5);

32) fails to inform the users in a clear and understandable manner about the control and purpose of processing of data, or fails to offer an opportunity for refuting such data processing, or fails to obtain the consent of a user prior to the processing of data (Article 111, paragraph 8);

33) fails to erase traffic data or make such data anonymous after termination of the need for transmission of the message (Article 112, paragraph 1);

34) processes traffic data without the prior consent of the user or subscriber (Article 112, paragraph 3);

35) allows traffic data to be processed by persons that are not authorized to do that (Article 112, paragraph 5);

36) fails to process location data in accordance with Article 114 of this Law;

37) limits the right of the user or subscriber to temporary rejection of location data processing (Article 114, paragraph 4);

38) allows that location data be processed by persons that are not authorized to do that (Article 114, paragraph 5);

39) uses electronic communications for direct marketing without the consent of the subscriber (Article 117, paragraph 1);

40) uses the electronic address of customers for direct marketing without allowing the customers to refuse such direct marketing (Article 117, paragraph 2);

41) uses a false identity or false address in direct marketing with the use of electronic communications (Article 117, paragraph 3);

42) fails on the basis of a request of the Agency to ensure access to application program interfaces or electronic program guides, or fails to do so under fair, reasonable and non-discriminatory conditions (Article 120, paragraph 3);

43) its conditional access systems do not have the technical characteristics that can enable operators to have full control (Article 121, paragraph 1);

44) fails to ensure technical services under fair, reasonable and non-discriminatory conditions (Article 121, paragraph 2);

45) fails to keep separate accounts for the provision of conditional access services (Article 121, paragraph 3).

(2) A fine of between 20,000.00 and 25,000.00 denars shall be imposed on sole proprietors or responsible persons with the legal entity who has committed a misdemeanor defined in paragraph 1 of this Article.

Article 140

(1) A fine in the amount of 2 to 4% of the total annual revenue acquired during the commercial year prior the year of performing the misdemeanor or of the total revenue acquired for a shorter period of the year preceding the misdemeanor, provided that the legal entity commenced its operations during that year shall be imposed to the legal entity if it:

1) fails to act in accordance with the approval for the allocation of radio frequencies (Article 67 and 68);

2) fails to act in accordance with the decision on the allocation of numbers and series of numbers (Article 78);

3) fails to plan public communication networks in a manner that will allow minimum interference and jeopardizing of the private property (Article 88, paragraph 2);

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- 4) fails to take measures to prevent damage to the private real estate (Article 90, paragraph 2);
 - 5) a subscriber contract does not contain all the prescribed elements (Article 96, paragraph 1);
 - 6) fails to inform its subscribers of the proposed amendments to the conditions of the subscriber contract (Article 96, paragraph 3);
 - 7) fails to make available a level of itemized billing that enables control of the sum charged (Article 101, paragraph 1);
 - 8) the itemized bill does not contain data prescribed in Article 101, paragraph 4 of this Law;
 - 9) fails to ensure calling line and called number identification and prevention thereof (Article 113);
 - 10) in the general conditions for concluding a subscriber contract fails to stipulate the possibility of calling line and called number identification and prevention thereof (Article 113, paragraph 8);
 - 11) fails to inform the users or the subscribers of the elements of Article 114, paragraph 3 of this Law before they provide consent for processing the data;
 - 12) fails to offer subscribers or users the possibility of temporarily refusing the processing of location data (Article 114, paragraph 4);
 - 13) uses subscriber data collected in contravention to Article 118, paragraph 2 of this Law;
 - 14) fails to inform subscribers free of charge of the purpose of subscriber directory and the usage of the data prior to including them in a printed or electronic directory (Article 119, paragraph 1);
 - 15) fails to provide subscribers with the opportunity to determine whether and which of their personal data will be included in the public directory (Article 119, paragraph 2);
 - 16) refusal to be included in a public subscriber directory and the verification, alteration or erasure of personal data claiming that such services are not free of charge (Article 119, paragraph 3);
 - 17) fails to plan public communications networks intended for the distribution of digital television services so as to be appropriate for the distribution of wide-screen television services and programs (Article 120, paragraph 1);
 - 18) fails to maintain the format for access and repeated distribution of wide-screen services and programs (Article 120, paragraph 2);
 - 19) fails to pay in full the reimbursement for market supervision within the time period set forth in Article 32, paragraph 3 of this Law;
 - 20) fails to pay in full the assets for reimbursement of real costs for providing the universal service within the time period set forth in Article 39, paragraph 3 of this Law;
 - 21) fails to pay in full the reimbursement for use of radio frequencies within the time period set forth in Article 75 of this Law;
 - 22) fails to pay in full the reimbursement for use of allocated numbers and series of numbers within the time period set forth in Article 83 of this Law.
- (2) A fine of between 15,000.00 and 20,000.00 Denars shall be imposed on sole proprietors or responsible persons with the legal entity who has committed a misdemeanor defined in paragraph 1 of this Article.

