

## APPENDIX D

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### INTERNATIONAL COMPARISON OF PURPOSES AND OBJECTIVES OF NATIONAL TELECOMMUNICATIONS LEGISLATION

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## 1) INTERNATIONAL TELECOMMUNICATIONS UNION – ITU UNITED NATIONS

Statute: Constitution of the International Telecommunications Union

Citation: *idem*

Sections: Preamble; Article 1 Purposes of the Union

Source: ITU's Website

Hyperlink: <http://www.itu.int/aboutitu/basic-texts/constitution.html>

### Preamble of the ITU Constitution

- 1 While fully recognizing the sovereign right of each State to regulate its telecommunication and having regard to the growing importance of telecommunication for the preservation of peace and the economic and social development of all States, the States Parties to this Constitution, as the basic instrument of the International Telecommunication Union, and to the Convention of the International Telecommunication Union (hereinafter referred to as "the Convention") which complements it, with the object of facilitating peaceful relations, international cooperation among peoples and economic and social development by means of efficient telecommunication services, have agreed as follows:

### CHAPTER 1 - Basic Provisions

#### ARTICLE 1

#### Purposes of the Union

- 2 1 The purposes of the Union are:
- 3 PP-98 a) to maintain and extend international cooperation among all its Member States for the improvement and rational use of telecommunications of all kinds;
- 3A PP-98 abis) to promote and enhance participation of entities and organizations in the activities of the Union and foster fruitful cooperation and partnership between them and Member States for the fulfilment of the overall objectives as embodied in the purposes of the Union;
- 4 PP-98 b) to promote and to offer technical assistance to developing countries in the field of telecommunications, and also to promote the mobilization of the material, human and financial resources needed for its implementation, as well as access to information;
- 5 c) to promote the development of technical facilities and their most efficient operation with a view to improving the efficiency of telecommunication services, increasing their usefulness and making them, so far as possible, generally available to the public;
- 6 d) to promote the extension of the benefits of the new telecommunication technologies to all the world's inhabitants;
- 7 e) to promote the use of telecommunication services with the objective of facilitating peaceful relations;
- 8 PP-98 f) to harmonize the actions of Member States and Sector Members in the attainment of those ends;
- 9 g) to promote, at the international level, the adoption of a broader approach to the issues of telecommunications in the global information economy and society, by cooperating with other world and regional intergovernmental organizations and those non-governmental organizations concerned with telecommunications.
- 10 2 To this end, the Union shall in particular:
- 11 PP-98 a) effect allocation of bands of the radio-frequency spectrum, the allotment of radio frequencies and the registration of radio-frequency assignments and, for space services, of any associated orbital position in

- the geostationary-satellite orbit or of any associated characteristics of satellites in other orbits, in order to avoid harmful interference between radio stations of different countries;
- 12 PP-98 b) coordinate efforts to eliminate harmful interference between radio stations of different countries and to improve the use made of the radio-frequency spectrum for radiocommunication services and of the geostationary-satellite and other satellite orbits;
- 13 c) facilitate the worldwide standardization of telecommunications, with a satisfactory quality of service;
- 14 PP-98 d) foster international cooperation and solidarity in the delivery of technical assistance to the developing countries and the creation, development and improvement of telecommunication equipment and networks in developing countries by every means at its disposal, including through its participation in the relevant programmes of the United Nations and the use of its own resources, as appropriate;
- 15 e) coordinate efforts to harmonize the development of telecommunication facilities, notably those using space techniques, with a view to full advantage being taken of their possibilities;
- 16 PP-98 f) foster collaboration among Member States and Sector Members with a view to the establishment of rates at levels as low as possible consistent with an efficient service and taking into account the necessity for maintaining independent financial administration of telecommunications on a sound basis;
- 17 g) promote the adoption of measures for ensuring the safety of life through the cooperation of telecommunication services;
- 18 h) undertake studies, make regulations, adopt resolutions, formulate recommendations and opinions, and collect and publish information concerning telecommunication matters;
- 19 i) promote, with international financial and development organizations, the establishment of preferential and favourable lines of credit to be used for the development of social projects aimed, inter alia, at extending telecommunication services to the most isolated areas in countries.
- 19A PP-98 j) promote participation of concerned entities in the activities of the Union and cooperation with regional and other organizations for the fulfilment of the purposes of the Union.
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## 2) EUROPEAN UNION

### 2.1) FRAMEWORK

Statutes: Directive 2002/21/EC (Framework Directive)

Citation: Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)

Source: Gateway to the European Union | EUR-Lex

Sections: Consideranda 16-18; Article 8

Hyperlink: <http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/framelodgmentattachments/D398673DFFFC15583CA25706E0025F81C>

WHEREAS:

(16) National regulatory authorities should have a harmonised set of objectives and principles to underpin, and should, where necessary,

coordinate their actions with the regulatory authorities of other Member States in carrying out their tasks under this regulatory framework.

(17) The activities of national regulatory authorities established under this Directive and the Specific Directives contribute to the fulfilment of broader policies in the areas of culture, employment, the environment, social cohesion and town and country planning.

(18) The requirement for Member States to ensure that national regulatory authorities take the utmost account of the desirability of making regulation technologically neutral, that is to say that it neither imposes nor discriminates in favour of the use of a particular type of technology, does not preclude the taking of proportionate steps to promote certain specific services where this is justified, for example digital television as a means for increasing spectrum efficiency.

(...)

## TASKS OF NATIONAL REGULATORY AUTHORITIES

### Article 8

#### Policy objectives and regulatory principles

1. Member States shall ensure that in carrying out the regulatory tasks specified in this Directive and the Specific Directives, the national regulatory authorities take all reasonable measures which are aimed at achieving the objectives set out in paragraphs 2, 3 and 4. Such measures shall be proportionate to those objectives.

Member States shall ensure that in carrying out the regulatory tasks specified in this Directive and the Specific Directives, in particular those designed to ensure effective competition, national regulatory authorities take the utmost account of the desirability of making regulations technologically neutral.

National regulatory authorities may contribute within their competencies to ensuring the implementation of policies aimed at the promotion of cultural and linguistic diversity, as well as media pluralism.

2. The national regulatory authorities shall promote competition in the provision of electronic communications networks, electronic communications services and associated facilities and services by inter alia:

(a) ensuring that users, including disabled users, derive maximum benefit in terms of choice, price, and quality;

(b) ensuring that there is no distortion or restriction of competition in the electronic communications sector;

(c) encouraging efficient investment in infrastructure, and promoting innovation; and

(d) encouraging efficient use and ensuring the effective management of radio frequencies and numbering resources.

3. The national regulatory authorities shall contribute to the development of the internal market by inter alia:

(a) removing remaining obstacles to the provision of electronic communications networks, associated facilities and services and electronic communications services at European level;

(b) encouraging the establishment and development of trans-European networks and the interoperability of pan-European services, and end-to-end connectivity;

(c) ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services;

(d) cooperating with each other and with the Commission in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of this Directive and the Specific Directives.

4. The national regulatory authorities shall promote the interests of the citizens of the European Union by inter alia:

(a) ensuring all citizens have access to a universal service specified in Directive 2002/22/EC (Universal Service Directive);

(b) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved;

(c) contributing to ensuring a high level of protection of personal data and privacy;

(d) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services;

(e) addressing the needs of specific social groups, in particular disabled users; and

(f) ensuring that the integrity and security of public communications networks are maintained.

## **2.2) UNIVERSAL SERVICE**

Statutes: Directive 2002/22/EC (Universal Service Directive)

Citation: Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)

Source: Gateway to the European Union | EUR-Lex

Sections: Article 3; Article 7

Hyperlink: <http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:32002L0022:EN:HTML>

## CHAPTER II

### UNIVERSAL SERVICE OBLIGATIONS INCLUDING SOCIAL OBLIGATIONS

#### Article 3

##### Availability of universal service

1. Member States shall ensure that the services set out in this Chapter are made available at the quality specified to all end-users in their territory, independently of geographical location, and, in the light of specific national conditions, at an affordable price.

2. Member States shall determine the most efficient and appropriate approach for ensuring the implementation of universal service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. They shall seek to minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest.

(...)

## Article 7

### Special measures for disabled users

1. Member States shall, where appropriate, take specific measures for disabled end-users in order to ensure access to and affordability of publicly available telephone services, including access to emergency services, directory enquiry services and directories, equivalent to that enjoyed by other end-users.
2. Member States may take specific measures, in the light of national conditions, to ensure that disabled end-users can also take advantage of the choice of undertakings and service providers available to the majority of end-users.

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### 3) AUSTRALIA

Statute: Telecommunications Act of 1997  
An Act about telecommunications, and for related purposes

Citation: Act. N° 47 of 2007

Source: Australian Government  
Attorney-General's Department

Sections: Part 1 – Introduction (S.3 Objects; and S.4 Regulatory Policy)

Hyperlink: <http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/frameLodgmentAttachments/D398673DFFC15583CA25706E0025F81C>

### 3 Objects

(1) The main object of this Act, when read together with Parts XIB and XIC of the *Trade Practices Act 1974*, is to provide a regulatory framework that promotes:

(a) the long-term interests of end-users of carriage services or of services provided by means of carriage services; and

(b) the efficiency and international competitiveness of the Australian telecommunications industry.

(2) The other objects of this Act, when read together with Parts XIB and XIC of the *Trade Practices Act 1974*, are as follows:

(a) to ensure that standard telephone services, payphones and other carriage services of social importance are:

- (i) reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business; and
- (ii) are supplied as efficiently and economically as practicable; and
- (iii) are supplied at performance standards that reasonably meet the social, industrial and commercial needs of the Australian community;

(b) to provide a framework under which a carriage service that provides digital data capability comparable to an ISDN channel is to become available to all people in Australia:

- (i) by 1 January 2000; or
- (ii) by another date having regard to the findings of the review into the timing of the availability of that service;

(c) to promote the supply of diverse and innovative carriage services and content services;

(d) to promote the development of an Australian telecommunications industry that is efficient, competitive and responsive to the needs of the Australian community;

(e) to promote the effective participation by all sectors of the Australian telecommunications industry in markets (whether in Australia or elsewhere);

(f) to promote:

- (i) the development of the technical capabilities and skills of the Australian telecommunications industry; and
- (ii) the development of the value-adding and export-oriented activities of the Australian telecommunications industry; and

(iii) research and development that contributes to the growth of the Australian telecommunications industry;

(g) to promote the equitable distribution of benefits from improvements in the efficiency and effectiveness of:

(i) the provision of telecommunications networks and facilities; and

(ii) the supply of carriage services;

(h) to provide appropriate community safeguards in relation to telecommunications activities and to regulate adequately participants in sections of the Australian telecommunications industry;

(i) to promote the placement of lines underground, taking into account economic and technical issues, where placing such lines underground is supported by the affected community;

(j) to promote responsible practices in relation to the sending of commercial electronic messages.

#### **4 Regulatory policy**

The Parliament intends that telecommunications be regulated in a manner that:

(a) promotes the greatest practicable use of industry self-regulation; and

(b) does not impose undue financial and administrative burdens on participants in the Australian telecommunications industry;

but does not compromise the effectiveness of regulation in achieving the objects mentioned in section 3.

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#### **4) NEW ZEALAND**

Statute: Telecommunications Act 2001

Citation: 2001 N° 103 (Amendment 2005 N° 70)

Source: Parliamentary Counsel Office  
Public Access to Legislation (PAL) Project

Sections: Part 2 – Designated Services and Specified Services (Subpart 1 – Preliminary: S.18)  
Part 3 – Telecommunications Service Obligations (Subpart 3 – Remedies and Miscellaneous: S. 96; S. 97)  
Schedule 1 – Designated Services and Specified Services (Part 1 – Preliminary (...) Subpart 2 – Standard Access Principles for Designated Services and Specified Services: S.5; S.6)

Hyperlink: [http://www.legislation.govt.nz/libraries/contents/om\\_isapi.dll?clientID=2206691737&hitsperheading=on&infobase=pal\\_statutes.nfo&jd=a2001-103%2fs.1&record={1BDB8FB6}&softpage=DOC](http://www.legislation.govt.nz/libraries/contents/om_isapi.dll?clientID=2206691737&hitsperheading=on&infobase=pal_statutes.nfo&jd=a2001-103%2fs.1&record={1BDB8FB6}&softpage=DOC)

## **18. Purpose—**

(1)The purpose of this Part and Schedules 1 to 3 is to promote competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand by regulating, and providing for the regulation of, the supply of certain telecommunications services between service providers.

(2)In determining whether or not, or the extent to which, any act or omission will result, or will be likely to result, in competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand, the efficiencies that will result, or will be likely to result, from that act or omission must be considered.

(3)Except as otherwise expressly provided, nothing in this Act limits the application of this section.

(4)Subsection (3) is for the avoidance of doubt.

## **97. Court must take public interest into account—**

In deciding whether to make an order under section 96<sup>1</sup>, the Court must take into account whether or not it is in the public interest that the order be made.

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<sup>1</sup> 96. Power of Court to grant relief in respect of TSO instrument—

## [SCHEDULE 1

### DESIGNATED SERVICES AND SPECIFIED SERVICES<sup>2</sup>

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(1) If, on the application of the Crown, it appears to the High Court that a TSP intends to engage, or is engaging, or has engaged, in conduct that constitutes, or would constitute, a breach of the terms of a TSO instrument, the Court may make any orders on any terms and conditions that it thinks appropriate, including, without limitation,—

(a) an order to—

(i) restrain the TSP from engaging in conduct that constitutes, or would constitute, the breach:

(ii) require the TSP to do a particular act or thing:

(iii) require the TSP to comply with the terms of the TSO instrument:

(b) an interim order.

(2) In any proceeding under this section, the Crown, on the order of the Court, may obtain discovery and administer interrogatories.

(3) The Court may at any time rescind or vary an order made under this section.

