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# Electronic Communications Act<sup>1</sup>

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Amended by the following acts

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15.12.2005	RT I 2005, 71, 545	01.01.2006
11.05.2006	RT I 2006, 25, 187	02.06.2006
14.06.2006	RT I 2006, 31, 234	16.07.2006
07.12.2006	RT I 2006, 58, 439	01.01.2007
21.12.2006	RT I 2007, 3, 12	17.01.2007
24.01.2007	RT I 2007, 12, 64	20.07.2007
24.01.2007	RT I 2007, 12, 66	01.01.2008
24.01.2007	RT I 2007, 15, 76	01.05.2007
25.01.2007	RT I 2007, 16, 77	01.01.2008
15.11.2007	RT I 2007, 63, 397	17.12.2007
15.11.2007	RT I 2007, 63, 397	01.01.2008, subsection 111 <sup>1</sup> (3) enters into force on 15.03.2009
15.11.2007	RT I 2007, 63, 397	01.06.2008
22.11.2007	RT I 2007, 66, 408	01.01.2008
11.06.2008	RT I 2008, 28, 181	13.07.2008
11.06.2008	RT I 2008, 28, 181	01.01.2009
15.06.2009	RT I 2009, 37, 252	10.07.2009
15.06.2009	RT I 2009, 39, 262	24.07.2009
30.09.2009	RT I 2009, 49, 331	01.01.2010
26.11.2009	RT I 2009, 62, 405	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24 - 26).
20.05.2010	RT I 2010, 29, 151	20.06.2010
20.05.2010	RT I 2010, 31, 158	01.10.2010
10.06.2010	RT I 2010, 38, 230	10.07.2010, partly 01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning

		of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24 - 26).
16.12.2010	RT I, 06.01.2011, 1	16.01.2011
22.02.2011	RT I, 23.03.2011, 1	25.05.2011, partly 24.03.2011, 01.01.2012 and 01.01.2016
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; entry into force postponed to 01.07.2014 [RT I, 22.12.2013, 1]
08.11.2011	RT I, 29.12.2011, 1	01.01.2012
06.06.2012	RT I, 29.06.2012, 2	09.07.2012, partly 01.01.2013
18.10.2012	RT I, 07.11.2012, 1	08.11.2012
19.06.2013	RT I, 05.07.2013, 1	15.07.2013
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014 Throughout the text of the Act, the words "supervision and organising authorities" are substituted by the words "law enforcement authorities" in the appropriate case form.

## Chapter 1 GENERAL PROVISIONS

### § 1. Purpose and scope of application of Act

(1) The purpose of this Act is to create the necessary conditions for the development of electronic communications to promote the development of electronic communications networks and electronic communications services without giving preference to specific technologies and to ensure the protection of the interests of users of electronic communications services by promoting free competition and the purposeful and just planning, allocation and use of radio frequencies and numbering.

(2) This Act provides requirements for the public electronic communications networks and publicly available electronic communications services, for the use of electronic contact details for direct marketing, for the conduct of radiocommunication, for the management of radio frequencies and numbering and for apparatuses as well as state supervision over the compliance with these requirements and liability for the violation of these requirements.

[RT I 2010, 38, 230 - entry into force 10.07.2010]

(3) This Act does not apply to information society services within the meaning of the Information Society Services Act, unless otherwise provided by this Act.

[RT I 2010, 38, 230 - entry into force 10.07.2010]

(4) The provisions of the Administrative Procedure Act apply to the administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(5) [Repealed - RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force postponed - RT I, 22.12.2013, 1)]

### § 2. Definitions

In this Act, the following definitions are used:

1) **local sub-loop** means the physical circuit connecting the termination point to an intermediate distribution point in a fixed electronic communications network;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

2) **apparatus** means any equipment that is either terminal equipment or radio equipment or both;

3) **putting into service of an apparatus** means an activity which consists in the first intended use of the apparatus in a Member State of the European Economic Area;

4) **placing on the market of an apparatus** means an activity by which the apparatus is made accessible in a Member State of the European Economic Area for the first time either for the purpose of distribution or putting it into service;

4<sup>1</sup>) **electromagnetic compatibility** means the capability of an apparatus to satisfactorily function in an electromagnetic environment without causing electromagnetic interference to other equipment located in that environment;

[RT I 2007, 12, 64 - entry into force 20.07.2007]

4<sup>2</sup>) **unsuccessful call** means an event where connection is established but the call is not answered or an event where connection is not established due to electronic communications network management intervention;  
[RT I 2007, 63, 397 - entry into force 17.12.2007]

5) **electronic communications undertaking** (hereinafter *communications undertaking*) means a person who provides publicly available electronic communications services to the end-user or to another provider of publicly available electronic communications services;

6) **electronic communications service** means a service which consists wholly or mainly in transmission or conveyance of signals over the electronic communications network under the agreed conditions. Network services are also electronic communications services;

7) **user of electronic communications services** (hereinafter *user of communications services*) means a person using publicly available electronic communications services;

8) **electronic communications network** means a transmission system including switching equipment and other support systems for the transmission or conveyance of signals by way of a cable or by radio, optical or other electromagnetic means. Electronic communications networks include also the satellite network, telephone network, data communication network, mobile telephone network, broadcasting network, cable network and electric cable system, if used for the transmission or conveyance of signals, regardless of the nature of information transmitted over such networks;

8<sup>1</sup>) **electronic contact details** mean details, which enable the conveyance of information to a person over electronic communications networks, including by fax, electronic mail, SMS or MMS messages;  
[RT I 2010, 38, 230 - entry into force 10.07.2010]

9) **self-planned radio frequency band** means a radio frequency band the use of which is regulated by the user of radio frequencies in accordance with the conditions established by a frequency authorisation;

9<sup>1</sup>) **shared access to the local loop** means access of a communications undertaking to the local loop or local sub-loop of another communications undertaking, allowing the use of a part of the capacity of the respective electronic communications network infrastructure;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

10) **surveillance equipment** means a system of technical facilities used by a surveillance agency or security authority to restrict the right to the confidentiality of messages;

11) **cable distribution service** means a publicly available electronic communications service which consists in the transmission of television or radio broadcasts or television or radio programmes to end-users for an agreed charge;

12) **cable network** means an electronic communications network which has been created for the provision of cable distribution services;

12<sup>1</sup>) **user ID** means an identifier allocated to the subscriber for the purpose of using an Internet access service or Internet service;  
[RT I 2007, 63, 397 - entry into force 17.12.2007]

13) [Repealed - RT I, 23.03.2011, 1 - entry into force 25.05.2011]

14) **local loop** means the physical circuit connecting the termination point to the main distribution frame or other such facility in a fixed electronic communications network;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