Article 141

- (1) A fine in the amount up to 2 % of the total annual revenue acquired during the commercial year prior the year of performing the misdemeanor or of the total revenue
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acquired for a shorter period of the year preceding the misdemeanor, provided that the legal entity commenced its operations during that year shall be imposed to the legal entity if it:

- 1) fails within the statutory interval to inform the Agency of changes to the data provided in the notification (Article 28, paragraph 4);
 - 2) fails to publish information on the quality of universal service (Article 37, paragraph 2);
 - 3) fails to send to the Agency an estimate of real costs, revised balance sheet and information used in the estimate of real costs for provision of universal service (Article 38, paragraph 6);
 - 4) fails to report to the Agency changes to data within the interval prescribed by this Law (Article 67, paragraph 3);
 - 5) refuses a reasonable request to connect radio and telecommunication terminal equipment where technically possible (Article 76, paragraph 1);
 - 6) fails to make available to emergency calls services presentation of the calling line identification and location of the caller, where technically feasible (Article 86, paragraph 2);
 - 7) fails to cover the costs of relocation, change or extension of the installations and the facilities (Article 93, paragraph 2);
 - 8) fails to make public adequate and updated information on the quality of their services (Article 97, paragraph 1);
 - 9) fails to make available to its end users tone dialing and calling line identification, where technically feasible and economically viable (Article 98);
 - 10) fails to enable all its subscribers to have an entry in the single directory (Article 99, paragraph 1);
 - 11) rejects all reasonable requests for registration of subscribers in the manner and the price available for public at the directory enquiry service and the directory (Article 99, paragraph 2);
 - 12) fails to provide access to all users to the universal directory enquiry service (Article 99, paragraph 3);
 - 13) fails to enable access to operator assistance (Article 100);
 - 14) fails to enable subscribers free of charge and using simple means to stop automatic call forwarding (Article 116, paragraph 1);
- (2) A fine of between 10,000.00 and 15,000.00 Denars shall be imposed on sole proprietors or responsible persons with the legal entity who has committed a misdemeanor defined in paragraph 1 of this Article.

Article 142

(1) A fine of between 15,000.00 and 30,000.00 Denars shall be imposed for misdemeanor on a natural person if:

- 1) s/he uses radio frequencies without an authorization for the use of radio frequencies (Article 58, paragraph 1);
- 2) s/he commences construction and use of public communications network or provisions of public communications services without submitting a prior notification to the Agency (Article 28);
- 3) s/he fails to act in accordance with the authorization for use of radio frequencies (Articles 67 and 68);
- 4) s/he connects radio or telecommunications terminal equipment to the public communications network in contrary to the provision of paragraph 2 of Article 76 of this Law.

Article 143

Security Measures

(1) For each misdemeanor from Articles 138, 139, 140 and 141 of this Law committed by a legal entity, in addition to the fine, a security measure shall be pronounced for prohibiting it to perform the determined activity for a period from six (6) months to three (3) years, and another security measure may also be pronounced for seizing the equipment with which the misdemeanor was performed.

(2) For misdemeanor from Articles 138, 139, 140 and 141 of this Law committed by the responsible person with the legal entity, in addition to the fine, a security measure shall be pronounced for prohibiting him/her to perform the occupation, activity or duty for a period of three (3) months to one (1) year.

(3) For each misdemeanor from Articles 138, 139, 140 and 141 of this Law committed by a sole proprietor, in addition to the fine, a security measure shall be pronounced for prohibiting him/her to perform the occupation, activity or duty for a period of three (3) months to one (1) year, and another security measure may also be pronounced for seizing the equipment with which the misdemeanor was performed.

(4) For misdemeanor from Article 142 committed by a natural person, in addition to the fine, a security measure may be pronounced for seizing the equipment with which the misdemeanor was performed.

Chapter Seventeen

TRANSITIONAL AND FINAL PROVISIONS

Article 144

Existing Concessions, Licenses and Approvals

(1) The concession agreements, concluded in accordance within the Law on Telecommunications (Official Gazette of Republic of Macedonia no. 33/96, 17/98, 28/00, 4/02, 37/04) between the Ministry for Transport and Communications and AD “Makedonski Telekomunikacii”, AD Mobimak and Kosmofon AD, shall be made compliant with the provisions of this Law within 9 (nine) months from the date when this Law shall enter into force.