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#### **PART 2**

#### **DESIGNATED SERVICES**

#### **SUBPART 1**

#### **DESIGNATED ACCESS SERVICES**

##### **1) Interconnection with Telecom's fixed PSTN**

Description of service: Origination and termination (and their associated functions) of voice and data calls (including dial-up Internet calls) on Telecom's fixed PSTN

##### **2) Interconnection with fixed PSTN other than Telecom's**

Description of service: Origination and termination (and their associated functions) of voice and data calls (including dial-up internet calls) on a fixed PSTN other than Telecom's

##### **3) Retail services offered by means of Telecom's fixed telecommunications network**

Description of service: A non price-capped retail service offered by Telecom to end-users by means of its fixed telecommunications network in the following markets:

(a) all markets in which Telecom faces limited, or is likely to face lessened, competition for that service:

(b) all, some, or no markets in which Telecom does not face limited, or is not likely to face lessened, competition for that service as determined by the Commission

##### **4) Residential local access and calling service offered by means of Telecom's fixed telecommunications network**

Description of service: A price-capped residential local access and calling service offered by Telecom to end-users by means of its fixed telecommunications network, in the following markets:

(a) all markets in which Telecom faces limited, or is likely to face lessened, competition for the service:

(b) all, some, or no markets in which Telecom does not face limited, or is not likely to face lessened, competition for price-capped residential local access and calling service as determined by the Commission

##### **5) Bundle of retail services offered by means of Telecom's fixed telecommunications network**

Description of service: A bundle of retail services offered by Telecom to end-users by means of its fixed telecommunications network in the following markets:

(a) all markets in which Telecom faces limited, or is likely to face lessened, competition for that bundle of retail services:

(b) all, some, or no markets in which Telecom does not face limited, or is not likely to face lessened, competition for that bundle of retail services as determined by the Commission

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**6) Retail services offered by means of Telecom's fixed telecommunications network as part of bundle of retail services**

Description service: A retail service that:

- (a) is, or has previously been, offered separately by Telecom to end-users by means of its fixed telecommunications network; and
- (b) is offered by Telecom to end-users as part of a bundle of retail services in markets in which Telecom faces limited, or is
  - (i) likely to face lessened, competition for that service; and if the effect of the bundled price is likely to
  - (ii) significantly reduce the ability of an efficient rival to contest the market

**7) Access to, and interconnection with, Telecom's fixed PDN**

Description of service: An asymmetric digital subscriber line enabled service (and its associated functions, including the associated functions of Telecom's operational support systems) that enables access to, and interconnection with, that part of Telecom's fixed PDN that connects an end-user's building (or, in the case of commercial buildings, the building distribution frames) to Telecom's first asynchronous transfer mode (ATM) data switch or equivalent facility other than a digital subscriber line access multiplexer (DSLAM)

**8) Telecom's fixed PDN backhaul**

Description of service: A service (and its associated functions, including the associated functions of Telecom's operational support systems) that provides transmission capacity in Telecom's fixed PDN from the trunk side of Telecom's first asynchronous transfer mode data switch or equivalent facility, other than a digital subscriber line access multiplexer, connected with the end-user's building (or, in the case of commercial buildings, the building distribution frames) to the access seeker's nearest available point of interconnection.

**SUBPART 2**

**DESIGNATED MULTINetwork SERVICES**

**1) Local telephone number portability service**

Description of service: A service that enables an end-user of a fixed telephone network service to change providers of that service but to retain the same telephone number within a local calling area.

**2) Cellular telephone number portability service**

Description of service: A service that enables an end-user of a cellular telephone network service to change providers of that service but to retain the same telephone number (including the same cellular network access code)

**3) National toll-free telephone number portability service**

Description of service: A service that enables an end-user of a national toll-free telephone service to change providers of that service but to retain the same telephone number (including the same national toll-free access code)

**4) Telecom's fixed PSTN to mobile carrier pre-selection service**

Description of service: A service that enables an end-user who makes a telephone call originating on Telecom's fixed PSTN to an end-user on a cellular telephone network to use a service provider other than Telecom for a part of the fixed network segment of the telephone call without having to enter an additional number or prefix.

**PART 3**

**SPECIFIED SERVICES**

**1) National Roaming**

Description of service: A service that enables an end-user who subscribes to a network operator's ("operator A's") cellular mobile telephone service to use services (except value-added services) generally accepted internationally as second generation cellular mobile services that are provided to the public by another operator ("operator B"), within the area where operator B has a cellular mobile telephone network (which must not be a third generation cellular mobile telephone network), but which is outside the coverage area of operator A's cellular mobile telephone network

**2) Co-location on cellular mobile transmission sites**

Description of service: A service that enables co-location of cellular mobile telephone network transmission and reception equipment (including any necessary supporting equipment on or with the following facilities (relevant facilities)):

**PART 1  
PRELIMINARY**

(...)

**SUBPART 2**

**STANDARD ACCESS PRINCIPLES FOR DESIGNATED ACCESS SERVICES AND SPECIFIED SERVICES**

**5. Standard access principles for designated access services and specified services—**

The following standard access principles apply to designated access services and specified services:

(a) principle 1: the access provider must provide the service to the access seeker in a timely manner:

(b) principle 2: the service must be supplied to a standard that is consistent with international best practice:

(c) principle 3: the access provider must provide the service on terms and conditions (excluding price) that are consistent with those terms and conditions on which the access provider provides the service to itself.

**6. Limits on application of standard access principles set out in clause 5—**

- 
- (a) any towers, poles, masts, or other similar structures—  
(i) that are used for the transmission or reception of telecommunications via a cellular mobile telephone network; and that are owned, managed, or leased  
(ii) by the access provider:
- (b) all sites, buildings, or utility services that are associated with the kinds of structures referred to in paragraph (a)

**3) Broadcast Communications Limited**

Description of service: A service that enables a telecommunications network operator to co-locate transmission and reception equipment (including any necessary supporting equipment), used to provide fixed telecommunications links directly to several end-users of fixed telecommunications services, on or with the following facilities (relevant facilities):

- (a) any towers, poles, masts, or other similar structures—  
(i) that are used for the transmission or reception of radiocommunications (as defined in section 2(1) of the Radiocommunications Act 1989); and that are owned, managed, or leased  
(ii) by the access provider:
- (b) all sites, buildings, or utility services that are associated with the kinds of structures referred to in paragraph (a)

Principles 1 to 3 set out in clause 5 are limited by the following factors:

(a) reasonable technical and operational practicability having regard to the access provider's network:

(b) network security and safety:

(c) existing legal duties on the access provider to provide a defined level of service to users of the service:

(d) the inability, or likely inability, of the access seeker to comply with any reasonable conditions on which the service is supplied:

(e) any request for a lesser standard of service from an access seeker.

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## 5) UNITED STATES OF AMERICA

Statute: Communications Act of 1934 (as amended by the Telecommunications Act of 1996)

Citation: *idem*

Source: Federal Communications Commission

Sections: Title 1 – General Provisions (S.1, S.10, S.201, S.202, S.222, S.254)

Hyperlink: <http://www.fcc.gov/ola/compilation.pdf>

### **SEC. 1. [47 U.S.C. 151] PURPOSES OF ACT, CREATION OF FEDERAL COMMUNICATIONS COMMISSION.**

For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication, and for the purpose of securing a more effective execution of

this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is hereby created a commission to be known as the "Federal Communications Commission," which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this Act.

(...)

**SEC. 10. [47 U.S.C. 160] COMPETITION IN PROVISION OF TELECOMMUNICATIONS SERVICE.**

(a) REGULATORY FLEXIBILITY.—Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that—

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) forbearance from applying such provision or regulation is consistent with the public interest.

(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

(c) PETITION FOR FORBEARANCE.—Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance under subsection (a) within one year after the Commission receives it, unless the one-year period is extended by the Commission. The Commission may extend the initial one-year period by an additional 90 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in whole or in part and shall explain its decision in writing.

(d) LIMITATION.—Except as provided in section 251(f), the Commission may not forbear from applying the requirements of section 251(c) or 271 under subsection (a) of this section until it determines that those requirements have been fully implemented.

(e) STATE ENFORCEMENT AFTER COMMISSION FORBEARANCE.—

A State commission may not continue to apply or enforce any provision of this Act that the Commission has determined to forbear from applying under subsection (a).

(...)

## **SEC. 201. [47 U.S.C. 201] SERVICE AND CHARGES.**

(a) It shall be the duty of every common carrier engaged in interstate or foreign communication by wire or radio to furnish such communication service upon reasonable request therefor; and, in accordance with the orders of the Commission, in cases where the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers, to establish through routes and charges applicable thereto and the divisions of such charges, and to establish and provide facilities and regulations for operating such through routes.

(b) All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful: *Provided*, That communications by wire or radio subject to this Act may be classified into day, night, repeated, unrepeated, letter, commercial, press, Government and such other classes as the Commission may decide to be just and reasonable, and different charges may be made for the different classes of communications: *Provided further*, That nothing in this Act or in any other provision of law shall be construed to prevent a common carrier subject to this Act from entering into or operating under any contract with any common carrier not subject to this Act, for the exchange of their services, if the Commission is of the opinion that such contract is not contrary to the public interest: *Provided further*, That nothing in this Act or in any other provision of law shall prevent a common carrier subject to this Act from furnishing reports of positions of ships at sea to newspapers of general circulation, either at a nominal charge or without charge, provided the name of such common carrier is displayed along with such ship position reports. The Commissioner may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act.

(...)

## **SEC. 202. [47 U.S.C. 202] DISCRIMINATION AND PREFERENCES.**

(a) It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.

(...)

**SEC. 222. [47 U.S.C. 222] PRIVACY OF CUSTOMER INFORMATION.**

(a) In General.--Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

(b) Confidentiality of Carrier Information.--A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

(c) Confidentiality of Customer Proprietary Network Information.--

(1) Privacy requirements for telecommunications carriers.--Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

(2) Disclosure on request by customers.--A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

(3) Aggregate customer information.--A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

(d) Exceptions.--Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents--

(1) to initiate, render, bill, and collect for telecommunications services;

(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or

(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

(e) Subscriber List Information.--Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

(f) Definitions.--As used in this section:

(1) Customer proprietary network information.--The term "customer proprietary network information" means--

(A) information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; except that such term does not include subscriber list information.

(2) Aggregate information.--The term "aggregate customer information" means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

(3) Subscriber list information.--The term "subscriber list information" means any information--

(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

(...)

## **SEC. 254. UNIVERSAL SERVICE.**

...

(b) UNIVERSAL SERVICE PRINCIPLES- The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

(1) QUALITY AND RATES- Quality services should be available at just, reasonable, and affordable rates.

(2) ACCESS TO ADVANCED SERVICES- Access to advanced

telecommunications and information services should be provided in all regions of the Nation.

(3) ACCESS IN RURAL AND HIGH COST AREAS- Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS- All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

(5) SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS- There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

(6) ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES FOR SCHOOLS, HEALTH CARE, AND LIBRARIES- Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h).

(7) ADDITIONAL PRINCIPLES- Such other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with this Act.

....

(i) CONSUMER PROTECTION- The Commission and the States should ensure that universal service is available at rates that are just, reasonable, and affordable.

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## 6) UNITED KINGDOM

Statute: Communications Act of 2003

Citation: Acts of the UK Parliament, Chapter 21

Source: Office of Public Sector Information

Sections: Part 1 – Functions of OFCOM (S.3.1-3.5; S.4.3-4.12; S.5; S.11; and S.14)

Hyperlink: <http://www.opsi.gov.uk/acts/acts2003/20030021.htm>

**PART**

**1**

**FUNCTIONS OF OFCOM**

*General duties in carrying out functions*

**3 General duties of OFCOM**

(1) It shall be the principal duty of OFCOM, in carrying out their functions-

(a) to further the interests of citizens in relation to communications matters; and

(b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.

(2) The things which, by virtue of subsection (1), OFCOM are required to secure in the carrying out of their functions include, in particular, each of the following-

(a) the optimal use for wireless telegraphy of the electro-magnetic spectrum;

(b) the availability throughout the United Kingdom of a wide range of electronic communications services;

(c) the availability throughout the United Kingdom of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests;

(d) the maintenance of a sufficient plurality of providers of different television and radio services;

(e) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services;

(f) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public and all other persons from both-

(i) unfair treatment in programmes included in such services; and

(ii) unwarranted infringements of privacy resulting from activities carried on for the purposes of such services.

(3) In performing their duties under subsection (1), OFCOM must have regard, in all cases, to-

(a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and

(b) any other principles appearing to OFCOM to represent the best regulatory practice.

(4) OFCOM must also have regard, in performing those duties, to such of the following as appear to them to be relevant in the circumstances-

(a) the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom;

(b) the desirability of promoting competition in relevant markets;

(c) the desirability of promoting and facilitating the development and use of effective forms of self-regulation;

(d) the desirability of encouraging investment and innovation in relevant markets;

(e) the desirability of encouraging the availability and use of high speed data transfer services throughout the United Kingdom;

(f) the different needs and interests, so far as the use of the electromagnetic spectrum for wireless telegraphy is concerned, of all persons who may wish to make use of it;

(g) the need to secure that the application in the case of television and radio services of standards falling within subsection (2)(e) and (f) is in the manner that best guarantees an appropriate level of freedom of expression;

(h) the vulnerability of children and of others whose circumstances appear to OFCOM to put them in need of special protection;

(i) the needs of persons with disabilities, of the elderly and of those on low incomes;

(j) the desirability of preventing crime and disorder;

(k) the opinions of consumers in relevant markets and of members of the public generally;

(l) the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas;

(m) the extent to which, in the circumstances of the case, the furthering or securing of the matters mentioned in subsections (1) and (2) is reasonably practicable.

(5) In performing their duty under this section of furthering the interests of consumers, OFCOM must have regard, in particular, to the interests of those consumers in respect of choice, price, quality of service and value for money.

(...)

#### **4 Duties for the purpose of fulfilling Community obligations**

(...)

(3) The first Community requirement is a requirement to promote competition-

(a) in relation to the provision of electronic communications networks and electronic communications services;

(b) in relation to the provision and making available of services and facilities that are provided or made available in association with the provision of electronic communications networks or electronic communications services; and

(c) in relation to the supply of directories capable of being used in connection with the use of electronic communications networks or electronic communications services.

(4) The second Community requirement is a requirement to secure that OFCOM's activities contribute to the development of the European internal market.

(5) The third Community requirement is a requirement to promote the interests of all persons who are citizens of the European Union (within the meaning of Article 17 of the Treaty establishing the European Community).

(6) The fourth Community requirement is a requirement to take account of the desirability of OFCOM's carrying out their functions in a manner which, so far as practicable, does not favour-

(a) one form of electronic communications network, electronic communications service or associated facility; or

(b) one means of providing or making available such a network, service or facility,

over another.

(7) The fifth Community requirement is a requirement to encourage, to such extent as OFCOM consider appropriate for the purpose mentioned in subsection (8), the provision of network access and service interoperability.

(8) That purpose is the purpose of securing-

(a) efficiency and sustainable competition in the markets for electronic

communications networks, electronic communications services and associated facilities; and

(b) the maximum benefit for the persons who are customers of communications providers and of persons who make such facilities available.

(9) The sixth Community requirement is a requirement to encourage such compliance with the standards mentioned in subsection (10) as is necessary for-

(a) facilitating service interoperability; and

(b) securing freedom of choice for the customers of communications providers.

(10) Those standards are-

(a) standards or specifications from time to time drawn up and published in accordance with Article 17 of the Framework Directive;

(b) the standards and specifications from time to time adopted by-

(i) the European Committee for Standardisation;

(ii) the European Committee for Electrotechnical Standardisation; or

(iii) the European Telecommunications Standards Institute; and

(c) the international standards and recommendations from time to time adopted by-

(i) the International Telecommunication Union;

(ii) the International Organisation for Standardisation; or

(iii) the International Electrotechnical Committee.

(11) Where it appears to OFCOM that any of the Community requirements conflict with each other, they must secure that the conflict is resolved in the manner they think best in the circumstances.

(12) In this section-

"the Framework Directive" means Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services;

"network access" and "service interoperability" each has the same meaning as in Chapter 1 of Part 2.

## **5 Directions in respect of networks and spectrum functions**

(1) This section applies to the following functions of OFCOM-

- (a) their functions under Part 2; and
- (b) their functions under the enactments relating to the management of the radio spectrum that are not contained in that Part.