14<sup>1</sup>) **subscriber identity module** means a data medium of which the subscriber is granted use by a communications undertaking and which allows the use of publicly available electronic communications services by means of terminal equipment of a public electronic communications network;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

15) **subscriber** means a person using publicly available electronic communications services who has a contract with a communications undertaking for the use of the publicly available electronic communications services;

16) **interoperability** means the technical and logical compatibility of interconnected public electronic communications networks and similar publicly available electronic communications services provided by means of such networks, or of elements thereof;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

17) **call** means a connection established in the process of providing electronic communications services allowing two-way voice communication;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

18) **call origination** means the transmission of a call from the termination point in the public electronic communications network to the interconnection point;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

18<sup>1</sup>) **call attempt** means a call event where connection has not been established;  
[RT I 2007, 63, 397 - entry into force 17.12.2007]

19) **call termination** means the transmission of a call from the interconnection point to the termination point in the public electronic communications network;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

20) **call transit** means the transmission of a call between two interconnection points;

20<sup>1</sup>) **cell ID** means an identifier which shows from which cell the mobile telephone service has been originated or to which cell it has been terminated;  
[RT I 2007, 63, 397 - entry into force 17.12.2007]

- 21) **broadband service** means an electronic communications service which use requires a broadband connection;
- 22) **broadband connection** means connection to the public electronic communications network which offers a data rate of over 144 kbit/s;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]
- 23) **interface** means a shared boundary point between two functional units which is defined by the relevant functions, physical connection, signal exchange and other similar characteristics;
- 24) **line** means a set of technical facilities which connects the termination point to the access point;
- 25) **line facility** means a part of an electronic communications network permanently attached to subsoil, which includes also underground cables, cables in the bottom of bodies of water, cable conduits or ducts, sets of cables or wires installed on buildings and posts together with switching devices, distribution equipment and cable termination equipment, regenerators, containers for electronic communications equipment and radio masts. Utility networks and constructions within the meaning of the Building Act and the Law of Property Act Implementation Act are also line facilities;
- 26) **subscription contract** means a publicly available electronic communications services contract for the provision of publicly available electronic communications services to the end-user, the content of which is to establish and preserve a necessary connection with the public electronic communications network;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]
- 27) **end-user** means a subscriber who does not provide publicly available electronic communications services;
- 28) **end-to-end connectivity** means connectivity between end-users;
- 29) **short number** means a decimal number consisting of three to six digits which may be used to provide publicly available electronic communications services or to use simplified dialling when accessing a communications undertaking or other addressees, including the emergency service;  
[RT I 2007, 63, 397 - entry into force 17.12.2007]
- 30) **short access code** means a digit or sign or a combination of these which is associated with a number of a subscriber in the Estonian numbering plan and which is used for the provision of publicly available electronic communications services to the subscriber;
- 31) **mobile telephone service** means a publicly available electronic communications service for making and receiving national and international calls at an undetermined location and for access to emergency services by using a number or a short access code associated with a number in the Estonian or international telephone numbering plan for establishing partial or complete radiocommunication;
- 32) **mobile telephone network** means a public electronic communications network without stationary termination points which enables the transmission of calls and complies with the requirements established for the mobile telephone network;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]
- 32<sup>1</sup>) **multiplexer** means a device for the transformation of media services or data communication services into an integral digital data flow which is transmitted to radio transmission equipment;  
[RT I, 06.01.2011, 1 - entry into force 16.01.2011]
- 322) **multiplexing service** means an electronic communications service whereby the owner of a multiplexer transforms media services or data communication services into an integral digital data flow and transmits it by means of radio transmission equipment;  
[RT I, 06.01.2011, 1 - entry into force 16.01.2011]
- 33) **number** means, in accordance with ITU Recommendation E.164, a decimal number used for the provision of publicly available electronic communications services;
- 34) **number portability** means the possibility of a subscriber to preserve a number of which the subscriber has been granted use on the basis of a subscription contract if the subscriber changes the provider of electronic communications services or the geographical location of use of the communications services;
- 35) **numbering** means numbers, short numbers, service numbers, identification codes and access codes determined in the numbering plan;
- 36) **access code** means a sign, digit or combination of digits which is dialled before a certain number or short number;
- 37) **leased line** means a connection for the non-switched transmission of signals between two points in the public electronic communications network;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]
- 38) **leased line service** means a publicly available electronic communications service which consists in grant of use of a leased line to a subscriber;
- 39) **radio interference** means an electromagnetic wave which interferes with the operation of equipment and systems, including navigation equipment, or which otherwise interrupts, prevents or seriously distorts other legitimate radiocommunication or the provision of a media service;  
[RT I, 06.01.2011, 1 - entry into force 16.01.2011]
- 40) **radio transmission equipment** means equipment used for the transmission of signals on a radio frequency channel;
- 41) **radio frequency** means the oscillation frequency of an electromagnetic wave freely propagating in open space in the frequency range from 9 kHz to 3000 GHz;
- 42) **radio frequency band** means a radio frequency range determined for a certain use in the Radio Regulations annexed to the Constitution and Convention of the International Telecommunications Union and in the Estonian radio frequency allocation plan;
- 43) **radio frequency channel** means a part of a radio frequency band which is necessary for the transmission of signals by means of radio transmission equipment and which is defined by the centre frequency and bandwidth or by the edge frequencies;

44) **radio equipment** means technical equipment or a component thereof which, for the purposes of information exchange, is capable of radiating or receiving electromagnetic waves propagating at radio frequencies allocated for radiocommunication;

45) **radiocommunication** means the establishment of a connection and the transmission of signals for the purpose of communication of information, in which electromagnetic waves propagating in open space are used as the information carrier;

46) **radio receiving equipment** means equipment used for the receipt of signals on a radio frequency channel;

46<sup>1</sup>) **roaming service** means a publicly available electronic communications service by which the provider of mobile telephone services allows its subscriber to use mobile telephone services in another mobile telephone network;

[RT I 2007, 63, 397 - entry into force 17.12.2007]

46<sup>2</sup>) **international code of mobile communications terminal equipment** (hereinafter *terminal equipment identity code*) means a unique electronic code of mobile telephone network terminal equipment containing information about the equipment manufacturer, model and serial number;

[RT I 2009, 37, 252 - entry into force 10.07.2009]

46<sup>3</sup>) **broadcasting network** means a public electronic communications network created for the provision of media services;

[RT I, 06.01.2011, 1 - entry into force 16.01.2011]

47) **equipment class** means a common denominator for equipment having defined, characteristic and uniform technical specifications and purpose, manner and possibilities of use. An apparatus may belong to more than one equipment class;