(2) The concession agreements, concluded in accordance within the Law for Telecommunications (Official Gazette of Republic of Macedonia no. 33/96, 17/98, 28/00, 4/02, 37/04) between Ministry for Transport and Communications and service providers for transmission of data, shall be made compliant with the provisions of this Law within 6 (six) months from the date when this Law shall enter into force.

(3) The concession agreements, concluded in accordance within the Law on Broadcasting (Official Gazette of Republic of Macedonia no. 20/97 and 70/03), between the Government of Republic of Macedonia and trade broadcasting companies – operators of cable network, shall be harmonized with the provisions of this Law within 6 (six) months from the date when this Law shall enter into force.

(4) The licenses for procurement and establishing a radio station, licenses for operation of radio stations and temporary licenses for radio stations issued in accordance with the Law on Telecommunications (Official Gazette of Republic of Macedonia no. 33/96, 17/98, 28/00, 4/02, 37/04), shall continue to be in force until the expiration of the term for which they have been issued.

(5) Existing public communications operators, providers of public communications services and owners of communications networks and facilities that operate on the basis of concessions and authorizations issued in compliance with the provisions of the Law on Telecommunications (Official Gazette of Republic of Macedonia no. 33/96, 17/98, 28/00, 4/02, 37/04) shall continue to perform their activities in compliance with these acts until the issuance of authorizations and other acts in compliance with this Law.

(6) Existing public communications operators, providers of public communications services and owners of communications networks and facilities that operate in the field of telecommunications in compliance with the provisions of the Law on Telecommunications (Official Gazette of Republic of Macedonia no. 33/96, 17/98, 28/00, 4/02, 37/04) shall be obliged within a time interval not longer than three (3) months from the date when the Agency shall start its work, to submit to the Agency data and information concerning the implementation of the notification procedure pursuant to this Law.

(7) Licensing procedures, as well as procedures for issuance of decisions and other acts pursuant to the Law on Telecommunications (Official Gazette of the Republic of Macedonia no. 33/96, 17/98, 28/00, 4/02, 37/04) initiated prior the date when this Law enter into force shall be completed in compliance with this Law, except for the eventual procedure for determination and giving concession for a third mobile operator that will be completed in accordance with the provisions of the Law on Telecommunications (Official Gazette of the Republic of Macedonia no. 33/96, 17/98, 28/00, 4/02, 37/04).

Article 145

Commencement of Operation of the Agency

- (1) The Agency shall commence its operations by appointing the members of the Commission and Director of the Agency.
 - (2) The Assembly of the Republic of Macedonia shall appoint the President and members of the Commission, not later than sixty (60) days from the date when this Law enters into force.
 - (3) The Commission shall appoint the Director of the Agency within 30 days from the date of its establishment.
 - (7) Until the Agency commence its operations, the Directorate for Telecommunications shall continue to perform the activities under its competence.
 - (5) The Directorate of Telecommunications shall cease to exist with the commencement of operations of the Agency.
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- (6) The Commission shall adopt a Statute of the Agency within thirty (30) days from the date of appointment of the President and members of the Commission.
 - (7) The basic facilities and property, and rights and obligations of the Directorate of Telecommunications shall be transferred to the Agency as of the date of commencement of its operations.
 - (8) The employees with the Directorate of Telecommunications shall be taken over by the Agency under its own acts for organization and systematization.