(2) It shall be the duty of OFCOM to carry out those functions in accordance with such general or specific directions as may be given to them by the Secretary of State.

(3) The Secretary of State's power to give directions under this section shall be confined to a power to give directions for one or more of the following purposes-

- (a) in the interests of national security;
- (b) in the interests of relations with the government of a country or territory outside the United Kingdom;
- (c) for the purpose of securing compliance with international obligations of the United Kingdom;
- (d) in the interests of the safety of the public or of public health.

(4) The Secretary of State is not entitled by virtue of any provision of this section to direct OFCOM to suspend or restrict-

- (a) a person's entitlement to provide an electronic communications network or electronic communications service; or
- (b) a person's entitlement to make available associated facilities.

(5) The Secretary of State must publish a direction under this section in such manner as appears to him to be appropriate for bringing it to the attention of the persons who, in his opinion, are likely to be affected by it.

(6) The Secretary of State is not required by subsection (5) to publish a direction, and he may exclude matter from a direction he does publish, if he considers the publication of the direction or matter to be-

- (a) against the interests of national security; or
- (b) against the interests of relations with the government of a country or territory outside the United Kingdom.

(...)

*Media literacy*

## **11 Duty to promote media literacy**

(1) It shall be the duty of OFCOM to take such steps, and to enter into such arrangements, as appear to them calculated-

- (a) to bring about, or to encourage others to bring about, a better public understanding of the nature and characteristics of material published by means of the electronic media;
- (b) to bring about, or to encourage others to bring about, a better public awareness and understanding of the processes by which such material is selected, or made available, for publication by such means;
- (c) to bring about, or to encourage others to bring about, the development of a better public awareness of the available systems by which access to material published by means of the electronic media is or can be regulated;
- (d) to bring about, or to encourage others to bring about, the development of a better public awareness of the available systems by which persons to whom such material is made available may control what is received and of the uses to which such systems may be put; and
- (e) to encourage the development and use of technologies and systems for regulating access to such material, and for facilitating control over what material is received, that are both effective and easy to use.

(2) In this section, references to the publication of anything by means of the electronic media are references to its being-

- (a) broadcast so as to be available for reception by members of the public or of a section of the public; or
- (b) distributed by means of an electronic communications network to members of the public or of a section of the public.

(...)

*Functions for the protection of consumers*

## **14 Consumer research**

(1) OFCOM must make arrangements for ascertaining-

- (a) the state of public opinion from time to time about the manner in which electronic communications networks and electronic communications services are provided;
- (b) the state of public opinion from time to time about the manner in which associated facilities are made available;
- (c) the experiences of consumers in the markets for electronic communications services and associated facilities, in relation to the

manner in which electronic communications networks and electronic communications services are provided and associated facilities made available;

(d) the experiences of such consumers in relation to the handling, by communications providers and by persons making such facilities available, of complaints made to them by such consumers;

(e) the experiences of such consumers in relation to the resolution of disputes with communications providers or with persons making associated facilities available; and

(f) the interests and experiences of such consumers in relation to other matters that are incidental to, or are otherwise connected with, their experiences of the provision of electronic communications networks and electronic communications services or of the availability of associated facilities.

(2) The matters to which the arrangements must relate do not include the incidence or investigation of interference (within the meaning of the Wireless Telegraphy Act 1949 (c. 54)) with wireless telegraphy.

(3) The matters to which the arrangements must relate do not (except so far as authorised or required by subsections (4) to (6)) include public opinion with respect to-

(a) the contents of anything broadcast or otherwise published by means of an electronic communications network; or

(b) the experiences or interests of consumers in any market for electronic communications services with respect to anything so broadcast or published.

(4) OFCOM must make arrangements for ascertaining-

(a) the state of public opinion from time to time concerning programmes included in television and radio services;

(b) any effects of such programmes, or of other material published by means of the electronic media, on the attitudes or behaviour of persons who watch, listen to or receive the programmes or material; and

(c) so far as necessary for the purpose mentioned in subsection (5), the types of programmes that members of the public would like to see included in television and radio services.

(5) That purpose is the carrying out by OFCOM of their functions under Chapter 4 of Part 3 of this Act.

(6) OFCOM must make arrangements for the carrying out of research into

the following-

- (a) the matters mentioned in section 11(1);
- (b) matters relating to, or connected with, the setting of standards under section 319 of this Act;
- (c) matters relating to, or connected with, the observance of those standards by persons providing television and radio services;
- (d) matters relating to, or connected with, the prevention of unjust or unfair treatment in programmes included in such services; and
- (e) matters relating to, or connected with, the prevention of unwarranted infringements of privacy resulting from activities carried on for the purposes of such services.

(7) Arrangements made by OFCOM for the purposes of this section may include arrangements for the carrying out of research in one or more of the following ways-

- (a) by members or employees of OFCOM;
- (b) by the Content Board;
- (c) in accordance with arrangements made by that Board;
- (d) by persons who are neither members nor employees of OFCOM.

(8) In this section references to the publication of anything by means of the electronic media are references to its being-

- (a) broadcast so as to be available for reception by members of the public or of a section of the public; or
- (b) distributed by means of an electronic communications network to members of the public or of a section of the public.

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## 7) IRELAND

Statute: Communications Regulation Act, 2002 (Number 20 of 2002)

Citation: Communications Regulation Act, 2002

Source: Department of Communications, Marine and Natural Resources

Sections: Part 2. Commission for Communications Regulation. S.12.

Hyperlink: <http://www.dcmnr.gov.ie/NR/ronlyres/3EF3936F-22C0-4671-97A5-9928BE7B1711/0/CommsRegulationAct2002.pdf>

## **Objectives of Commission.**

**12.—(1)** The objectives of the Commission in exercising its functions shall be as follows—

(a) in relation to the provision of electronic communications networks, electronic communications services and associated facilities—

(i) to promote competition,

(ii) to contribute to the development of the internal market, and

(iii) to promote the interests of users within the Community,

(b) to ensure the efficient management and use of the radio frequency spectrum and numbers from the national numbering scheme in the State in accordance with a direction under *section 13*, and

(c) to promote the development of the postal sector and in particular the availability of a universal postal service within, to and from the State at an affordable price for the benefit of all users.

(2) In relation to the objectives referred to in *subsection (1)(a)*, the Commission shall take all reasonable measures which are aimed at achieving those objectives, including—

(a) in so far as the promotion of competition is concerned—

(i) ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality,

(ii) ensuring that there is no distortion or restriction of competition in the electronic communications sector,

(iii) encouraging efficient investment in infrastructure and promoting innovation, and

(iv) encouraging efficient use and ensuring the effective management of radio frequencies and numbering resources,

(b) in so far as contributing to the development of the internal market is concerned—

(i) removing remaining obstacles to the provision of electronic communications networks, electronic communications services and associated facilities at Community level,

(ii) encouraging the establishment and development of trans-European networks and the interoperability of transnational services and end-to-end connectivity,

(iii) ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services and associated facilities, and

(iv) co-operating with electronic communications national regulatory authorities in other Member States of the Community and with the Commission of the Community in a transparent manner to ensure the

development of consistent regulatory practice and the consistent application of Community law in this field, and

(c) in so far as promotion of the interests of users within the Community is concerned—

- (i) ensuring that all users have access to a universal service,
- (ii) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved,
- (iii) contributing to ensuring a high level of protection of personal data and privacy,
- (iv) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services,
- (v) encouraging access to the internet at reasonable cost to users,
- (vi) addressing the needs of specific social groups, in particular disabled users, and
- (vii) ensuring that the integrity and security of public communications networks are maintained.

(3) In carrying out its functions, the Commission shall seek to ensure that measures taken by it are proportionate having regard to the objectives set out in this section.

(4) In carrying out its functions, the Commission shall, without prejudice to *subsections (1), (2) and (3)*, have regard to policy statements, published by or on behalf of the Government or a Minister of the Government and notified to the Commission, in relation to the economic and social development of the State.

(5) In carrying out its functions, the Commission shall have regard to international developments with regard to electronic communications networks and electronic communications services, associated facilities, postal services, the radio frequency spectrum and numbering.

(6) The Commission shall take the utmost account of the desirability that the exercise of its functions aimed at achieving the objectives referred to in *subsection (1)(a)* does not result in discrimination in favour of or against particular types of technology for the transmission of electronic communications services.

(7) In this section, “national numbering scheme” means the scheme administered by the Commission which sets out the sequence of numbers or other characters used to route telephony traffic to specific locations.

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## 8) FRANCE

Statute: Code des Postes et des Communications Electroniques.

Citation: *idem*

Source: ARCEP - l'Autorité de Régulation des Communications électroniques et des Postes

Sections: Article L32, 12); Article L32-1; et Article L33-1.

Hyperlink: <http://www.art-telecom.fr/textes/lois/cpce-legis.pdf>

**LIVRE II : Les communications électroniques**  
**TITRE Ier : Dispositions générales**  
**CHAPITRE Ier : Définitions et principes**

Article L32

(...)

12) Exigences essentielles. On entend par exigences essentielles les exigences nécessaires pour garantir dans l'intérêt général la santé et la sécurité des personnes, la compatibilité électromagnétique entre les équipements et installations de communications électroniques et, le cas échéant, une bonne utilisation du spectre des fréquences radioélectriques en évitant des interférences dommageables pour les tiers. Les exigences essentielles comportent également, dans les cas justifiés, la protection des réseaux et notamment des échanges d'informations de commande et de gestion qui y sont associés, l'interopérabilité des services et celle des équipements terminaux, la protection des données, la compatibilité des équipements terminaux et des équipements radioélectriques avec des dispositifs empêchant la fraude, assurant l'accès aux services d'urgence et facilitant leur utilisation par les personnes handicapées. On entend par interopérabilité des équipements terminaux l'aptitude de ces équipements à fonctionner, d'une part, avec le réseau et, d'autre part, avec les autres équipements terminaux.

Article L32-1

*(Loi n° 90-1170 du 29 décembre 1990 art. 1 et 2 Journal Officiel du 30 décembre 1990)*

*(Loi n° 96-659 du 26 juillet 1996 art. 2 Journal Officiel du 27 juillet 1996)*

*(Ordonnance n° 2001-670 du 25 juillet 2001 art. 14 Journal Officiel du 28 juillet 2001)*

*(Loi n° 2004-669 du 9 juillet 2004 art. 3 Journal Officiel du 10 juillet 2004)*

I. - Dans les conditions prévues par les dispositions du présent code :

1) Les activités de communications électroniques s'exercent librement, dans le respect des

déclarations prévues au chapitre II, et sous réserve, le cas échéant, des autorisations prévues au titre II et par la loi n° 86-1067 du 30 septembre 1986 précitée ;

2) Le maintien et le développement du service public des communications électroniques défini au chapitre III, qui comprend notamment le droit de chacun au bénéfice du service

universel des communications électroniques, sont garantis ;

3) La fonction de régulation du secteur des communications électroniques est indépendante de l'exploitation des réseaux et de la fourniture des services de communications électroniques. Elle est exercée au nom de l'Etat par le ministre chargé des communications électroniques et par l'Autorité de régulation des télécommunications.

II. - Dans le cadre de leurs attributions respectives, le ministre chargé des communications électroniques et l'Autorité de régulation des télécommunications prennent, dans des conditions objectives et transparentes, des mesures raisonnables et proportionnées aux objectifs poursuivis et veillent :

1) A la fourniture et au financement de l'ensemble des composantes du service public des communications électroniques ;

2) A l'exercice au bénéfice des utilisateurs d'une concurrence effective et loyale entre les exploitants de réseau et les fournisseurs de services de communications électroniques;

3) Au développement de l'emploi de l'investissement efficace dans les infrastructures, de l'innovation et de la compétitivité dans le secteur des communications électroniques;

4) A la définition de conditions d'accès aux réseaux ouverts au public et d'interconnexion de ces réseaux qui garantissent la possibilité pour tous les utilisateurs de communiquer librement et l'égalité des conditions de la concurrence ;

5) Au respect par les opérateurs de communications électroniques du secret des correspondances et du principe de neutralité au regard du contenu des messages transmis, ainsi que de la protection des données à caractère personnel;

6) Au respect, par les exploitants de réseau et les fournisseurs de services de communications électroniques de l'ordre public et des obligations de défense et de sécurité publique;

7) A la prise en compte de l'intérêt des territoires et des utilisateurs, notamment handicapés, dans l'accès aux services et aux équipements ;

8) Au développement de l'utilisation partagée entre opérateurs des installations mentionnées aux articles L. 47 et L. 48;

9) A l'absence de discrimination, dans des circonstances analogues, dans le traitement des opérateurs;

10) A la mise en place et au développement de réseaux et de services et à l'interopérabilité des services au niveau européen ;

11) A l'utilisation et à la gestion efficaces des fréquences radioélectriques et des ressources de numérotation;

12) A un niveau élevé de protection des consommateurs, grâce notamment à la fourniture d'informations claires, notamment par la transparence des tarifs et des conditions d'utilisation des services de communications électroniques accessibles au public;

13) Au respect de la plus grande neutralité possible, d'un point de vue technologique, des mesures qu'ils prennent;

14) A l'intégrité et la sécurité des réseaux de communications électroniques ouverts au public.

(...)