47<sup>1</sup>) **associated service** means such service associated with an electronic communications network or with the provision of electronic communications services which enables or supports the provision of electronic communications services by means of the specified network or service. Associated services include also number translation, conditional access system and electronic programme guide as well as identity, location and presence services;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

47<sup>2</sup>) **associated facility** means those associated services, physical infrastructures and other facilities or elements associated with an electronic communications network or electronic communications services which enable or support the provision of services by means of that network or services or have the potential to do so. Associated facilities include also buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes and cabinets;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

48) **restriction of provision of communications services** means partial or full restriction or suspension, pursuant to law or a publicly available electronic communications services contract, of provision or use of publicly available electronic communications services without cancellation of the publicly available electronic communications services contract;

49) [Repealed - RT I, 23.03.2011, 1 - entry into force 25.05.2011]

50) [Repealed - RT I, 23.03.2011, 1 - entry into force 25.05.2011]

51) **interconnection line** means a leased line used for interconnection which passes through the interconnection point;

52) **interconnection point** means a point in a public electronic communications network which is used for interconnection of public electronic communications networks and ensures interoperability of the public electronic communications networks and provided communications services;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

53) **message** means a set of signals transmitted over the public electronic communications network between the sender and recipient;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

54) **intelligent network service** means a service which is controlled by a computer system connected to a telephone exchange;

55) **consumer** means an end-user who is a natural person and who mainly does not use electronic communications services in his or her economic or professional activities;

56) **interception of information** means procuring information concerning users of radio frequencies and concerning the data transmitted by users of radio frequencies;

57) **telephone exchange** means a set of technical facilities which enables the switching of calls;

58) **telephone service** means a publicly available electronic communications service for making and receiving national and international calls by using a number in the Estonian or international numbering plan;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

59) **telephone network** means a public electronic communications network which is used for the provision of telephone services and which enables the making of calls between the termination points in the public electronic communications network;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

60) **terminal equipment** means technical equipment or a part thereof which, connected at the access point, enables to send, process or receive calls or transmit data;

61) **conditional access** means a set of technical facilities, which enables the use of radio or television services only after the performance of certain acts whereby the person subscribing for the service undertakes to pay for the service;

62) **identification code** means a combination of digits which is used to organise the use of a public electronic communications network or its parts and to distinguish a communications undertaking upon the provision of communications services;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

62<sup>1</sup>) **full access to the local loop** means access of a communications undertaking to the local loop or local sub-loop of another communications undertaking allowing the use of full capacity of the respective electronic communications network infrastructure;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

63) [Repealed - RT I, 23.03.2011, 1 - entry into force 25.05.2011]

64) **virtual network service** means a publicly available electronic communications service provided by a communications undertaking which is based on a virtual connection or facility established in the public electronic communications network of another communications undertaking;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

65) [Repealed - RT I 2007, 63, 397 - entry into force 17.12.2007]

66) **network service** means an electronic communications service which consists in the creation and management of an electronic communications network and grant of use thereof, in full or in part, to other communications undertakings for provision of electronic communications services;

67) **access point** means the point where the terminal equipment of the subscriber is connected to a line;

68) **publicly available electronic communications service** (hereinafter *communications service*) means a service provided by a communications undertaking on the respective communications services market pursuant to the general procedure to all persons, and the persons need not meet any conditions differentiating them from other similar persons. A service is publicly available particularly if provision of the service is continuous and consistent and it is provided essentially under uniform conditions;

69) **publicly available electronic communications services contract** (hereinafter *communications services contract*) means a contract on the basis of which a communications undertaking provides communications services to a subscriber;

70) **termination point in the public electronic communications network** (hereinafter *termination point*) means a physically defined point in the public electronic communications network, where subscribers are provided or can be provided with access to the public electronic communications network;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

71) **public electronic communications network** (hereinafter *communications network*) means a network over which publicly available electronic communications services are provided and which enables the transmission of information between the termination points in the electronic communications network.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## Chapter 2

### ENTRY INTO MARKET

#### § 3. Commencement of provision of communications services and conditions for operation on communications services market

(1) Subject to the provisions of subsections (2) and (3) of this section, each person has the right to commence the provision of communications services.

(2) If a person wishes to commence the provision of communications services, the person must be entered as an undertaking in the commercial register or in the non-profit associations and foundations register or must have registered its branch in the commercial register and must notify the Technical Surveillance Authority of the provision of communications services in accordance with the provisions of § 4 of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) If provision of communications services requires that radio frequencies are used pursuant to a frequency authorisation or that numbering is used pursuant to a numbering authorisation, the person must hold a frequency authorisation to use radio frequencies in accordance with the provisions of § 11 of this Act or a numbering authorisation to use numbering in accordance with the provisions of § 33 of this Act.

#### § 4. Notification obligation

(1) A notice of economic activities must be submitted for the provision of communications services.

(2) A notice of economic activities shall set out, in addition to the provisions of the General Part of the Economic Activities Code Act, a description of the provided communications service.

[RT I, 25.03.2011, 1 - entry into force 01.07.2014; entry into force postponed - RT I, 22.12.2013, 1]

§ 5. [Repealed - RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force postponed - RT I, 22.12.2013, 1)]

## Chapter 3

# MANAGEMENT OF RADIO FREQUENCIES

## § 6. Management of radio frequencies

(1) This Chapter provides the requirements for the management and use of radio frequencies and for the conduct of radiocommunication.

(2) The purpose of regulating the management of radio frequencies is to ensure the purposeful, objective, transparent and proportionate management, and the effective and efficient use of radio frequencies for the needs of users of radio frequencies and for the provision of communications services, the creation of possibilities for the development of new technologies and fast elimination of radio interference.

(3) The purposes specified in subsection (2) of this section shall be achieved also by harmonisation of use of radio frequencies of Estonia with those of the European Union.

## § 7. Principles of use of radio frequencies

Radio frequencies are used:

- 1) on the basis of a frequency authorisation pursuant to the procedure provided for in §§ 11-19 of this Act,
- 2) without a frequency authorisation, on the basis of the provisions of § 20 of this Act or
- 3) for national defence purposes, on the basis of the provisions of § 21 of this Act.

## § 8. Management of radio frequencies

(1) Radio frequencies are managed by the Ministry of Economic Affairs and Communications and the Technical Surveillance Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) Management of radio frequencies consists in international and national planning of radio frequency bands, coordination of radio frequencies and organisation of use of radio frequencies, publication and updating of information concerning the rights and conditions related to the use of radio frequencies and exercising of supervision in accordance with international agreements and this Act. The management of radio frequencies shall be based on objective, transparent, non-discriminatory and proportionate criteria, taking into account, among other things, the economic, safety, public health and public interests, freedom of expression, cultural, scientific, social and technical aspects of the European Union as well as the various interests of users of radio frequencies.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(3) Radio frequencies shall be managed in adherence to the need to achieve harmonisation of use of radio frequencies across the European Union.