Article 146

Operator With Significant Market Power

- (1) The current fixed public communication operator AD Makedonski Telekomunikacii is an operator within significant market power in the fixed voice telephone networks and services, including the market for access to networks for data transmission and leased lines, until otherwise decided by the Agency.
 - (2) The operator from paragraph 1 of this Article shall:
 - a) within 30 days from the date when the Agency starts its operations submit the Agency its referent offer for interconnection and/or access in compliance with Article 45 of this Law.
 - b) within six (6) months from the date of entry into force of this Law submit the Agency its referent offer for unbundled access to local loop in compliance with Article 45 of this Law.
 - c) respect the obligations for non-discrimination during interconnection and access referred to in Article 46 of this Law as of the date of entry into force of this Law;
 - d) within six (6) months from the date of entry into force of this Law introduce separate accounting for the activities related to interconnection and/or access in compliance with Article 47 of this Law.
 - e) within six (6) months from the date of entry into force of this Law submit the Agency its proposed cost-oriented tariffs for services in accordance with Article 48 of this Law.
 - f) within six (6) months from the date of entry into force of this Law submit the Agency its proposed on Price cap tariff system in accordance with Article 49, paragraph 2 of this Law.
 - g) include in its referent offer for interconnection and/or access from indent a) conditions for provision of the complete minimum set of leased lines, cost-oriented and based on transparent conditions in accordance with Article 50 of this Law.
 - h) within 6 months from the date of entry into force of this Law enable access and usage of specific network facilities in compliance with Article 51 of this Law.
 - i) until June 2005 ensure capacity for selection of operator and pre-selection of operator in compliance with this Law.
 - j) within 120 days from the date of entry into force of this Law submit the Agency a plan guaranteeing that its system has the capacity for enabling selection and pre-selection of operators by 30 September 2005.
 - (5) Unless otherwise determined by the Agency, the existing mobile operators shall be obliged to:
 - a) satisfy all the reasonable requests for access to their networks;
 - b) respect the principle for non-discrimination regarding the provision of interconnection to other operators;
 - c) promptly publish the information to all parties interested in interconnection;
 - d) submit all interconnection agreements to the Agency so that they could be available to all interested parties;
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- e) respect the principle of confidentiality of information received by the interested parties requesting interconnection;
- (4) Within six (6) months from the date of entry into force of this Law, the existing mobile operators shall be obliged to submit the Agency data regarding the combined market of services for fixed-mobile interconnection in the Republic of Macedonia, for the purpose of enabling the Agency to start the procedure for determining the operator with significant market power in the mobile telephony. Should the Agency determine that existing operator or operators have significant market power, it shall order the interconnection prices to be transparent and cost-oriented.

Article 147

Universal Service Provider

- (1) Until the Agency decides otherwise, the reimbursement of real costs for provision of universal service shall be financed by the operators that annually acquire minimum gross revenue of EUR 100.000.
- (2) The National Strategy for development in the field of electronic communications and information technology from Article 6 of this Law includes an interim strategy for universal service to be implemented by the Agency during a transitional period as of the date of entry into force of this Law, but not exceeding two (2) years.
- (3) The interim strategy for universal service during the transitional period shall:
- a) identify the needs for universal services on the market;
 - b) determine the goals and priorities for provision of universal service and
 - c) provide a set of measures to be implemented by the Agency for the purpose of encouraging the provision of universal services without subsidies.
- (4) All operators and providers of services shall have the right to provide universal services in compliance with interim strategy for universal service during the transitional period, where the assets from the Universal Service Fund shall be distributed in a transparent and efficient manner.

Article 148

Plan of Measures in the Event of War and State of Emergency

Operators providing access to the public telephone network and the use of publicly available telephone services of fixed location shall be obliged within six (6) months from the date when this Law enters into force, to adopt and submit to the Agency a Plan of Measures that ensures access to the public telephone networks and publicly available telephone services in the event of breakdown of the network and operations of systems due to war or state of emergency, natural and other disasters referred to in Article 106 of this Law.

Article 149

Term for Providing Communications of Priority Network Termination Points

Operators that provide access to public telephone network and provide public telephone services on fixed location shall be obliged within six (6) months from the entry into force of the Decision by the Government of the Republic of Macedonia, in accordance with Article 107, paragraph 2 of this Law, to adjust their network for the purpose of establishing communication of priority network termination points.

Article 150

Existing Networks Built on Land Property of Third Parties

Owners of land on which public communications networks will be built, installed and operated, shall be obliged to express their approval for use of their land in writing.

Article 151

Validity of Regulations

- (1) Detailed regulations stipulated by this Law shall be adopted within a period of six (6) months from the date when this Law enters into force.
- (2) Until the date of entry into force of the regulations referred to in paragraph 1 of this Article, the valid regulations by the date when this Law enters into force shall apply.
- (3) Provisions of Articles 138, 139, 140, 141 and 142 of this Law shall apply as of the date of entry into force of the Law on Misdemeanours.

Article 152

The provision of Article 115 of this Law shall apply as of the date of entry into force (enforcement) of the law relating to supervision of communications.

Article 153

Cessation of Validity

- (1) The Law on Telecommunications (Official Gazette of the Republic of Macedonia no.33/96, 17/98, 28/00, 04/02, 37/04) shall cease to be valid on the date of entry into force of this Law, except for the provisions in Article 70-a, 70-b, 70-c, 70-d and 70-e, that will cease to be valid on 31 December 2005.
- (2) The provisions of Article 65, paragraph 1 of the Law on Broadcasting (Official Gazette of the Republic of Macedonia no.20/97) shall cease to apply when this Law enters into force.

Article 154

Entry into Force

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