## **CHAPITRE II : Régime juridique**

### **SECTION 1 : Réseaux et services**

Article L33-1

*(Loi n° 90-1170 du 29 décembre 1990 art. 1, 3 et 4 Journal Officiel du 30 décembre 1990)*

*(Loi n° 93-1420 du 31 décembre 1993 art. 1 Journal Officiel du 1er janvier 1994)*

*(Loi n° 96-659 du 26 juillet 1996 art. 6 Journal Officiel du 27 juillet 1996)*

*(Ordonnance n° 2001-670 du 25 juillet 2001 art. 8, art. 21, art. 28 Journal Officiel du 28 juillet 2001)*

*(Loi n° 2002-1576 du 30 décembre 2002 art. 16 Journal Officiel du 31 décembre 2002 en vigueur le 1er janvier 2003)*

*(Loi n° 2004-575 du 21 juin 2004 art. 52 Journal Officiel du 22 juin 2004)*

*(Loi n° 2004-669 du 9 juillet 2004 art. 5 I, art. 6 I Journal Officiel du 10 juillet 2004)*

I. - L'établissement et l'exploitation des réseaux ouverts au public et la fourniture au public de services de communications électroniques sont libres sous réserve d'une déclaration préalable auprès de l'Autorité de régulation des télécommunications. Toutefois, la déclaration n'est pas exigée pour l'établissement et l'exploitation des réseaux internes ouverts au public et pour la fourniture au public de services de communications électroniques sur ces réseaux. La déclaration ne peut être faite par une personne qui a perdu, du fait d'un retrait ou d'une suspension prononcés en application de l'article L. 36-11, le droit d'établir et d'exploiter un réseau ouvert au public ou de fournir au public un service de communications électroniques ou par une personne qui a été condamnée à l'une des peines prévues par l'article L. 39. L'établissement et l'exploitation des réseaux ouverts au public et la fourniture au public de services de communications électroniques sont soumis au respect de règles portant sur:

a) Les conditions de permanence, de qualité et de disponibilité du réseau et du service ;

b) Les conditions de confidentialité et de neutralité au regard des messages transmis et des informations liées aux communications ;

c) Les normes et spécifications du réseau et du service ;

- d) Les prescriptions exigées par la protection de la santé et de l'environnement et par les objectifs d'aménagement du territoire et d'urbanisme, comportant, le cas échéant, les conditions d'occupation du domaine public, les garanties financières ou techniques nécessaires à la bonne exécution des travaux d'infrastructures et les modalités de partage des infrastructures et d'itinérance locale ;
- e) Les prescriptions exigées par l'ordre public, la défense nationale et la sécurité publique, notamment celles qui sont nécessaires à la mise en oeuvre des interceptions justifiées par les nécessités de la sécurité publique, ainsi que les garanties d'une juste rémunération des prestations assurées à ce titre ;
- f) L'acheminement gratuit des appels d'urgence. A ce titre, les opérateurs sont tenus d'assurer l'accès gratuit des services d'urgence à l'information relative à la localisation de l'équipement du terminal de l'utilisateur, dans la mesure où cette information est disponible ;
- g) Le financement du service universel et, le cas échéant, la fourniture du service universel et des services obligatoires, dans les conditions prévues aux articles L. 35-2 à L. 35-5 ;
- h) La fourniture des informations prévues à l'article L. 34 ;
- i) L'interconnexion et l'accès, dans les conditions prévues aux articles L. 34-8 et L. 38 ;
- j) Les conditions nécessaires pour assurer l'équivalence de traitement des opérateurs internationaux conformément aux dispositions du III du présent article ;
- k) Les conditions nécessaires pour assurer l'interopérabilité des services ;
- l) Les obligations qui s'imposent à l'exploitant pour permettre son contrôle par l'Autorité de régulation des télécommunications et celles qui sont nécessaires pour l'application de l'article L. 37-1 ;
- m) L'acquiescement des taxes dues par l'exploitant pour couvrir les coûts administratifs occasionnés par la mise en oeuvre des dispositions du présent livre, dans les conditions prévues par les lois de finances ;
- n) L'information, notamment sur les conditions contractuelles de fourniture du service, et la protection des utilisateurs.

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## 9) GERMANY

Statute: Telecommunications Act of June 22, 2004

Citation: Telekommunikationsgesetz (TKG) Vom 22. Juni 2004

Source: Federal Ministry of Economics and Labour  
BMWA = Bundesministerium für Wirtschaft und Arbeit

Sections: S.1; S.2; S.21; S.27

Hyperlink: <http://www.bmwa.bund.de/Redaktion/Inhalte/Pdf/Gesetz/telekommunikationsgesetz-en,property=pdf,bereich=,rwb=true.pdf>

**PART 1**  
**GENERAL PROVISIONS**

Section 1

**Legislative Purpose**

The purpose of this Act is, through technology-neutral regulation, to promote competition and efficient infrastructures in telecommunications and to guarantee appropriate and adequate services throughout the Federal Republic of Germany.

Section 2

**Regulation and Aims**

- (1) Telecommunications regulation shall be under federal authority.
- (2) The aims of regulation shall be—
  1. to safeguard user, most notably consumer, interests in telecommunications and to safeguard telecommunications privacy;
  2. to secure fair competition and to promote telecommunications markets with sustainable competition in services and networks and in associated facilities and services, in rural areas as well;
  3. to encourage efficient investment in infrastructure and to promote innovation;
  4. to promote development of the internal market of the European Union;
  5. to ensure provision throughout the Federal Republic of Germany of basic telecommunications services (universal services) at affordable prices;
  6. to promote telecommunications services in public institutions;
  7. to secure efficient and interference-free use of frequencies, account also being taken of broadcasting interests;
  8. to secure efficient use of numbering resources;
  9. to protect public safety interests.
- (3) Unless this Act expressly makes definitive arrangements, the provisions of the Competition Act remain applicable. The duties and responsibilities of the cartel authorities remain unaffected.
- (4) The sovereign rights of the Federal Minister of Defence remain unaffected.
- (5) Broadcasting and comparable telemedia interests shall be taken into account. The provisions of the media legislation of the federal states remain unaffected.

(...)

## Section 21 Access Obligations

(1) The Regulatory Authority may, upon request or on its own initiative, impose obligations on SMP public telecommunications network operators to grant other undertakings access, including unbundled access that properly reflects their requirements, in particular if otherwise, the development of a sustainable competitive downstream retail market would be hindered or this development would run counter to the interests of the end-users. In considering whether an access obligation is justified and proportionate to the regulatory aims according to section 2(2), the Regulatory Authority has to take into account, in particular, the following factors–

1. the technical and economic viability, having regard to the pace of market development, of using or installing alternative facilities, bearing in mind the nature and type of interconnection or access proposed;
2. the feasibility of providing the access proposed, in relation to the capacity available;
3. the initial investment by the facility owner, bearing in mind the risks involved in making the investment;
4. the need to secure competition in public telecommunications networks and publicly available telecommunications services in the long term, most notably by creating incentives for efficient investment in facilities which will secure more competition in the long term;
5. industrial property rights and intellectual property rights;
6. the provision of services that are available throughout Europe; and
7. whether already imposed obligations as referred to in this Part or non-mandated services available in and taken up by a large part of the market are sufficient to ensure the regulatory aims according to section 2(2).

(2) The Regulatory Authority may, having regard to subsection (1), require SMP public telecommunications network operators, amongst other things,

1. to grant access to specified network elements and/or facilities, including unbundled broadband access;
2. not to withdraw access to facilities;
3. to grant access on a wholesale basis to particular services offered by the operator as offered to end-users, for the purpose of resale by third parties in their own name and for their own account. In doing so, past and future investment in innovative services is to be taken into consideration;
4. to create the necessary prerequisites for the interoperability of end-to-end communication, including the provision of facilities for intelligent network services and roaming (enabling the use of other operators' mobile networks outside the coverage area of the requesting mobile operator, for the requesting operator's end-users);
5. to grant access to operational support systems or similar software systems required to secure fair competition in the provision of services, while ensuring the efficient use of existing facilities;

6. to allow, in meeting the access obligations imposed under this subsection or under subsection (3), the use of access services and facilities and cooperation between

undertakings with access entitlements, unless an SMP operator shows in the given instance that, for technical reasons, such use or cooperation is not possible or is possible to a limited extent only;

7. to grant access to single billing services and to the acceptance or first-time collection of receivables in accordance with the following, as far as the bill-issuers have not entered into an agreement with the predominant part of the hence relevant market of the providers of publicly available telecommunications services to whom their access customers are able to connect, and to grant other providers who have not entered into such agreement non-discriminatory access to these services under the terms and conditions laid down in the agreement–

a) End-users who have not agreed anything else with other providers of publicly available telecommunications services are to be issued a bill by the bill-issuer which,

independently of the tariff structures, presents the charges for telecommunications

services, for services according to section 78(2) para 3 and for telecommunications based services from other providers taken via the network termination point of the enduser. This also applies to charges for authorisation codes transmitted during the

telephone connection when these are concerned solely with services. Payment to the bill-issuer of these charges is effected by means of a single bill for the whole of the service taken and for the charges payable to him.

b) A billing obligation cannot be imposed in respect of unmetered services within the

meaning of subpara a) sentences 1 and 2 whose charges exceed 30 euros (10 euros from 1 January 2008), metered telecommunications-based services and services according to subpara a) sentence 2 with charges exceeding 2 euros per minute in each case or for any services for which authorisation is required. Nor can an obligation to handle complaints relating to services billed for third parties, to send reminders or to collect charges payable to third parties be imposed.

c) Customer data required for the purpose of handling complaints, sending reminders or collecting charges for services within the meaning of subpara a) sentences 1 and 2 are to be transmitted by the bill-issuer to providers of publicly available telecommunications services. Providers billing customers themselves for services within the meaning of subpara a) sentence 2 are, from 1 April 2005, to be provided by the bill-issuer with the customer data required.

d) Providers of publicly available telecommunications services have to ensure in relation to the bill-issuer that no data records for services for which billing is to be effected which are not in compliance with the legal provisions or with consumer protection legislation are transmitted to him. The bill-issuer is not responsible or liable for services billed on behalf of third parties.

e) In his reminders the bill-issuer has to include an insert, given prominence by the way it is printed, stating that the customer may pay not only the amount of the reminder, but also the original, possibly higher, amount to the bill-issuer with discharging effect.

(3) The Regulatory Authority should impose the following obligations under subsection (1) on

SMP public telecommunications network operators–

1. the granting of fully unbundled access to the local loop and shared access to the local loop (provision of access to the local loop or to the local sub-loop in such manner as to enable use of the entire frequency spectrum of the twisted metallic pair);

2. the interconnection of telecommunications networks;

3. the granting of open access to technical interfaces, protocols and other key technologies essential for service interoperability and virtual network services;

4. the provision of colocation and other forms of facility sharing, including building, duct and mast sharing, and the granting, to the users or their agents, of access to these facilities at any time.

(4) Where an operator shows that use of the facility would endanger the maintenance of network integrity or the safety of network operations, the Regulatory Authority shall not impose the access obligation relating to the facility or shall impose the obligation in different form. The maintenance of network integrity and the safety of network operations are to be judged on the basis of objective standards.

(...)

## Chapter 3 Rates Regulation

### Subchapter 1 General Provisions

#### Section 27 **Aim of Rates Regulation**

(1) The aim of rates regulation is to prevent the anti-competitive exploitation of, hindrance to and discrimination of end-users and competitors as a result of the pricing measures of SMP undertakings.

(2) The Regulatory Authority shall take care that rates regulation measures in their entirety are coordinated (consistency requirement). In particular, the Regulatory Authority shall coordinate the timeframes and the content of its measures and consider whether each measure is proportionate to the aims according to section 2(2).

(3) The Regulatory Authority shall, insofar as broadcasting and comparable telemedia interests according to section 2(5) sentence 1 are concerned, inform the state media authority with competence accordingly and include it in proceedings initiated. Upon application by the state media authority the

Regulatory Authority shall, with reference to this Act, look into the matter of initiating proceedings and ordering measures in accordance with the following provisions.

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## 10) THE NETHERLANDS

Statute: Law of 19 October 1998 concerning rules relating to telecommunications (Telecommunications Act) in the wording of May 19, 2004

Citation: Besluit van 7 mei 2004, houdende wijziging van enkele algemene maatregelen van bestuur in verband met aanpassingen aan de Telecommunicatiewet

Source: OPTA - Independent Regulator of Post and Electronic Communications (Onafhankelijke Post en Telecommunicatie Autoriteit)

Sections: Preamble, Art. 1.3, Art. 6.a.1, Art. 6.a.12, Art. 9.1, Article 11.2, Art. 11.3

Hyperlink: file

(Statute Book 610, 1998)

We, Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau etc. etc. etc.

A salute to all who will see this or hear it read! Be it known:  
Whereas We have considered that with regard to the general liberalisation of the telecommunications infrastructure and telecommunications services it is desirable to set rules to guarantee a cohesive infrastructure and promote genuine competition;  
Therefore, having heard the Council of State, and in consultation with the States General, We hereby approve and enact the following:

### CHAPTER 1. GENERAL PROVISIONS

(...)

### **Article 1.3**

1. OPTA shall ensure that its decisions contribute to the achievement of the targets referred to in Article 8, paragraphs 2, 3 and 4 of Council Directive 2002/21/EC in each case by:

a. the promotion of competition in the supply of electronic communications networks, electronic communications services, or associated facilities, amongst other things by encouraging efficient investment in the area of infrastructure and supporting innovations.

b. the development of the internal market;

c. the promotion of the interests of end-users in respect of choice, price and quality.

(...)

4. Should OPTA render a decision that has significant consequences for the market concerned, OPTA will explain, amongst other things on the basis of a justification of the foreseeable relevant consequences, both in a qualitative and, as far as is reasonably possible, in a quantitative sense, that the measure is necessary to achieve the objectives stated in paragraph 1 and that any other less radical measure is not effective.

(...)

## **CHAPTER 6A. OBLIGATIONS FOR UNDERTAKINGS THAT POSSESS SIGNIFICANT MARKET POWER**

### *§ 6a.1 Establishing significant market power*

#### **Article 6a.1**

1. OPTA shall determine in accordance with the principles of the general European competition law the relevant markets in the electronic communications sector for which the product or service market corresponds to a product or service market stated in a recommendation as referred to in Article 15, paragraph 1, of Council Directive 2002/21/EC. OPTA will in any case determine the relevant markets referred to in the first sentence as soon as possible after a recommendation as referred to in that sentence has come into effect.

2. OPTA will determine in accordance with the principles of the general European competition law the relevant markets in the electronic communications sector other than those referred to in paragraph 1 if it is of the opinion that there is reason for such or that this arises from Article 6a.4 of Article 27 of Council Directive 2002/21/EC.

3. OPTA will investigate the relevant markets determined in accordance with paragraphs 1 and 2 as soon as possible.

4. OPTA will investigate a transnational market as soon as possible after a decree by the Commission of the European Communities on which this is based has come into effect, and subsequently at regular intervals.

5. The aim of the examination as referred to in paragraphs 3 and 4 is in any case to establish:

a. whether or not the market concerned is actually competitive, and whether undertakings offering public electronic communications networks, associated facilities or public electronic communications services that are active therein possess significant market power, and

b. what obligations as referred to in Articles 6a.6 to 6a.10 and 6a.12 to 6a.15 are appropriate for the undertakings as referred to under a. that possess significant market power.

6. Once the examination as referred to in paragraph 3 or 4 has been completed, OPTA will implement Articles 6a.2, paragraph 1, or 6a.3 as soon as possible.

7. In the performance of its tasks and powers on the grounds of this chapter, OPTA will take account of the guidelines laid down by the Commission of the European Communities pursuant to Article 15, paragraph 2, of Council Directive. 2002/21/EC.

8. In assessing whether two or more undertakings jointly possess economic power as referred to in Article 1.1, part s., OPTA will in any case adopt the criteria as referred to in Annex II to Council Directive 2002/21/EC.

9. OPTA will exercise its tasks and powers on the grounds of this chapter with transnational markets in collaboration with the national regulatory authorities concerned.

### ***§ 6a.3 Obligations at end-user level***

#### **Article 6a.12**

On the grounds of Article 6a.2, paragraph 1, OPTA may impose the obligation:

a. with the delivery of end-user services to be determined by OPTA, to treat the end-users of these services equally in identical situations;

b. to unbundle the end-user services to be determined by OPTA from other services, and

c. to publicise information to be determined by OPTA among categories of end-users to be determined by OPTA in a manner to be determined by OPTA.

(...)

## **CHAPTER 9. UNIVERSAL SERVICE**

### **Article 9.1**

1. The following services are available to each end-user, regardless of his geographical location, for an affordable price and with a certain level of quality:

a. following a reasonable request, a connection to the public telephone network at a fixed location and the provision of access to the public telephone service at a fixed location;

- b. public pay telephones;
- c. printed telephone directories;
- d. electronic telephone directories, and
- e. a subscriber information service.