(4) Upon performing their duties, the Ministry of Economic Affairs and Communications and the Technical Surveillance Authority shall take account of the recommendations of the European Commission on the management of radio frequencies to the greatest extent possible. If the Ministry of Economic Affairs and Communications and the Technical Surveillance Authority do not take such recommendations into account, they shall submit a notice thereof to the European Commission along with the reasons for not taking the recommendation into account.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## § 9. Estonian radio frequency allocation plan

(1) In accordance with the law of the European Union and international agreements, the Estonian radio frequency allocation plan shall determine the manner, regime and purpose of using radio frequencies, including the radio frequencies used in Estonia for rescue, safety and national defence purposes and shall ensure efficient and purposeful use of radio frequencies.

(1<sup>1</sup>) The preparation of the Estonian radio frequency allocation plan shall be based on the principles of neutrality of electronic communications services and technological neutrality, which observance may be derogated from only for the purposes of service quality, maximisation of radio frequency sharing and efficient use of radio frequencies.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The Estonian radio frequency allocation plan shall, among other things, determine the radio frequency bands for the introduction of new technologies together with restrictions on new and existing users, self-planned frequency bands and radio frequency bands the right of use of which is granted by way of public competition or the right of use of which can be transferred pursuant to the procedure provided for in § 17 of this Act.

(2<sup>1</sup>) Upon grant of the right to use a radio frequency band by way of public competition, the requirements on the communications network shall be determined by the Minister of Economic Affairs and Communications.  
[RT I 2010, 38, 230 - entry into force 10.07.2010]

(2<sup>2</sup>) Upon grant of the right to use a radio frequency band by way of public competition, the Minister of Economic Affairs and Communications may determine:

1) a one-off authorisation charge of up to 1,597,000 euros;

[RT I 2010, 38, 230 - entry into force 01.01.2011]

2) a deposit for participation in the competition.

[RT I 2010, 38, 230 - entry into force 10.07.2010]

(2<sup>3</sup>) The one-off authorisation charge shall be determined as a fixed charge or, in the case of an auction, as a starting price. Upon determining the amount of the one-off authorisation charge, account shall be taken of the conditions provided for in clauses 11 (4) 1) and 2) of this Act.

[RT I 2010, 38, 230 - entry into force 10.07.2010]

(2<sup>4</sup>) The deposit must be equal to all participants in the public competition and must not exceed the one-off authorisation charge taken for the right to use a radio frequency band. The deposit shall be returned after the winner of the competition is ascertained.

[RT I 2010, 38, 230 - entry into force 10.07.2010]

(3) The Estonian radio frequency allocation plan shall be established by the Minister of Economic Affairs and Communications.

(4) The procedure for conducting the public competition specified in subsection (2) and the requirements and conditions specified in subsections (2<sup>1</sup>) and (22) of this section shall be established by the Minister of Economic Affairs and Communications.

[RT I 2010, 38, 230 - entry into force 10.07.2010]

(5) The Technical Surveillance Authority shall publish the Estonian radio frequency allocation plan on its website.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

## **§ 10. Amendment of Estonian radio frequency allocation plan**

(1) The Technical Surveillance Authority shall review the Estonian radio frequency allocation plan at least once a year and submit a proposal to the Minister of Economic Affairs and Communications for amendment of the Estonian radio frequency allocation plan if:

1) the development of electronic communications technology requires it,

2) the amendment obligation arises from an international agreement or

3) it is necessary in order to ensure national defence.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The consultation provided for in § 152 of this Act is unnecessary if the amendments cover the provisions of § 21 of this Act or do not restrict the rights of persons using radio frequencies at the time of amendment of the Estonian radio frequency allocation plan.

(3) If a regulation of the Minister of Economic Affairs and Communications issued pursuant to subsection 9 (3) of this Act restricts the rights of users of radio frequencies, the part of the regulation in which the rights of the users of radio frequencies are restricted enters into force two years after the date of publication of the regulation, unless otherwise provided by an international agreement.

## **§ 11. Use of radio frequencies on basis of frequency authorisation**

(1) The use of radio frequencies is permitted on the basis of a frequency authorisation, unless otherwise provided by this Act.

(1<sup>1</sup>) The use of radio frequencies is regulated by frequency authorisations for the following purposes:

1) to avoid radio interference;

2) to ensure technical quality of communications services;

3) to ensure efficient use of radio frequencies;

4) to observe the principles provided for in subsection 8 (2) of this Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) A frequency authorisation grants the right to use radio frequencies under the conditions determined by the Technical Surveillance Authority. For the purposes of this Act, ship and aircraft radio licences and amateur radio station operating authorisations are also frequency authorisations.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) A frequency authorisation, except for frequency authorisations specified in subsections (6) and (7) of this section, shall be granted for a term of up to one year.



(4) The following conditions and requirements shall be established by a frequency authorisation:

- 1) designation of the technology for which the right to use radio frequencies has been granted;
- 2) the purpose, manner, area or location of use of radio frequencies;
- 3) the requirements for the efficient and effective use of radio frequencies;
- 4) the technical conditions of the use of radio frequencies;
- 5) the technical conditions for the avoidance of radio interference;
- 6) the requirements arising from international agreements;
- 7) the requirements related to the protection of human health and the environment;

[RT I 2007, 63, 397 - entry into force 01.06.2008]

8) the requirements for the shared use of radio frequencies.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(5) [Repealed - RT I 2007, 63, 397 - entry into force 01.06.2008]

(6) The Technical Surveillance Authority shall grant ship and aircraft radio licences for the use of radio frequencies on board water craft or aircraft for a term of up to three years according to the internationally recognised form. The Technical Surveillance Authority shall publish the specified form on its website.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(7) The Technical Surveillance Authority shall grant an amateur radio station operating authorisation for the use of radio frequencies for the purpose of amateur radiocommunication to a user of radio frequencies for a term of up to five years according to the internationally recognised form. The Technical Surveillance Authority shall publish the specified form on its website.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(8) A frequency authorisation may be granted to a frequency authorisation applicant as a joint authorisation for the use of several radio transmission equipment in the radio network.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 12. Application for frequency authorisation**

(1) In order to receive a frequency authorisation, a person shall submit a standard format application to the Technical Surveillance Authority which contains at least the following information:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) the name, residence or seat, date of birth or personal identification code or registry code, the telecommunications numbers and the e-mail address of the applicant;
- 2) the radio frequency or frequency band being applied for;
- 3) the purpose of use of the radio frequency or frequency band;
- 4) the technical conditions of use of the radio frequency or frequency band;
- 5) the area or location of use of the radio frequency or frequency band;
- 6) the date of commencement of use of the radio frequency or frequency band.