2. Rules shall be laid down by or pursuant to a governmental decree pertaining to the quality of the services as referred to in paragraph 1.

3. For the implementation of Chapter II of Council Directive 2002/22/EC, public electronic communications services or associated facilities other than those referred to in paragraph 1 may be designated by governmental decree to be available at an affordable price and with a certain level of quality specified by or pursuant to that decree to certain categories of end-users to be specified in that decree regardless of their geographical location.

4. Rules may be laid down by or pursuant to a governmental decree regarding the price as referred to in paragraph 1 or 3. A distinction may be made between the groups of users regarding the rules on the price as referred to in the first sentence.

(...)

## **CHAPTER 11. PROTECTION OF PERSONAL DATA AND PRIVACY**

### *§ 11.1 General provisions*

(...)

#### **Article 11.2**

Without prejudice to the Personal Data Protection Act (*Wet bescherming persoonsgegevens*) and the other provisions by or pursuant to this Act, the provider of a public electronic communications network and the provider of a public electronic communications service shall ensure the protection of the personal data and the protection of the privacy of subscribers to and users of its network or service.

#### **Article 11.3**

1. In the interest of the protection of the personal data and the protection of the privacy of subscribers and users, the providers referred to in Article 11.2 shall take appropriate technical and organizational measures to ensure the safety and protection of the networks and services they provide. Taking account of the state of the technology and the costs, the measures must guarantee a level of security and protection which is proportionate to the risks involved.

2. The providers referred to in Article 11.2 shall ensure that the subscribers are informed about:

- a. special risks of breach of the security or protection of the network or service provided;

- b. any means by which the risks referred to under a. can be prevented, in so far as it concerns measures other than those which the provider is obliged

to take on the grounds of paragraph 1, as well as an indication of the expected costs.

3. No charge is made for providing the information referred to in paragraph 2.

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## 11) BELGIUM

Statute: Loi du 13 juin 2005 relative aux communications électroniques

Citation: *idem*

Source: Institut Belge des Services Postaux et des Télécommunications

Hyperlink: [http://www.bipt.be/Legislation/telecoms/Loi-Wet\\_CE-EC\\_20-06-2005.pdf](http://www.bipt.be/Legislation/telecoms/Loi-Wet_CE-EC_20-06-2005.pdf)

### TITRE Ier. — Définitions et principes généraux

#### CHAPITRE Ier. — Généralités

**Art. 4.** § 1er. Lorsque la sécurité publique, la santé publique, l'ordre public ou la défense du Royaume l'exigent, le Roi peut, par arrêté délibéré en Conseil des Ministres, interdire en tout ou en partie au cours de la période fixée par Lui :

1° de fournir des réseaux ou services de communications électroniques;

2° de détenir ou d'utiliser des équipements.

Le Roi peut, à cet effet, prescrire toutes les mesures qu'Il juge utiles, notamment la mise sous séquestre des équipements ou leur mise en dépôt à un endroit déterminé. Les mesures visées dans le présent article ne donnent lieu à l'attribution d'aucune indemnité.

(...)

#### CHAPITRE II. — Missions générales de l'Institut en matière de communications électroniques

**Art. 5.** Dans le cadre de l'exercice de ses compétences, l'Institut prend toutes les mesures adéquates afin de réaliser les objectifs définis aux articles 6 à 8. Ces mesures sont basées sur la nature des problèmes constatés, sont appliquées proportionnellement et justifiées. Elles doivent être proportionnelles à ces objectifs, et respecter les principes d'objectivité, de transparence, de non-discrimination et de neutralité technologique.

**Art. 6.** Dans l’accomplissement des tâches qui lui incombent en vertu de la présente loi, l’Institut promeut la concurrence dans la fourniture des réseaux de communications électroniques, des services de communications électroniques et des ressources associées :

- 1° en veillant à ce que les utilisateurs retirent un bénéfice maximal en termes de choix, de prix et de qualité;
- 2° en veillant à ce que la concurrence ne soit pas faussée ni entravée dans le secteur des communications électroniques;
- 3° en promouvant des investissements efficaces en matière d’infrastructures, et en soutenant l’innovation;
- 4° en promouvant l’utilisation et la gestion efficace des radiofréquences et des ressources de numérotation.

**Art. 7.** Dans l’accomplissement des tâches qui lui incombent en vertu de la présente loi, l’Institut contribue au développement d’un marché intérieur des réseaux et services de communications électroniques:

- 1° en encourageant la fourniture de réseaux et services de communications électroniques au niveau européen;
- 2° en encourageant la mise en place et le développement de réseaux transeuropéens et l’interopérabilité des services paneuropéens et la connectivité de bout en bout;
- 3° en veillant à ce qu’il n’y ait pas, dans des circonstances analogues, de discrimination dans le traitement des opérateurs qui fournissent des réseaux et des services de communications électroniques;
- 4° en coopérant avec d’autres autorités réglementaires nationales ainsi qu’avec la Commission européenne, de manière transparente, afin de veiller à l’élaboration de pratiques réglementaires cohérentes au niveau européen.

**Art. 8.** Dans l’accomplissement des tâches qui lui incombent en vertu de la présente loi, l’Institut veille aux intérêts des utilisateurs :

- 1° en contrôlant le respect des obligations de service universel telles que prévues dans la présente loi;
- 2° en assurant un niveau élevé de protection des consommateurs dans leurs relations avec les fournisseurs;
- 3° en contribuant à assurer un niveau élevé de protection des données à caractère personnel et de la vie privée;
- 4° en promouvant la fourniture d’informations claires, notamment en exigeant la transparence des tarifs et des conditions d’utilisation des services de communications électroniques accessibles au public;
- 5° en tenant compte des besoins de groupes sociaux particuliers, notamment les utilisateurs finals handicapés;
- 6° en veillant à l’intégrité et la sécurité des réseaux publics de communications électroniques.

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## 12) SWEDEN

Statute: The Electronic Communications Act (2003:389)

Citation: Lag (2003:389) om elektronisk kommunikation

Source: The Swedish National Post and Telecom Agency  
Post- och telestyrelsen, PTS

Sections: S.1; S.2;

Hyperlink: [http://www.pts.se/Archive/Documents/EN/The\\_Electronic\\_Communications\\_Act\\_2003\\_389.pdf](http://www.pts.se/Archive/Documents/EN/The_Electronic_Communications_Act_2003_389.pdf)

### **Chapter 1, General provisions** (Entered into force 25 July 2003) **Introductory provisions**

**Section 1** The provisions of this Act aim at ensuring that private individuals, legal entities and public authorities shall have access to secure and efficient electronic communications and the greatest possible benefit regarding the range of electronic communications services and their price and quality.

This objective shall mainly be achieved through the promotion of competition and the

international harmonisation of the sector. However, universal services shall always be available for everybody on equivalent terms throughout Sweden at affordable prices.

When applying the Act, particular regard shall be taken to the importance of electronic

communications for the freedom of expression and freedom of information.

**Section 2** Measures that are implemented in accordance with this Act may not be more extensive than appears to be reasonable, and should be proportional having regard to the objectives of the Act and the other interests referred to in Section 1.

(...)

### **Chapter 5 Services to end-users, etc.** **Universal services**

**Section 1** If it is necessary for the universal services shown below to be available at affordable prices, the party that is considered appropriate for this may be ordered to, at an affordable price,

1. satisfy reasonable requirements for connection to the public telephone network to a fixed network termination point at a permanent place of residence or a regular business location, for everyone who requests it,
2. satisfy reasonable requirements for access to public telephony services to a fixed network termination point at a permanent place of residence or a regular business location, for everyone who demands this service,
3. in a subscriber directory, which shall be updated annually, make information about all telephone subscriptions available to the extent they are not subject to secrecy or a duty of confidentiality according to law,
4. provide a complete directory inquiry service, regarding telephone subscriptions to the extent that the information that is provided is not subject to secrecy or a duty of confidentiality according to law,
5. provide public payphones to the extent that, as regards quality, number and geographical distribution, satisfies the needs of the public, or
6. provide access for people with disability to services according to items 2 to 5 to the same extent and on equivalent terms as for other end-users and satisfy the needs of people with disability for such special services.

Access to universal services shall be safeguarded through procurement by the State if this is called for especially having regard to the costs for the provision of the service or the network.

**Section 2** A party that shall provide a service according to Section 1 may have an obligation imposed on it to within a particular time achieve particular performance objectives. This time may not be less than three months.

A connection according to Section 1, first paragraph, item 1, shall be designed so that the enduser can conduct and receive local, national and international calls, telefax and data communication with a particular specified minimum data rate that allows functional access to the Internet.

The Government may issue regulations concerning data rate according to the second paragraph.

**Section 3** A party that shall provide access to public telephony services in accordance with Section 1, first paragraph, item 2 shall at the request of a subscriber bar without charge certain kinds of outgoing calls or numbers.

A party that shall provide subscriber directories and directory inquiry services according to Section 1, first paragraph, item 3 or 4 shall treat the information received in a non-discriminatory way.

**Section 4** A party that shall provide a service in accordance with Section 1 may, in appropriate cases, have an obligation imposed on it to

1. without charge discontinue a public telephony service to a fixed network termination point, if the claim against the subscriber exceeds an amount that is stated by the subscriber in advance and the subscriber does not request that the service should be provided nonetheless,
2. apply common tariffs throughout Sweden or apply a specified maximum price,
3. make it possible for the consumer to pay in advance for connection to the public telephone network and for the use of public telephony services, and

4. allow the consumer to pay for a connection to the public telephone network through payments that are spread over time.

Tariffs as referred to in the first paragraph, item 2, shall be made available to the public.

A subscriber shall, in conjunction with a contract being concluded for the provision of public telephony services, be informed of his or her rights according to the first paragraph, item 1 and shall, during an ongoing contract period, be entitled to change the specified amount without charge. The discontinuation of the service shall not impede a subscriber from making emergency calls or other calls that are free of charge.

**Section 5** A service according to Section 1 may not be provided on conditions whereby a subscriber is compelled to pay for something that is not necessary for the service.

**Section 6** A party that shall provide a particular service according to Section 1 shall keep information about the performance that has been achieved upon the provision of the service available to the public, unless otherwise provided by provisions regarding secrecy or other protection of privacy.

The Government or the public authority appointed by the Government may issue regulations regarding information in accordance with the first paragraph.

### **General obligations**

**Section 7** A party that provides a public telephony service shall

1. ensure that the service and the public telephone network to a fixed network termination point satisfy reasonable demands for good function and technical security and also for sustainability and accessibility in the case of extraordinary events during peacetime,
2. assist in emergency calls being conveyed without interruption and free of charge for the user,
3. to the extent that it is technically feasible, provide those who receive emergency calls with location data,
4. on terms that are fair, cost-orientated and non-discriminatory, satisfy every reasonable request to release subscriber data that are not subject to secrecy or a duty of confidentiality according to law to those who conduct or intend to conduct subscriber directory services,
5. provide without charge a subscriber with specified telephone bills relating to the use of a public telephone network to a fixed network termination point or public telephony services belonging thereto, provided the subscriber has not requested that the bills should be unspecified,
6. ensure that that end-users from other States within the European Economic Area can reach Swedish numbers, whose numerical structure does not have any geographical significance, provided this is technically and economically feasible and the subscriber called has not chosen to limit access for incoming calls from certain geographical areas for commercial reasons, and
7. have regard in operations to the needs of people with disability for special services.

Calls that are free of charge for the subscriber dialled up may not be specified on his or her telephone bill.

The Government or the public authority appointed by the Government may issue regulations concerning the way in which these obligations shall be satisfied and concerning exemptions from the obligations.

(...)

### **Special obligations for undertakings with significant power in a market**

**Section 12** A party that in accordance with Chapter 8, Section 7 has significant power in the market for the provision of connection to and use of public telephone networks to a fixed network interconnection point shall provide its subscribers with access to services that are offered by others who provide public telephony services and with whom the operator conducts interconnection, through

1. a prefix for selection of operator for individual calls, and
2. a pre-selection with the possibility for the subscriber to drop pre-selection for individual calls.

Payment for a change of pre-selection may only be based on the operational costs and may not be charged to the subscriber.

The Government or the public authority appointed by the Government may issue regulations concerning the way in which these obligations shall be satisfied and concerning exemptions from the obligations.

**Section 13** A party that in accordance with Chapter 8, Section 7 has significant power in a particular end-user market may, if the obligation under Section 12 or obligations that may be imposed under Chapter 4, Sections 3 and 4 are insufficient, in accordance with Chapter 8, Section 6 be ordered to implement an appropriate measure. Such an obligation may relate to

1. application of a particular maximum or minimum price,
2. not implementing measures that impede competition, or
3. not performing a service that can be provided independently as a result of another service also being provided.

**Section 14** If a market analysis in accordance with Chapter 8, Section 6 shows that efficient competition does not prevail in the market for the provision of entire or parts of the minimum range of leased lines as determined in a list of standards in the Official Journal of the European Communities, a party that according to Chapter 8, Section 7 has significant power in the market throughout or in parts of Sweden shall be ordered to

1. under similar circumstances apply equivalent conditions in relation to others who provide equivalent services,
2. provide leased lines to others on the same conditions and of the same quality as applies to the operator's own services or for the services of a subsidiary or collaborating partner,
3. structure and use an appropriate cost accounting method,
4. publicise technical characteristics,
5. publicise tariffs, periodical rental charges and other costs and state whether these are differentiated, or
6. publicise terms and conditions of supply.

Tariffs and terms and conditions of supply that are publicised in accordance with the first paragraph, item 5 or 6 may not be amended without the permission of the public authority appointed by the Government.

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### **13) NORWAY**

Statute: The Electronic Communications Act.

Citation: The Electronic Communications Act. ACT-2003-07-04-83. 2003 Volume 10

Source: Norwegian Post and Telecommunications Authority  
Post- og teletilsynets

Sections: §1-1. - §5-3.

Hyperlink: [http://www.npt.no/iKnowBase/FileServer/ekom\\_eng.pdf?documentID=7922](http://www.npt.no/iKnowBase/FileServer/ekom_eng.pdf?documentID=7922)

#### **Chapter 1. Introductory provisions**

##### *§1-1. Purpose*

The purpose of the Act is to secure good, reasonably priced and future-oriented electronic communications services for the users throughout the country through efficient use of society's resources by facilitating sustainable competition, as well as stimulating industrial development and innovation.

#### **Chapter 2. General provisions**

##### *§2-2. Measurement and information on quality*

Providers of public electronic communications services shall measure quality and provide information on the quality of service that is offered to the end user.

The Authority may issue regulations on methods of measurement and information requirements.

##### *§2-3. Requirements for networks, services, associated equipment and installations*

The Authority may impose requirements for electronic communications networks, services, associated equipment, installations and the use of standards to ensure interworking between networks and services, quality, efficient utilisation of capacity in networks that are used by more than one provider, to protect life and health or avoid harmful interference.

The Authority may issue regulations on the matters governed by the first paragraph.

*§2-4. Terms of supply*

Providers of public electronic communications services to end users may be required to prepare and publish terms of supply for such provision.

Providers of electronic communications networks that are used for public electronic communications services and providers of such services may change or close access to networks or services at the earliest one month after notice has been given of the change or closure. Users who do not accept new terms of supply may cancel the agreement with immediate effect. In the notice to the user information shall be given on the right to cancel the agreement. The Authority may issue regulations on terms of supply.

*§2-5. Permitted restrictions on use*

The Authority may direct providers to implement restrictions on use in electronic communications networks and services in the interests of the security of the State or other important social interests.

Providers shall implement necessary restrictions on use in emergency situations that involve serious threats to life or health, safety or public order or danger of sabotage against networks or services.

Providers may immediately disconnect radio and terminal equipment when it is necessary in the interest of communication security or the network's integrity and provided the provider offers an alternative solution without delay. The costs of providing an alternative solution shall be borne by the provider.

The Authority may give providers permission to deny connection or to disconnect radio and terminal equipment that does not satisfy requirements in accordance with § 8-1, or that causes harmful interference or serious damage to the network.

The Authority shall be notified immediately in the event of disconnection. If possible, the provider shall notify the Authority, stating the reasons, on other restrictions on use. If possible, the provider shall notify affected end users and other affected providers of any disconnection or other restrictions on use, while stating the reasons. Affected end users and providers shall be given the right to respond to restrictions on use.

Restrictions on use in accordance with the second paragraph shall be terminated as soon as the emergency situation is over, and in accordance with the third and fourth paragraphs as soon as the end user establishes that the necessary permission exists or illegal radio and terminal equipment is disconnected from the network.

In situations other than those mentioned in the second and the third paragraphs implementation of restrictions on use requires permission from the Authority.

The Authority may issue regulations on restrictions on use and on exceptions to the requirement for permission.

(...)

*§2-7. Communications protection etc.*

The provider shall implement the necessary security measures for the protection of communications in the provider's electronic communications

networks and services. In the event of a particular risk of breach of security the provider shall inform the subscriber of the risk.

Traffic data shall be deleted or rendered anonymous as soon as they are no longer necessary for communications or invoicing purposes, unless otherwise determined in or pursuant to the law. Any other processing of traffic data requires the consent of the user.

The Authority may issue regulations on matters governed by the first and the second paragraphs.

*§2-8. Arranging for statutory access to information*

Providers of electronic communications networks that are used for public electronic communications services and providers of such services shall operate networks and services so that statutory access to information on end users and electronic communications is assured.

The provider's running costs connected with fulfilling this operating duty will be met by the state in regard to those additional costs resulting from these services.

The Authority may issue regulations on this operating duty in accordance with the first paragraph, including the duty to store traffic data for a laid down period.

*§2-9. Duty of confidentiality*

Providers and installers have a duty to maintain secrecy on the content of electronic communications and others' use of electronic communications, including information on technical systems and methods. They have a duty to implement measures to prevent others than those to whom the information applies having the opportunity to acquire knowledge of such information. Neither may the information be utilised for their own purposes or in service or work for others, with the exception of statistical information on network traffic that is rendered anonymous and does not provide information on systems or technical solutions.

The duty of confidentiality in accordance with the first paragraph also applies to anyone carrying out work or services for providers of electronic communications networks or services, installers, technical control bodies or the Authority, also after the individual has ceased carrying out the work or the service.

The duty of confidentiality does not prevent information being given to the prosecuting authority or the police on contract-based secret telephone numbers or other subscription information, as well as electronic communications addresses. The same applies in giving evidence to the court. Nor does the duty of confidentiality prevent information as mentioned in the first paragraph being given to another authority pursuant to the law.

A request from the prosecuting authority or the police for information as described in the third paragraph shall be complied with unless special circumstances make this inadvisable.

The Authority may issue regulations on the duty of confidentiality, on the extent of the exception in accordance with the third paragraph and the duty of notification in accordance with the fourth paragraph.

Any other statutory duty of confidentiality applies in addition to this section.

*§2-10. Security and preparedness*

Providers shall offer electronic communications networks and services with the necessary security for the users in peace, crises and war. Providers shall maintain the necessary preparedness and entities important to the community shall be prioritised when necessary.

To ensure the fulfilment of national requirements for electronic communications security the Authority may issue regulations, make individual decisions or conclude agreements that providers shall implement measures in accordance with the first paragraph. Such measures may inter alia include:

1. introduction of special functions and services in electronic communications networks, operating systems and operating organisations
2. contingency planning and preparedness plans, including contributing to national preparedness plans and participation in exercises
3. physical protection of important installations in electronic communications networks
4. transmission of important messages from government authorities.

The Authority may direct providers to enter into cooperation with other national or international activity when this is laid down in an international agreement.

In the first instance providers shall meet costs of security and preparedness measures in accordance with this section. Providers' actual additional costs connected with provision of security and preparedness measures will be reimbursed by the government based on satisfactory documentation produced by providers. By additional cost is meant the cost that would not materialize in the absence of this provision, beyond the cost of a purely commercial solution.

Providers may be refused access to the market if this is necessary in the interest of public safety, health or other special circumstances.

*§2-11. Ensuring continuity of supply in the event of provider bankruptcy etc.*

Providers shall make plans that ensure continuity of supply to their own customers for a minimum of two weeks in the event of bankruptcy, the opening of debt negotiations or as a result of suspension of payments. Such plans may comprise insurance schemes, agreements on cooperation between providers, private reserve schemes or similar.

The plans and any amendments to them shall be sent to the Authority. The Authority shall monitor the plans and may make requirements regarding their content. The Authority may relieve providers of electronic communications networks and services from the duty to prepare plans.

A provider shall inform the Authority of any petition for debt negotiations or bankruptcy that the provider sends to the District Court. The District Court is immediately to inform the Authority of debt negotiations or bankruptcy proceedings that are opened in relation to a provider.

When, as a result of the commencement of bankruptcy proceedings in regard to a provider, a danger arises of cessation of operations, the Authority may in particular cases, to the extent that it is necessary to safeguard the users' communications, direct continued operation for up to two weeks, including directing the estate to take over all or part of the debtor's current contracts. In consideration of whether such a directive shall be given, account shall be

taken of whether important social interests will suffer as a result of a cessation of operations. Account is also to be taken of the estate's finances. The same applies if the commencement of debt negotiations in accordance with the Bankruptcy Act would otherwise lead to cessation of operations.

Operation directed in accordance with the fourth paragraph has no effect on the estate's right to choose whether it will step into the debtor's contracts in accordance with the Creditors' Recovery Act (dekningsloven) § 7-3, or on the estate's liability in accordance with the Creditors' Recovery Act (dekningsloven) § 7-4, after the expiry of the directive.

Contractually determined notice periods and time limits for notice in the Creditors' Recovery Act § 7-6, first paragraph, do not prevent a directive being given on stepping into current contracts for a period as stated in the fourth paragraph in this section.

The Authority may issue regulations on the plans in accordance with the first paragraph, exceptions to the duty to prepare plans and ensuring continuity of supply in situations as mentioned in the fourth paragraph.

#### *§2-12. Jointly invoiced services*

The Authority may issue regulations on jointly invoiced services.

### **Chapter 3. Significant market power**

#### *§3-1. Significant market power*

A provider has significant market power when the provider individually or jointly with others has economic strength in a relevant market affording the provider the power to behave to an appreciable extent independently of competitors, customers and consumers. Significant market power in one market may result in a provider having significant market power in a closely related market.

The Authority may issue regulations on significant market power.

#### *§3-2. Relevant markets*

The Authority shall define relevant product and services markets and geographic markets in regard to the EFTA Surveillance Authority's recommendations on relevant product and services markets within the electronic communications area.

When in accordance with the first paragraph the Authority defines markets that deviate from previously defined common European markets, the consultation procedure in § 9-3 shall be followed.

*§3-3. Market analysis and designation of providers with significant market power* The Authority shall carry out market analyses in accordance with the EFTA Surveillance Authority's guidelines for market analyses and assessment of significant market power in the electronic communications area. The Authority will designate, maintain or withdraw designation of a provider with significant market power on the basis of market analyses.

The Authority may issue regulations on market analyses.

#### *§3-4. Obligations on providers with significant market power*

A provider who has significant market power shall be subject to one or more specific obligations that follow from §§ 4-1, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9 and 4-10.

In exceptional circumstances the Authority may impose obligations on a provider who has significant market power beyond those that follow from §§ 4-1, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9 and 4-10. In such cases the consultation procedure in § 9-3 shall be followed.

Obligations in accordance with the first and second paragraphs that are imposed in the individual case shall be appropriate to promote sustainable competition, as well as facilitating national and international development in the market. The Authority may amend obligations imposed.

The Authority may issue regulations on obligations imposed on a provider with significant market power.

#### **Chapter 4. Access etc.**

##### *§4-1. Access*

The Authority may direct a provider with significant market power to meet any reasonable request to enter into or amend an agreement on access to electronic communications networks and services.

In consideration of whether a request is reasonable an assessment shall be undertaken inter alia of the provider's interests in managing his own infrastructure against the need to give others the access necessary to be able to offer competing services. In the assessment of what is necessary account shall be taken of whether in the light of the development of the market it is technically and commercially possible to install or use competing infrastructure.

In the assessment of whether a request is reasonable account shall also be taken of:

1. available capacity
2. the provider's investments in relation to the risk with which the investments have been associated
3. sustainable competition
4. the need to sustain the network's integrity
5. Intellectual property rights
6. establishment of pan-European services.

A provider with significant market power shall document and justify rejection of a request for access.

The Authority may, when necessary to secure all-to-all-communications, impose access obligations on any provider. Such obligations may include an obligation to enter into an agreement. Directives in accordance with this paragraph shall follow the procedures in §§ 9-2 and 9-3.

The Authority may issue regulations on access, including technical and administrative terms for access.

##### *§4-2. Interconnection*

Any provider of access to electronic communications networks and services has the right and obligation to negotiate with other providers on interconnection for the provision of public electronic communications services.

The Authority may, when necessary to secure all-to-all-communications, impose interconnection obligations on any provider. Such obligations may

include an obligation to enter into an agreement. Directives in accordance with this paragraph shall follow the procedures in §§ 9-2 and 9-3.

Within those areas in which the provider has significant market power, the provider shall meet any reasonable request to enter into or amend an agreement on interconnection. In the assessment of whether a request is reasonable, an evaluation shall be undertaken in accordance with § 4-1, second paragraph. A provider with significant market power as regards the products shall document and justify rejection of a request for interconnection.

The Authority may issue regulations on market analyses.

#### *§4-3. Access to radio and television*

Providers of conditional access services for digital radio and television shall meet any reasonable request for access from content suppliers. The terms of access shall be objective, reasonable and non-discriminatory, be based on fair criteria and be publicly accessible.

Providers shall document and justify rejection of a request for access. The same requirements may be imposed on a provider of other functions that may limit the access to digital radio and television.

The Authority may make exceptions to the requirement in the first paragraph if a market analysis shows that a provider does not have significant market power in the relevant market, and the access to digital radio and television services will not be reduced.

The Authority may issue regulations on conditional access services and other functions that may limit access to radio and television, including laying down requirements for transmission and reception of digital television services and television programmes and impose requirements on the holder of intellectual property rights to products and conditional access services to be consistent.

#### *§4-4. Co-location and other shared utilisation of infrastructure*

The Authority may impose on a provider who obtains the right to expropriation in accordance with § 12-3 an obligation to give other providers without corresponding rights access to co-location.

The Authority may impose on providers shared utilisation of infrastructure when considerations of effective use of resources, considerations of health, the environment, safety or other social considerations indicate that duplication of infrastructure should be avoided.

The Authority may impose on a provider with significant market power an obligation to meet a reasonable request for co-location or other shared utilisation of infrastructure within the market where the provider has significant market power, when this is appropriate to promote sustainable competition.

A provider with significant market power in the market for the products and full and shared access to the fixed access network shall offer co-location to other providers on reasonable request for such access.

In the assessment of whether a request is reasonable in accordance with the third and the fourth paragraphs an assessment shall be undertaken in accordance with § 4-1, second paragraph. Providers with significant market power shall document and justify rejection of a request for co-location and other shared utilisation of infrastructure.

Directives in accordance with the first, second and third paragraphs will follow the procedure in § 9-2.

The Authority may issue regulations on co-location and on shared utilisation of infrastructure.

*§4-5. Information and support systems*

The Authority may impose on a provider with significant market power an obligation to meet any reasonable request to provide access to information and support systems if such access is necessary for the requester to be able to supply competing services. In the assessment of whether a request is reasonable an assessment shall be undertaken in accordance with § 4-1, second paragraph.

A provider with significant market power for the products and full and shared access to the fixed access network shall provide access to information and support systems.

The Authority may issue regulations on access to information and support systems.

*§4-6. Publication and standard offerings*

The Authority may direct a provider with significant market power to publish specified information or prepare and publish standard offerings for electronic communications networks and services. The duty to publish specified information may inter alia include:

1. financial information
2. technical specifications, including interfaces used at the network termination points, as well as which standards are used
3. network characteristics
4. prices
5. other terms and conditions for supply and use.

The Authority may require that offerings in accordance with the first paragraph are sufficiently sub-divided into individual elements with associated terms based on market needs so that the user is not bound to accept services, functions or outputs that have not been requested.

A provider with significant market power for the products and full and shared access to the fixed access network shall prepare a standard offering on access to the fixed access network. The offering shall be sufficiently sub-divided so that the requester does not pay for services, functions or outputs that have not been requested.

The Authority may issue directives on where, how and on what terms the information shall be made publicly accessible, as well as direct changes in the offering.

The Authority may issue regulations on publication and standard offerings.

*§4-7. Non-discrimination*

The Authority may direct a provider with significant to offer interconnection and access to external providers on non-discriminatory terms.

The Authority may direct a provider with significant to offer interconnection and access to other providers on the same or equivalent terms and of the same or equivalent quality as provided for internal operations, subsidiaries or partnerships.

On request internal utilisation shall be reported to the Authority, cf. § 10-3.

The Authority may issue regulations on non-discrimination.

(...)

*§4-10. Regulation of end-user services*

When regulation in accordance with § 4-9 does not succeed, the Authority may impose regulation of end-user services on a provider with significant market power. The obligations may inter alia include prohibition of excessive prices, predatory pricing, price discrimination or unreasonable product bundling. The authorities may in such cases use tools like maximum prices, cost-orientation, geographic equalisation etc.

*§4-11. Carrier pre-selection and carrier selection using a prefix*

A provider with significant market power in access to public telephone services in the fixed network and who controls access to end users, shall offer carrier pre-selection and carrier selection using a prefix at cost-oriented prices. The price for carrier selection shall be determined between the providers so that the end-user is not invoiced separately for this.

The Authority may issue regulations on carrier pre-selection and carrier selection using a prefix.

*§4-12. Minimum offering of transmission capacity*

A provider with significant market power in all or parts of the laid down minimum offering of transmission capacity shall offer such transmission capacity to other providers.

The offering shall be offered on non-discriminatory terms and at cost-oriented prices.

A provider as in the first paragraph shall prepare and publish terms of supply for the minimum offering. The Authority may make exceptions to the requirement for publication should it appear unreasonable.