(2) The Technical Surveillance Authority shall publish the form of an application for a frequency authorisation on its website.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) If a person applies for a frequency authorisation for the provision of radio services, the application specified in subsection (1) of this section must be appended an activity licence for the provision of radio services or, if the applicant for a frequency authorisation has not been granted such licence, a written agreement for the transmission of the applicant's programme with a radio service provider holding an activity licence for the provision of radio services.

[RT I, 23.03.2011, 1 - entry into force 24.03.2011]

(4) [Repealed - RT I, 06.01.2011, 1 - entry into force 16.01.2011]

## **§ 13. Processing of applications for frequency authorisations and grant of frequency authorisations**

(1) The Technical Surveillance Authority shall grant a frequency authorisation:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) within six weeks after the receipt of the respective application if the use of the radio frequencies does not need international co-ordination;
- 2) within eight months after the receipt of the respective application if the use of the radio frequencies needs international co-ordination or
- 3) pursuant to the procedure specified in subsection 9 (4) or pursuant to the procedure provided for in § 19 of this Act.

(2) If the international agreements on the use of radio frequencies or orbital positions provide for terms which are different from the ones set out in subsection (1) of this section, the terms determined in the specified agreements apply.

(3) Before the grant of a frequency authorisation for the provision of air traffic services by radiocommunications, navigation or surveillance equipment or for the use of other radiocommunications services in the given frequency band, if such use may affect air safety, the Technical Surveillance Authority shall submit the conditions of the frequency authorisation for approval to the frequency coordinator of the International Civil Aviation Organisation (ICAO) in Estonia.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(3<sup>1</sup>) Before grant of a frequency authorisation or amendment of its conditions, the Technical Surveillance Authority shall submit the conditions of the frequency authorisation for approval to the Health Board, except in the cases provided for in subsection (32) of this section.

[RT I 2009, 49, 331 - entry into force 01.01.2010]

(3<sup>2</sup>) The following conditions of a frequency authorisation need not be approved by the Health Board:

[RT I 2009, 49, 331 - entry into force 01.01.2010]

- 1) the conditions for the use of radio frequencies determined by ship or aircraft radio licences;
- 2) the conditions for the use of radio frequencies determined by a frequency authorisation if the effective radiated power of radio transmission equipment does not exceed 100 W (20 dBW);

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 3) the conditions for the use of radio frequencies determined by a frequency authorisation for short range devices;

- 4) the conditions for the use of radio frequencies determined by a frequency authorisation for radio transmission equipment of fixed radio-relay links operating within the radio frequency band above 1 GHz;

- 5) the conditions for the use of radio frequencies determined by a frequency authorisation for space communications earth stations and satellite broadcasting earth stations;

- 6) the conditions of a frequency authorisation designed for the use of radio frequencies for the purpose of amateur radiocommunication.

[RT I 2007, 63, 397 - entry into force 01.06.2008]

(3<sup>3</sup>) A holder of a frequency authorisation using a self-planned radio frequency band has the obligation to submit the conditions for the installation of the radio transmission equipment used on the basis of the frequency authorisation for approval to the Health Board, except in the cases provided for in subsection (3<sup>2</sup>) of this section.

[RT I 2009, 49, 331 - entry into force 01.01.2010]

(3<sup>4</sup>) The Health Board shall not grant the approval specified in subsections (3<sup>1</sup>) and (3<sup>3</sup>) of this section if the activities of the authorisation applicant could be hazardous for human health or the environment.

[RT I 2009, 49, 331 - entry into force 01.01.2010]

(4) The procedure for the approval of the conditions of frequency authorisations provided for in subsections (3) and (3<sup>1</sup>) and the conditions for the installation of radio transmission equipment specified in subsection (3<sup>3</sup>) of this section as well as the frequency bands subject to approval by the coordinator provided for in subsection (3) shall be established by the Minister of Economic Affairs and Communications.

[RT I 2007, 63, 397 - entry into force 01.06.2008]

(5) The Technical Surveillance Authority shall inform the applicant for a frequency authorisation within one week after the receipt of the application of the deficiencies contained in the application and grant a term for elimination of the deficiencies.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) Before the issue of a frequency authorisation, the Technical Surveillance Authority shall inform the applicant for a frequency authorisation in writing or, with the consent of the applicant, electronically of the restrictions established pursuant to subsection 11 (4) of this Act together with the reasons for applying these and of the amount of the state fee to be paid.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(7) In order to receive a frequency authorisation, an applicant is required to pay the state fee within five working days after the notification provided for in subsection (6) of this section.

(8) At the written request of the holder of a frequency authorisation, the Technical Surveillance Authority shall issue to the applicant a written confirmation regarding the rights and obligations upon use of radio frequencies which are granted to the applicant by the frequency authorisation within three working days after the date of receipt of the respective application.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(9) The Technical Surveillance Authority shall make the decision to grant a frequency authorisation and the conditions of the frequency authorisation public in the register of economic activities within 10 working days after the issue of the frequency authorisation, except in the case provided by law.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 14. Refusal to grant frequency authorisation**

(1) The Technical Surveillance Authority shall refuse to grant a frequency authorisation if:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) the applicant has submitted false information,
- 2) the activities of the applicant may be hazardous for human health or the environment,
- 3) there are no free radio frequency channels,
- 4) the use of radio frequencies is not in conformity with the Estonian radio frequency allocation plan or the legislation regulating the use of radio frequencies,
- 5) the use of radio frequencies is not in conformity with the conditions arising from international agreements,
- 6) the use of radio frequencies may cause radio interference,
- 7) the use of radio frequencies may interfere with the operation of stationary equipment of the Technical Surveillance Authority used for technical supervision in the area where such equipment is located,

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 8) the use of radio frequencies is ineffective,

8<sup>1</sup>) the applicant wishes to begin using the radio frequencies later than six months after the submission of the application, unless the right to use radio frequency bands is granted by way of public competition,

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 9) the use of radio frequencies is not approved in the course of international coordination or
- 10) the state fee has not been paid.

(2) A decision of the Technical Surveillance Authority concerning refusal to grant a frequency authorisation shall be delivered to the applicant within three working days after the decision is made.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) If the reason for the refusal to grant a frequency authorisation is absence of a free radio frequency channel or the fact that use of radio frequencies has not been approved in the course of international coordination, the applicant shall be entered in the waiting list if the applicant so requests.

(4) The areas specified in clause (1) 7) of this section shall be determined by the Minister of Economic Affairs and Communications.

#### **§ 15. Amendment of conditions of frequency authorisation**

(1) The Technical Surveillance Authority may amend the conditions of a frequency authorisation if after the grant of the authorisation the bases provided for in clauses 2), 4), 5), 6), 7) or 8) of subsection 14 (1) of this Act become evident or if the activity licence for the provision of radio services which was the prerequisite for the grant of the frequency authorisation is amended.

[RT I, 06.01.2011, 1 - entry into force 16.01.2011]

(2) A decision to amend the conditions of a frequency authorisation enters into force six months after the decision is made, unless the holder of the frequency authorisation wishes that the decision to amend the frequency authorisation enters into force before the expiry of such term. If the basis for amendment of the frequency authorisation arises from clause 14 (1) 2) of this Act, the decision of the Technical Surveillance Authority on amendment of the conditions of the frequency authorisation enters into force at the moment when it is made. Amendment of a frequency authorisation due to amendment of the activity licence for the provision of radio services enters into force at the date specified in the decision to amend the activity licence for the provision of radio services.

[RT I, 06.01.2011, 1 - entry into force 16.01.2011]

(3) If the holder of a frequency authorisation submits an application for amendment of the conditions of the frequency authorisation to the Technical Surveillance Authority, the Technical Surveillance Authority shall decide to amend or refuse to amend the conditions within the terms provided for in subsections (1) and (2) of § 13 of this Act on the basis of the provisions of § 14 of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The Technical Surveillance Authority shall make the decision to amend the conditions of the frequency authorisation public in the register of economic activities within ten working days after the decision is made.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 16. Extension of and refusal to extend frequency authorisation**

(1) In order to extend a frequency authorisation under the valid conditions, the holder of a frequency authorisation shall submit an application for the extension of the frequency authorisation to the Technical Surveillance Authority not later than one month before the expiry of the frequency authorisation. The applicant is required to pay the state fee for the extension of the frequency authorisation.

(2) The Technical Surveillance Authority shall not extend a frequency authorisation if:

- 1) the holder of the frequency authorisation has not paid the state fee or
- 2) the applicant has submitted false information.

(3) The Technical Surveillance Authority shall make the decision to extend the frequency authorisation public in the register of economic activities within ten working days after the decision is made.

(4) The decision of the Technical Surveillance Authority concerning refusal to extend a frequency authorisation shall be delivered to the applicant within three working days after the decision is made.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 17. Transfer of right to use radio frequencies and grant for use on the basis of contract for use**

(1) The holder of a frequency authorisation may transfer in part or in full the right to use radio frequencies defined in the frequency authorisation or grant the right for use to another person on the basis of a contract for use if the right to transfer the respective radio frequencies or to grant these for use on the basis of a contract for use is provided for in the Estonian radio frequency allocation plan. The right to use radio frequencies may not be transferred or granted for use on the basis of a contract for use in the case of a frequency authorisation, whereby the right to use radio frequencies in the broadcasting network is granted.

(2) In order to transfer the right to use radio frequencies, an application for the transfer of the right to use radio frequencies granted by the frequency authorisation shall be submitted to the Technical Surveillance Authority by the holder of the frequency authorisation and by the person to whom the holder wishes to transfer the right to use radio frequencies.

(3) The application specified in subsection (2) of this section shall be processed by the Technical Surveillance Authority pursuant to §§ 13 and 14 of this Act.

(4) In order to grant for use the right to use radio frequencies on the basis of a contract for use, the granter for use on the basis of a contract for use must obtain a prior approval of the Technical Surveillance Authority.

(5) In order to grant for use the right to use radio frequencies on the basis of a contract for use, the granter for use on the basis of a contract for use must submit a respective written notice to the Technical Surveillance Authority ten working days before granting the right for use on the basis of a contract for use.

(6) Upon transfer of the right to use radio frequencies or grant of the right for use on the basis of a contract for use, the conditions of the frequency authorisation continue to apply, unless the Technical Surveillance Authority decides otherwise on the basis of subsection 15 (1) of this Act.

(7) Upon grant for use of the right to use radio frequencies on the basis of a contract for use, the holder of the frequency authorisation shall be responsible for compliance with the conditions determined by the frequency authorisation.

(8) The Technical Surveillance Authority may, if necessary, coordinate the transfer of the right to use radio frequencies or the grant of the right for use on the basis of a contract for use with the Competition Authority. The Technical Surveillance Authority has the right to refuse the transfer of right to use radio frequencies or the grant of the right for use on the basis of a contract for use if it distorts competition.

(9) The Technical Surveillance Authority shall publish the forms of an application provided for in subsection (2) and of a notice specified in subsection (5) and the information contained in the notice provided for in subsection (5) of this section on its website.

(10) The procedure for the transfer of the right to use radio frequencies and the grant of the right for use on the basis of a contract for use shall be established by a regulation of the Minister of Economic Affairs and Communications.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 18. Suspension and revocation of frequency authorisation**

(1) Upon violation of the conditions of a frequency authorisation, the Technical Surveillance Authority may suspend the right to use the radio frequencies granted by the frequency authorisation if the holder of the frequency authorisation has failed to eliminate the violation of the conditions of the frequency authorisation within one month after the Technical Surveillance Authority informed the user of radio frequencies of violation of the conditions and granted the user a possibility to provide an opinion or eliminate the violation, unless the Technical Surveillance Authority has granted a longer term.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The Technical Surveillance Authority shall revoke a decision on suspension if the holder of the frequency authorisation eliminates the violation within one month after the date when the decision to suspend the right to use radio frequencies was made, unless the Technical Surveillance Authority has granted a longer term.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The Technical Surveillance Authority may revoke a frequency authorisation if:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

1) the use of the rights granted by the frequency authorisation has not commenced within six months after the grant of the frequency authorisation or within the term prescribed in the frequency authorisation or if the holder of the frequency authorisation has terminated the use of the rights granted by the frequency authorisation,

2) the holder of the frequency authorisation has materially or repeatedly violated the conditions of the frequency authorisation,

3) after the grant of the frequency authorisation it becomes evident that the bases for refusal to issue the frequency authorisation provided for in clauses 14 (1) 1)-9) of this Act existed before the grant of the authorisation,

4) the use of the radio frequencies has been suspended pursuant to subsection (1) of this section and the user of radio frequencies has not eliminated the circumstances on which the suspension was based within one month after the date on which the decision on suspension was made, unless the Technical Surveillance Authority has granted a longer term, or

[RT I 2007, 66, 408 - entry into force 01.01.2008]

5) the activity licence for the provision of radio services which was the basis for grant of the frequency authorisation expires or is revoked.