The Authority may issue regulations on transmission capacity, including laying down the extent and content of the minimum offering.

## **Chapter 5. Universal services obligations and special social obligations**

*§5-1. Universal services obligations*

The Authority may enter into contract with or nominate by directive one or more providers of electronic communications networks and services to secure provision of the following universal services obligations.

1. access to public telephone services and digital electronic communications networks throughout the country
2. public pay telephones
3. number information services
4. telephone directories
5. special services for the handicapped and other end users with special needs.

The Authority may impose detailed requirements regarding the content of the obligations in accordance with the first paragraph, inter alia on prices to end users, geographic unit prices, quality requirements of the services, monitoring of quality and information.

The Authority may issue regulations on obligatory supply services.

*§5-2. Financing of universal services obligations*

When a provider in accordance with § 5-1 incurs an unreasonable burden through providing universal services obligations and the provider so requests, the costs may be met by a financing fund. Together with the requirement for costs to be met the provider must forward a statement of the net costs connected to the obligatory supply services.

The Authority may direct the provider to contribute to financing a financing fund.

Competitive tendering shall be carried out if universal services obligations are financed through a financing fund.

The Authority may issue regulations on statements of costs related to offering universal services obligations, a financing fund and obligations for providers of electronic communications networks and services to contribute to a financing fund or in another way to share the costs of offering universal services obligations.

*§5-3. Special social obligations*

The Authority may enter into contract with or nominate by directive one or more providers of electronic communications networks and services to secure provision of the following special social obligations:

1. outputs to the emergency and safety service (the coastal radio) to cover those tasks within the coastal radio's area of coverage that Norway has undertaken through international agreements
2. services in connection with Svalbard.

Additional costs of contracts or directives in accordance with this section shall be met by the government.

The Authority may issue regulations on special social obligations in accordance with the first paragraph.

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## 14) DENMARK

Statute: Act on Competitive Conditions and Consumer Interests in the Telecommunications Market (Consolidated Act No. 661 of 10 July 2003)

Citation: Lov om ændring af lov om konkurrence- og forbrugerforhold på telemarkedet med flere love

Source: National IT and Telecom Agency / Ministry of Science, Technology and Innovation  
IT- og Telestyrelsen  
Ministeriet for Videnskab, Teknologi og Udvikling

Hyperlink: <http://www.itst.dk/image.asp?page=image&objno=140840177>

## **Chapter I**

### **Purpose and scope of the Act**

#### **PART 1**

##### *Purpose of the Act*

**1.-(1)** The purpose of this Act is:

1) to promote the establishment of a well-working, competitive market for provision of electronic communications networks or services and associated facilities, which enables end-users:

a) to choose freely the provider(s) of electronic communications networks or services under whom they want to be customers,

b) to communicate with all other end-users, whether or not these are customers under the same provider or another provider,

c) to have access to all providers of various information and content services via electronic communications networks,

d) to compose freely their usage of electronic communications networks and services as well as information and content services, whether or not these are delivered by several different providers of networks or services, and

e) to retain their subscriber numbers when changing between providers of electronic communications networks or services,

2) to ensure all end-users who wish so access to a number of basic USO2 services on reasonable terms and at reasonable prices, and

3) to ensure a number of basic user rights for end-users in connection with agreements on delivery of electronic communications networks or services with providers of electronic communications networks or services.

(2) With the aim of realizing the objectives stated in subsection (1), the purpose of this Act in regulating numbering matters is:

1) to ensure effective use of the numbering resources of the overall Danish numbering plan for the benefit of end-users,

2) to promote call capabilities between electronic communications networks or services both in Denmark and abroad through the use of common and coordinated numbering and addressing plans,

3) to ensure correct routing within the overall Danish numbering plan and the European numbering area, and

4) to ensure all providers of electronic communications networks or services a transparent and non-discriminatory framework for access to numbers, number series and addresses in the overall Danish numbering plan.

(3) With the aim of realizing the objectives mentioned in subsection (1), the purpose of this Act in regulating the establishment or modification of interconnection agreements and the obligations included therein, which may be imposed, via decisions, on providers with significant market power in a given submarket or on providers controlling the only existing access to one or more end-users, is:

1) to ensure all providers of electronic communications networks or services real and nondiscriminatory opportunities to negotiate interconnection agreements with providers with significant market power in one or more relevant submarkets on various forms of interconnection,

2) to ensure all providers of electronic communications networks or services real and nondiscriminatory opportunities to negotiate agreements with the aim of allowing number portability, including agreements to transfer subscriber numbers between providers, agreements with the aim of ensuring correct routing, and the possible use of a common database with ported subscriber numbers for this purpose etc.,

3) through price regulation of interconnection products, where a provider, due to lack of effective competition, might sustain prices at an excessively high level, or apply a price squeeze, to the detriment of end-users:

a) to ensure that providers without significant market power can obtain a real competitive margin in all areas where this is possible,

b) to ensure that prices for this will not be burdened with outdated technology, bad investments, inefficient operation etc. at the provider of electronic communications networks or services who is obliged to provide interconnection,

c) to support innovative investments in a wide sense throughout the market,

d) to support an environment where new infrastructure investments are made on the basis of forward-looking technology choices that will promote a coordinated and optimal infrastructure development, and

e) to promote capacity-oriented investments to the extent that it has been demonstrated that an unfilled need for infrastructure will arise, and that the pressure of competition and demand will not be sufficient to ensure the necessary expansion, and

4) to ensure a balanced competition between service and infrastructure providers that will not inhibit the necessary infrastructure investments.

2. The Act shall apply to providers of electronic communications networks or services, owners of electronic communications networks, providers of payphones, providers of number information databases and registers, providers of information and content services, providers of conditional access services and holders of industrial property rights to conditional access products and systems.

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## 15) SPAIN

Statute: General Telecommunications Law

Citation: Ley 32/2003, de 3 de noviembre, General de Telecomunicaciones.

Source: State's Secretary for Telecommunications and Information Society

La Secretaría de Estado de Telecomunicaciones y para la Sociedad de la Información /Ministerio de Industria, Turismo y Comercio.

Sections: S.1, S.2, S.3, S.22, S.33, and S.34

Hyperlink: [http://www.setsi.mityc.es/legisla/teleco/lqt32\\_03/indice.htm](http://www.setsi.mityc.es/legisla/teleco/lqt32_03/indice.htm)

### **Section 1. Object of the act**

1. The object of this act is to regulate telecommunications, which includes network exploitation and the provision of electronic communication services and related resources, in observance of section 149.1.21.a of the Constitution.

(...)

### **Section 2. Telecommunications as services of general interest.**

1. Telecommunications are services of general interest that are provided under a free competition system.

2. Only the services regulated in section 4 and in part III of this act are considered public services or are under the obligations stated for public services.

The purpose of the imposition of public service obligations is to achieve the objectives stated on section 3 of this act and these obligations can be imposed on the operators who have public domain occupancy rights or private property occupancy rights, radio electric public domain use rights, or who are considered to be operators that hold a significant power in a specific reference market.

### **Section 3. Objectives and principle of the act**

The following objectives and principles apply in this Act:

a) To promote effective competition in the telecommunications market and, in particular, in the network exploitation and in the provision of electronic communication services and in the supply of their related resources. This will be done by promoting an efficient infrastructure investment and by promoting innovation.

b) To guarantee the observance of the mentioned conditions and the obligations related to public service in the network exploitation and the provision of electronic communication services, in particular concerning universal service.

c) To promote the development of the telecommunications sector, and the use of novel services and the network deployment, and their access, all these under equality terms, and to promote the territorial, economical, and social cohesion.

d) To achieve an effective use of the limited telecommunications resources, like the number assignment and the radio electric spectrum, and the proper protection of the latter, and the access to public domain and private property occupancy rights.

e) To protect the users' interests, granting their right to access to electronic communications services under proper conditions of choice, price, and quality, and to safeguard, during their provision, the observance of the constitutional requirements, in particular, the requirement of no discrimination, the observance of the rights to honor, to privacy, to private information protection and communications secret, to youth and childhood protection, and the observance of minority groups' needs, such as disabled persons. For this, obligations can be required to service operators for guaranteeing the above-mentioned rights.

f) To promote, so far as it appears possible, technology neutrality during regulation.

g) To promote the development of the telecommunications product industry and the telecommunications service industry.

h) To contribute towards the development of the electronic communications service internal market in the European Union.

(...)

## **PART 2. THE UNIVERSAL SERVICE**

### **Section 22. Concept and scope**

1. Universal service means the clearly-defined group of services whose provision is guaranteed to all end users no matter their geographical position, with a certain quality and a reasonable price.

Taking into consideration the above-mentioned concept of universal service, it must be guaranteed, under the terms and conditions regulated by the Government

a) That all end users can obtain a public telephone network connection from a designated location and that they can access to the provision of telephone

service available to public, provided that their applications are considered to be reasonable with regard to the regulated terms. The connection should offer the final user the possibility of making and receiving phone calls, and it should allow fax communications and data communications in a proper speed for accessing internet in a functional fashion.

b) That registered users to telephone service available to public can access to a printed or electronic phone book of registered users' phone numbers, or to both sort of phone book, and that this phone book is updated at least once a year. In addition, a general information service that provides the phone number of registered users must be available to all end users of the above-mentioned service, as well as to all users of paid public telephones. All registered users to the telephone service available to public have the right to appear in the above-mentioned phone book; however, private information protection and privacy regulations must be observed.

c) That there is enough supply of paid public telephones in all the national territory that reasonably observes the end users' needs, taking into consideration geographical distribution, number of equipment, accessibility to this equipments by disabled users, and quality of the service, and that it is possible to make emergency phone calls free of charge from the paid public telephones without being required to use any form of pay, using the unique emergency phone number 112 and other Spanish emergency numbers.

d) That disabled end users have access to the telephone service available to public from a designated location and to the others features of the universal service mentioned in this section under similar conditions to those offers to others end users.

e) Que, cuando así se establezca reglamentariamente, se ofrezcan a los consumidores que sean personas físicas, de acuerdo con condiciones transparentes, públicas y no discriminatorias, opciones o paquetes de tarifas que difieran de las aplicadas en condiciones normales de explotación comercial, con objeto de garantizar, en particular, que las personas con necesidades sociales especiales puedan tener acceso al servicio telefónico disponible al público o hacer uso de éste.

f) Que se apliquen, cuando proceda, opciones tarifarias especiales o limitaciones de precios, tarifas comunes, equiparación geográfica u otros regímenes similares, de acuerdo con condiciones transparentes, públicas y no discriminatorias.

2. Reglamentariamente se podrán adoptar medidas a fin de garantizar que los usuarios finales con discapacidad también puedan beneficiarse de la capacidad de elección de operadores de que disfruta la mayoría de los usuarios finales. Asimismo, podrán establecerse sistemas de ayuda directa a los consumidores que sean personas físicas con rentas bajas o con necesidades sociales especiales.

(...)

### **Artículo 33. Secreto de las comunicaciones.**

Los operadores que exploten redes públicas de comunicaciones electrónicas o que presten servicios de comunicaciones electrónicas disponibles al público deberán garantizar el secreto de las comunicaciones de conformidad con los artículos 18.3 y 55.2 de la Constitución, debiendo adoptar las medidas técnicas necesarias.

Asimismo, los operadores deberán adoptar a su costa las medidas que se establezcan reglamentariamente para la ejecución de las interceptaciones dispuestas conforme a lo establecido en el artículo 579 de la Ley de Enjuiciamiento Criminal y en la Ley Orgánica 2/2002, de 6 de mayo, reguladora del control judicial previo del Centro Nacional de Inteligencia.

### **Artículo 34. Protección de los datos de carácter personal.**

Sin perjuicio de lo previsto en el apartado 6 del artículo 4 y en el segundo párrafo del artículo anterior, así como en la restante normativa específica aplicable, los operadores que exploten redes públicas de comunicaciones electrónicas o que presten servicios de comunicaciones electrónicas disponibles al público deberán garantizar, en el ejercicio de su actividad, la protección de los datos de carácter personal conforme a la legislación vigente.

Los operadores a los que se refiere el párrafo anterior deberán adoptar las medidas técnicas y de gestión adecuadas para preservar la seguridad en la explotación de su red o en la prestación de sus servicios, con el fin de garantizar los niveles de protección de los datos de carácter personal que sean exigidos por la normativa de desarrollo de esta ley en esta materia. En caso de que exista un riesgo particular de violación de la seguridad de la red pública de comunicaciones electrónicas, el operador que explote dicha red o preste el servicio de comunicaciones electrónicas informará a los abonados sobre dicho riesgo y sobre las medidas a adoptar.

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## **16) PORTUGAL**

Statute: Law no. 5/2004, of 10 of February (Electronic Communications Law)

Citation: Lei no. 5/2004, de 10 de Fevereiro (Lei das Comunicações Electrónicas - Regicom)

Sections: Article 1; Article 2; Article 4; Article 5

Source: National Communications Agency – ANACOM  
Agência Nacional de Comunicação

Hyperlink: <http://www.icp.pt/template20.jsp?categoryId=105319&contentId=180332>

## **TITLE I General Part**

### **Article 1 Subject**

The present law establishes the legal regime applicable to the electronic communications networks and services and associated services and defines the assignments of the national regulatory authority in this field, in the scope of the transposition of Directives nos. 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC, all of the European Parliament and of the Council of 7 March 2002, and of Directive 2002/77/EC of the Council of 16 September.

### **Article 2 Scope**

1 – The following are outside the scope of application of this law:

- a) The information society services, defined in Decree-Law no. 58/2000 of 18 April, which do not consist wholly or mainly in the conveyance of signals on electronic communications networks;
- b) Services providing, or exercising editorial control over, content transmitted using electronic communications networks and services, including audio-text services;
- c) The private networks of the Ministry of National Defence or those under the responsibility thereof or of the security and emergency forces and services, which are ruled by specific legislation;
- d) The computer network of the Government, managed by the Government Computer Network Management Centre (CEGER), as well as networks created in order to pursue the aims provided for in paragraph 1 of article 1 of Decree-Law no. 184/98 of 6 July.

2 – The provisions of this law do not affect:

- a) The regime of free circulation, placing on the market and putting into service of radio equipment and telecommunications terminal equipment, as well as the regime of the respective conformity assessment and marking procedures, approved by Decree-Law no. 192/2000 of 18 August;
- b) The regime of installation of telecommunication infrastructures in buildings, provided for in Decree-Law no. 59/2000 of 19 April;
- c) The regime applicable to radiocommunications networks and stations, provided for in Decree-Law no. 151-A/2000 of 20 July;
- d) The regime applicable to the use of the Personal Radio Service – Citizen’s Band (SRP-CB), provided for in Decree-Law no. 47/2000 of 24 March;
- e) The legal regime applicable to radio amateurs.

3 - The provisions of this law do not affect the measures adopted at Community or national level, undertaken in pursuit of general interest objectives, specially those related to content regulation and audiovisual policy.

4 - The provisions of this law do not affect the measures adopted at Community or national level, undertaken in pursuit of public security and policy objectives, namely regarding the rail sector and the road sector.

(...)

## **TITLE II**

### **National regulatory authority and regulatory principles**

#### **CHAPTER I**

#### **General Provisions and regulatory principles**

#### **Article 4**

#### **National regulatory authority**

1 - It is incumbent upon the NRA to perform the regulatory, supervising, monitoring and sanctionary functions provided for in the present law, in accordance with the assignments thereof.

2 - The statutes of the NRA ensure:

- a) The independence as an organic and financial entity, functionally separated from the Government, and endowed with the necessary means for the pursue of the functions thereof;
- b) The independence as an organic and financial entity, functionally separated from undertakings providing electronic communications networks and services, as well as equipment;
- c) The effective separation of the regulatory function from powers associated with the ownership or control of undertakings of the sector upon which the State retains ownership or control.

## **Article 5**

### **Regulatory objectives**

1 – The following purposes shall be deemed as regulatory objectives of electronic communications, to be pursued by the NRA:

- a) To promote competition in the provision of electronic communications networks, electronic communications services and associated facilities and services;
- b) To contribute to the development of the internal market of the European Union;
- c) To promote the interests of citizens, pursuant to the present law.

2 – For the purposes of the provision in point a) of the preceding paragraph, it is incumbent upon the NRA, namely:

- a) To ensure that users, including disabled users, derive maximum benefit in terms of choice, price, and quality;
- b) To ensure that there is no distortion or restriction of competition in the electronic communications sector;
- c) To encourage efficient investment in infrastructure, and to promote innovation;
- d) To stimulate efficient use and to ensure the effective management of radio frequencies and numbering resources.

3 - For the purposes of the provision in point b) of paragraph 1, it is incumbent upon the NRA, namely:

- a) To remove remaining obstacles to the provision of electronic communications networks, associated facilities and services and electronic communications services at European level;
- b) To encourage the establishment and development of trans-European networks and the interoperability of pan-European services, and end-to-end connectivity;
- c) To ensure that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services;
- d) To cooperate with the Commission and other communications regulatory authorities of Member States of the European Union in a transparent manner, in order to ensure the development of a regulatory practice and the consistent application of the common regulatory package framework for electronic communications networks and services.

4 - For the purposes of the provision in point c) of paragraph 1, it is incumbent upon the NRA, namely:

- a) To ensure that all citizens have access to a universal service defined in the present law;
- b) To ensure a high level of protection for consumers in their dealings with suppliers, in particular via the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved;
- c) To contribute to ensuring a high level of protection of personal data and privacy;
- d) To promote the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services;
- e) To address the needs of specific social groups, in particular disabled users;
- f) To ensure that the integrity and security of public communications networks are maintained.

5 - All decisions and measures taken by the NRA shall be reasonable and proportionate to the regulatory objectives established in the present article.

6 - It is incumbent upon the NRA to adopt all the necessary, reasonable and proportionate measures to ensure that any undertaking is entitled to provide electronic communications services or to establish, extend or provide electronic communications networks.

7 - The decisions and measures taken by the NRA shall be grounded at all times in the light of the provisions of the preceding paragraphs.

8 - In carrying out the regulatory tasks specified in this law, in particular those designed to ensure effective competition, and without prejudice to the adoption of adequate measures for the promotion of specific services, where appropriate for the pursuing of regulatory objectives stipulated in this article, the NRA shall take the utmost account of the desirability of making regulations technologically neutral.

9 - The NRA may contribute, within the assignments thereof, to ensure the implementation of policies aimed at the promotion of cultural and linguistic diversity, as well as pluralism, in particular of the media.

10 - In pursuing the respective assignments, all public entities and authorities shall contribute also to achieving the regulatory objectives of electronic communications.

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## 17) FINLAND

Statute: Communications Market Act, of May 2003, 2003

Citation: idem

Source: Ministry of Transport and Communications

Sections: S.1, S.8, S.19, S.20 S.128, S.129

Hyperlink: [http://www.mintc.fi/www/sivut/dokumentit/viestinta/tavoite/CommunicationsMarketAct\\_upto518\\_2004.pdf](http://www.mintc.fi/www/sivut/dokumentit/viestinta/tavoite/CommunicationsMarketAct_upto518_2004.pdf)

## Chapter 1

### **General provisions**

#### Section 1

##### *Objectives of the Act*

The objectives of the Act are to promote the provision and use of services within communications networks and to ensure that communications networks and communications services are available under reasonable conditions to all telecommunications operators and users throughout the country. A further objective of the Act is to ensure that the opportunities available for telecommunications in Finland accord with the reasonable needs of users and that they are competitive technologically advanced, of high quality, reliable and safe, and inexpensive.

#### Section 18

##### *Obligations imposed on an operator with significant market power*

(1) By issuing a decision accordingly, the Finnish Communications Regulatory Authority shall impose on an operator with significant market power those obligations referred to in subsection 2 that are needed to eliminate barriers to competition or to promote competition. The obligations shall be in correct proportion to the aim being addressed. In imposing an obligation, the following in particular shall be taken into account:

- 1) the appropriateness of access rights in technical and economic terms, taking into account the degree of development of the markets and the type of access rights;
- 2) feasibility of the access rights, taking into account the capacity available;
- 3) the requirements concerning protection of privacy and information security;
- 4) the investment made and risks taken by the operator with significant market power;
- 5) the need to safeguard competition in the long term;
- 6) relevant industrial property rights and copyrights;
- 7) the provision of services at European level.

(2) Subject to the requirements and terms laid down below in this Act, an operator with

significant market power may be obliged to:

- 1) relinquish access rights to a mobile network as laid down in section 23;
- 2) lease out part of a local loop and equipment facilities as laid down in section 24;
- 3) rent a leased line as laid down in section 25;
- 4) lease out an antenna site and part of a cable duct as laid down in section 26;
- 5) relinquish cable television network capacity as laid down in section 27;
- 6) lease out part of a terrestrial mass communications network as laid down in section 28;
- 7) relinquish capacity in a terrestrial mass communications network as laid down in section 29;
- 8) relinquish access rights to smart card capacity as laid down in section 30;
- 9) relinquish access rights to an electronic programme guide as laid down in section 31;
- 10) relinquish access rights to a programming interface for a television or radio system as laid down in section 32;
- 11) publish delivery terms and tariff information as laid down in section 33;
- 12) organize national roaming as laid down in section 34;
- 13) organize international roaming as laid down in section 36;
- 14) comply with the provisions laid down in section 37 concerning pricing and other terms;
- 15) join a communications network to another communications network as laid down in section 39;
- 16) provide pre-selection for international calls in a mobile network as laid down in section 62;
- 17) use cost-accounting procedures as laid down in section 87;
- 18) separate its activities as laid down in section 89.

(3) The Finnish Communications Regulatory Authority shall amend a decision referred to in subsection 1 if significant changes occur in the matters referred to in that subsection or in the competitive situation in the markets.

## Section 19

### *Obligations imposed on other telecommunications operators*

(1) By decision, the Finnish Communications Regulatory Authority may impose special obligations consistent with this Act on telecommunication operators that do not have significant market power.

(2) Subject to the requirements and terms laid down below in this Act, a telecommunications operator may be obliged to:

- 1) lease out part of a local loop and equipment facilities as laid down in section 24;
- 2) lease out an antenna site and part of a cable duct as laid down in section 26;

- 3) relinquish access rights to an electronic programme guide as laid down in section 31;
- 4) relinquish access rights to a programming interface for a television or radio system as laid down in section 32;
- 5) publish delivery terms and tariff information as laid down in section 33;
- 6) comply with the provisions laid down in section 37 concerning pricing and other terms;
- 7) join a communications network to another communications network as laid down in section 39.

(3) The Finnish Communications Regulatory Authority shall amend a decision referred to in subsection 1 if significant changes occur in the circumstances that required the obligation to be imposed.

## Section 20

### *Obligations imposed on a telecommunications operator in a retail market*

(1) If the Finnish Communications Regulatory Authority, following a market analysis, finds that no competition exists in that defined retail market and that the obligations referred to in section 18 imposed on an operator with significant market power in the wholesale market do not sufficiently promote competition in the retail market, but that the imposition of additional obligations is necessary to secure efficient competition, the Finnish Communications Regulatory Authority shall impose, by decision and where necessary, additional obligations referred to in subsection 2 on the retail market operator with significant market power.

(2) In order to achieve the aim referred to in subsection 1, the Finnish Communications Regulatory Authority may order that an operator with significant market power operating in a retail market:

- 1) may not charge unreasonable prices;
  - 2) may not prevent access to the market or restrict competition by unjustifiably low pricing;
  - 3) may not favour certain service recipients in a unwarranted manner;
  - 4) may not tie a specific product or service to other products or services.
- (3) Any additional obligation imposed shall be in correct proportion to the aim being addressed.
- (4) The Finnish Communications Regulatory Authority shall amend a decision referred to in subsection 1 if there are significant changes in the competitive situation in the market.

(...)

## Chapter 13

### **General provisions on communications networks and communications services**

#### Section 128

*Quality requirements for communications networks and communications services*

Public communications networks and communications services and the communications networks and communications services connected to them shall be planned, built and maintained in such a manner that:

- 1) the technical quality of telecommunications is of a high standard;
  - 2) the networks and services withstand normal, foreseeable climatic, mechanical, electromagnetic and other external interference;
  - 3) they function as reliably as possible even in the exceptional circumstances referred to in the Emergency Powers Act and in disruptive situations under normal circumstances;
  - 4) the protection of privacy, information security and other rights of users and other persons are not endangered;
  - 5) the health and assets of users or other persons are not put at risk;
  - 6) the networks and services do not cause unreasonable electromagnetic or other interference;
  - 7) they function together and can, if necessary, be connected to another communications network;
  - 8) terminal equipment meeting the requirements of the Radio Act can, if necessary, be connected to them;
  - 9) they are, if necessary, compatible with a television receiver that meets the requirements of this Act;
  - 10) their debiting is reliable and accurate;
  - 11) access to emergency services is secured as reliably as possible even in the event of network disruptions;
  - 12) a telecommunications operator is also otherwise able to meet the obligations it has or those imposed under this Act.
- (2) A telecommunications operator shall immediately notify the Finnish Communications Regulatory Authority of a possible significant fault or disruption in the communications network or service.

Section 129

*Orders on communications networks and communications services*

The Finnish Communications Regulatory Authority may issue orders on the quality requirements and interoperability of communications networks and communications services as referred to in section 128. The orders may cover:

- 1) electronic and physical protection of a communications network;
- 2) the structure of a communications network;
- 3) the performance capacity of a communications network and communications service;
- 4) interconnection, interoperability and signalling;
- 5) the technical characteristics of communications network termination points;
- 6) physical protection of the equipment facilities for a communications network;
- 7) the technical characteristics of a cable television network, antenna system and community aerial system;

- 8) digital communications network synchronization;
  - 9) the technical characteristics of a local loop;
  - 10) communications network security and minimizing interference;
  - 11) the technical characteristics of a television network that receives wide-screen television services and wide-screen television programmes;
  - 12) the content and structure of the opening page of an electronic programme guide;
  - 13) procedures in the event of faults and interference;
  - 14) the technical aspects of debiting;
  - 15) services provided for users;
  - 16) performance maintenance and monitoring and network management;
  - 17) technical documentation;
  - 18) power supply, priority rating, ensuring maintenance of integrity and redundancy routes;
  - 19) routing and ensuring emergency traffic;
  - 20) standards to be complied with;
  - 21) other comparable technical requirements set for a communications network or communications service.
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## **18) HUNGARY**

Statute: Act of 2003 on Electronic Communications

Citation: 2003. évi C. törvény az elektronikus hírközlésről

Source: Ministry of Informatics and Communications  
Informatikai és Hírközlési Minisztérium

Sections: Part One. General Provisions. Chapter 1. The Scope, Objectives and Basic Principles of the Act. Article 2.

Hyperlink: [http://en.ihm.gov.hu/data/25087/eht\\_eng.pdf](http://en.ihm.gov.hu/data/25087/eht_eng.pdf)

### *Article 2*

The objectives and basic principles of this Act:

a) establishment of a reliable and transparent regulatory framework that facilitates the development of the electronic communications infrastructure of the information society and the promotion of services and new technologies related to it, enhancing competition regardless of the technology applied;

- b) protection of consumers' interests in their relationship with all players of the electronic communications market, ensuring, in particular, that
- ba) all communication services be available to consumers required for them to have access to all information and content provided by content providers accessible through means of electronic communications, subject to authorisations;
  - bb) consumers be able to have a free choice of electronic communications networks, electronic communications service providers (hereinafter: service providers) and services, and be able to decide which network, service provider or service to use;
  - bc) consumers be able to communicate with other consumers by way of electronic communications irrespective of the fact whether such consumers have a contractual relationship with the same, or other service providers;
  - bd) consumers be able to choose freely between the service providers and services used, irrespective of the service providers;
  - be) consumers be able to use electronic communications services under publicly available, defined and equitable terms and conditions disclosed to the public, for the lowest price and at the highest quality;
  - bf) consumers be able to receive reliable, transparent and up-to-date information concerning the features of electronic communications services and the conditions concerning their use;
  - bg) consumers be able to have access to high quality protection in their disputes with service providers in order to settle such disputes simply and quickly;
- c) provision of universal access to high quality and efficient electronic communications services defined in accordance with the interests of the entire society;
- d) greater consideration of the needs of certain social groups, in particular the disabled and low-income users;
- e) elimination of factors that distort or restrict competition in the unifying electronic communications market, and enhancement of the further development of efficient competition;
- f) creation of a legal and economic environment to ensure the freedom, rights, obligations, equal opportunities for and the enforcement of the interests of market players, and granting access to the markets for new market players, as well as counterbalancing – in a differentiated manner – the influence of those with significant market power to the extent necessary for the evolution and maintenance of efficient market competition so that market actors pursue their activities in compliance with the norms of fair play, giving due respect to their competitors' interests;
- g) safeguarding the undisturbed and successful operation of the electronic communications market and the interests of those pursuing electronic communications activities and those using it, and maintenance of fair and efficient competition;
- h) provision of procedures and services enforcing the principle of equal treatment in the unifying electronic communications markets by supervising the behaviour of organizations and persons pursuing electronic communications activity;

- i) facilitating and implementing data protection measures in connection with electronic communications;
- j) enforcement of environmental protection measures in respect of electronic communications;
- k) maintenance of the integrity and safety of the public electronic communications networks;
- l) efficient management of radio frequencies and identifiers;
- m) facilitating the use of radio frequencies exempt from harmful interference;
- n) ensuring free trade of electronic communications services in accordance with the international treaties of the Republic of Hungary and the fulfilment of the international commitments of the Republic of Hungary, including the provision of cross-border services at the lowest possible price;
- o) integration of the Hungarian electronic communications markets into the unifying electronic communications market of the European Community, with special regard to the establishment and development of trans-European networks, and the promotion of the interoperability of pan-European services and establishing connections from termination point to termination point;
- p) specifying the basic rules and regulations regarding the duties of the state with respect to electronic communications, with special regard to the safety of, and the dangers jeopardising electronic communications and the order for making preparations for state of emergency, martial law or period of jeopardy (hereinafter jointly referred to as qualified period).