[RT I, 06.01.2011, 1 - entry into force 16.01.2011]

(4) If the user of radio frequencies has terminated the use of the rights granted to the user by a frequency authorisation, the user is required to promptly inform the Technical Surveillance Authority thereof.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) The decision of the Technical Surveillance Authority to suspend the right to use the radio frequencies granted by the frequency authorisation or revoke a frequency authorisation shall be delivered to the user of radio frequencies within three working days after the decision on suspension or revocation is made.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

## **§ 19. Organisation of auction**

(1) If several persons have concurrently submitted applications for the use of the same radio frequency, the Technical Surveillance Authority shall organise an auction in order to grant a frequency authorisation. Applications which have arrived on the same date are deemed to be applications that have arrived concurrently.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The Technical Surveillance Authority shall inform the applicants of an auction in writing within five working days after the receipt of the applications and the applicants are allowed to submit their tenders within five working days. The winner of the auction shall be granted a frequency authorisation, taking account of the provisions of § 13 of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

## **§ 20. Use of radio frequencies without frequency authorisation**

(1) The Minister of Economic Affairs and Communications has the right, in accordance with the purposes of use of radio frequencies, to determine the possibility to use radio frequencies without a frequency authorisation provided for in § 11 of this Act and establish the conditions for the use of radio frequencies with regard to the specified radio frequencies and the technical requirements necessary to avoid radio interference, ensure interoperability of equipment and ensure protection of the public from the harmful effect of electromagnetic fields.

(2) The Technical Surveillance Authority shall publish the conditions for the use of radio frequencies without a frequency authorisation on its website.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The Minister of Economic Affairs and Communications may amend the conditions for the use of radio frequencies established pursuant to subsection (1) of this section if:

- 1) the Estonian radio frequency allocation plan is amended,
- 2) the development of electronic communications technology requires it,
- 3) it arises from an international agreement or
- 4) it arises from another Act.

(4) The consultation provided for in § 152 of this Act is unnecessary if the amendment specified in subsection (3) of this section does not restrict the existing rights of users of radio frequencies.

(5) A regulation of the Minister of Economic Affairs and Communications whereby the conditions for the use of radio frequencies are amended and the existing rights of users of radio frequencies are restricted enters, in the part of the regulation where the rights of the users of radio frequencies are restricted, into force two years after the date of publication of the regulation.

## **§ 21. Use of radio frequencies for national defence purposes**

(1) The Minister of Defence shall establish the procedure and technical requirements for the use of radio frequencies allocated for exclusive use to the Defence Forces in peace-time in accordance with the Radio Regulations annexed to the Constitution and Convention of the International Telecommunications Union.

(2) The establishment of the technical requirements specified in subsection (1) of this section shall be based on the following:

- 1) the needs of the Defence Forces to use the radio frequencies;
- 2) international agreements, including coordination agreements;
- 3) the need to establish possible restrictions in order to ensure electromagnetic compatibility of the radio equipment in civil use and the radio equipment of the Defence Forces;
- 4) the need to avoid radio interference.

(3) The use of radio frequencies for national defence purposes outside of the radio frequencies allocated for exclusive use to the Defence Forces shall be based on a frequency authorisation in accordance with §§ 11-18 of this Act. The Technical Surveillance Authority shall grant the specified frequency authorisation to the Defence Forces as a priority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The provisions of clauses 11 (1<sup>1</sup>) 3), 14 (1) 8) and 8<sup>1</sup>) and 18 (3) 1) of this Act do not apply to the frequency authorisations granted to the Defence Forces in the frequency bands used for national defence purposes.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 22. Incorrect or misleading message and confidentiality of radiocommunication**

(1) It is prohibited to send, by means of radiocommunication, incorrect or misleading messages which may prejudice the safety of aircraft, ships or vehicles on land or of persons or the functioning of the activities of any rescue service agency.

[RT I 2010, 29, 151 - entry into force 20.06.2010]

(2) It is prohibited for third persons to intercept information by means of radio equipment, except in the cases provided by law.

(3) It is prohibited to process, and to use and disseminate, illegally intercepted information.

## **§ 23. Radio interference and elimination thereof**

(1) Causing of radio interference is prohibited, except in the cases and pursuant to the procedure provided for in § 115 of this Act.

(2) The user of radio frequencies may submit a complaint in connection with radio interference to the Technical Surveillance Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) A person who becomes aware of the fact that, as a result of his or her action or inaction, radio interference is caused must promptly take all measures available to eliminate the interference.

(4) The Technical Surveillance Authority shall suspend or restrict the use of the equipment causing radio interference. The demand to suspend or restrict the use of the equipment shall be made in writing.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) If the Technical Surveillance Authority has suspended the use of the equipment causing radio interference, the equipment must not be switched on before elimination of the causes for the radio interference and before the Technical Surveillance Authority allows resuming the use of the equipment in writing.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) An official of the Technical Surveillance Authority who exercises supervision has the right, in order to eliminate radio interference, to enter the territory where the source of radio interference is located together with the possessor of the territory or a representative thereof in order to localise the source of and eliminate the radio interference, and the official also has the right to demand all information concerning the equipment which causes radio interference from the owner, user or possessor of the equipment.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(7) [Repealed - RT I 2007, 63, 397 - entry into force 17.12.2007]

(8) [Repealed - RT I 2007, 63, 397 - entry into force 17.12.2007]

## **§ 24. Conduct of amateur radiocommunication**

The procedure for the use of radio frequencies for amateur radiocommunication purposes and for the issue of the radio amateur qualification shall be established by the Minister of Economic Affairs and Communications.

## **§ 25. Formation and assignment of radio call signs**

(1) Radio call sign is a combination of numbers or letters used for the identification of messages or radio transmission equipment.

(2) The procedure for the formation and assignment of radio call signs shall be established by the Minister of Economic Affairs and Communications.

## **§ 26. Giving notification of information related to radio frequency management**

(1) The aviation frequency coordinator of the International Civil Aviation Organisation in Estonia shall notify the Technical Surveillance Authority in writing of approved radio frequencies for the organisation of air traffic services in the territory of Estonia and their technical conditions and amendment of the technical conditions within three working days after the date of establishment or amendment of the radio frequencies and the conditions.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The Technical Surveillance Authority shall notify the person who manages state electronic communications networks and the Police and Border Guard Board of the call sign, selective call and the code of the radio transmission equipment assigned (*Maritime Mobile System Identification, MMSI*) to an Estonian ship within one working day after the receipt of the respective information concerning the water craft.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(3) The Technical Surveillance Authority shall notify the Maritime Administration of the conditions of an issued ship radio licence and the code of the radio transmission equipment (MMSI) assigned to navigation equipment within one working day after the issue of the specified licence for the purpose of making a corresponding entry in the MARS (*Maritime mobile Access and Retrieval System*) database of the International Telecommunications Union.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(3<sup>1</sup>) The Technical Surveillance Authority shall notify the International Telecommunications Union of the conditions of radio licences issued to aircraft carrying out search and rescue works (*Search and Rescue aircraft, SAR aircraft*) and the code of the radio transmission equipment (MMSI) within one working day from the issue of the specified licence.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(4) The Technical Surveillance Authority shall register the maritime accounting authorities, exercise supervision over them and forward the respective information to the database of the International Telecommunications Union.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) The Minister of Economic Affairs and Communications may establish requirements for the maritime accounting authorities specified in subsection (4) of this section and the procedure for the registration of and exercise of supervision over them.

# **Chapter 4 MANAGEMENT OF NUMBERING RESOURCES**

## **§ 27. Purpose of management of numbering resources**

The purpose of management of numbering resources is to ensure the numbering necessary for the provision of communications services.

## **§ 28. Management of numbering resources**

(1) The numbering resources shall be managed by the Ministry of Economic Affairs and Communications and the Technical Surveillance Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The management of numbering resources consists in the allocation of numbering pursuant to the Estonian numbering plan and supervision over the use of numbering. The Minister of Economic Affairs and Communications and the Technical Surveillance Authority shall manage the numbering resources on the basis of objective, transparent, non-discriminatory and proportionate criteria, taking account of the need to achieve harmonised, efficient and effective use of numbering.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) Numbering resources shall be managed and used through the numbering management database.

(4) Upon performing their duties, the Ministry of Economic Affairs and Communications and the Technical Surveillance Authority shall take account of the recommendations of the European Commission on the management of numbering resources to the greatest extent possible. If the Ministry of Economic Affairs and Communications and the Technical Surveillance Authority do not take such recommendations into account, they shall submit a notice thereof to the European Commission along with the reasons for not taking the recommendation into account.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 29. Users of numbering and conditions for use of numbering**

(1) A person who provides communications services or uses communications services to provide other services, including information society services within the meaning of the Information Society Services Act, as well as a government authority within the limits of its competence (hereinafter *user of numbering*) have the right to use numbering.

(2) In addition to the conditions for the use of numbering provided for in this Chapter, the Minister of Economic Affairs and Communications may establish:

- 1) the conditions for the use of numbering, including the services for the provision of which the numbers may be used, and the requirements established for the services;
- 2) the obligation to publish and the conditions for publishing information on subscribers in the public number directory;
- 3) the conditions for the transfer of the right to use a number;
- 4) the conditions arising from international agreements which concern the use of numbering;
- 5) the conditions for number reservation;
- 6) the conditions for the use of numbering to ensure public order and national security.

(3) The establishment of the conditions specified in subsection (2) of this section must be objectively justified, non-discriminatory, proportional and transparent.

## **§ 30. Estonian numbering plan**

(1) The Estonian numbering plan shall determine the location in the telephony numbering space of numbers, short numbers, identification codes and access codes necessary for the provision of communications services, the requirements for their length, use and dialling procedure, and access codes for services inside user groups which cannot be used by persons not included in the corresponding groups, and for various services associated with the numbers of end-users.

(2) The Estonian numbering plan does not regulate the use of world-wide and other addresses of international data communication networks.

(3) The Estonian numbering plan shall be established by the Minister of Economic Affairs and Communications and it shall be managed by the Technical Surveillance Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

## **§ 31. Amendment of Estonian numbering plan and conditions for use of numbering**

(1) The Minister of Economic Affairs and Communications shall amend the Estonian numbering plan or the conditions for the use of numbering if:

- 1) the development of the electronic communications sector requires it or
- 2) it arises from international agreements.

(2) If a regulation of the Minister of Economic Affairs and Communications issued pursuant to subsection 30

(3) of this Act restricts the rights of a user of numbering, the part of the regulation in which the rights of the user of numbering are restricted enters into force one year after the date of publication of the regulation.

## **§ 32. Ensuring of access to numbers and short numbers**

(1) A communications undertaking must ensure that calls originating from a subscriber to all numbers and short numbers described in the Estonian numbering plan as well as to a number of the European Telephony Numbering Space (*ETNS*) 3883 and Universal International Freephone Numbers (*UIFN*) used in Estonia are terminated at the point where the subscriber wishes if the communications undertaking terminating the call has made it technically possible or unless the communications undertaking terminating the call has applied restrictions thereto pursuant to § 98 of this Act.

(2) A communications undertaking must ensure access to numbers issued in other Member States of the European Union, including the European Telephony Numbering Space (*ETNS*) numbers and Universal International Freephone Numbers (*UIFN*) and access to services provided in the Member States of the European Union, unless:

- 1) the service provider has, for commercial reasons, decided to restrict the access of callers located in a specific geographical area;



2) the communications undertaking has applied restrictions thereto pursuant to § 98 of this Act;  
3) access to the service or access to a number specified in this subsection is technically unfeasible or economically unjustified.

(3) A communications undertaking is required to transmit all calls to the European Telephony Numbering Space and from the European Telephony Numbering Space for a similar charge which it applies to calls made to other Member States and from other Member States.

(4) A communications undertaking must ensure the possibility of dialling international calls at least by dialling the international access code 00.

(5) A communications undertaking must ensure the transmitting of a call originated by a subscriber to the pan-European harmonised short number beginning with 116.

(6) The Technical Surveillance Authority is required to publish information concerning the adoption of a pan-European harmonised short number beginning with 116 on its website.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

### **§ 33. Numbering authorisation**

(1) A numbering authorisation is a permit for the use of numbering which grants the user of the numbering the right, for the provision of services, to use:

- 1) the quantity of numbers indicated in the numbering authorisation, reserve single numbers and organise the use thereof;
- 2) the short number or identification code indicated in the numbering authorisation and organise the use thereof.

(2) In respect of numbers, a numbering authorisation is based on the quantity of numbers and, in respect of identification codes and short numbers, it is based on single numbers.

(3) A numbering authorisation shall set out at least the following:

- 1) in the case of an identification code or a short number, the short number or identification code allocated and, in the case of a number, the quantity and type of numbers permitted to be used pursuant to the Estonian numbering plan;
- 2) the date of issue and the date of expiry of the authorisation;
- 3) the name, date of birth or registry code or personal identification code of the user of the numbering.

(4) A numbering authorisation shall be issued for one year.

### **§ 34. Application for and processing of numbering authorisation**

(1) In order to receive a numbering authorisation, a person shall submit a standard format application to the Technical Surveillance Authority, which contains at least the following information:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) the name, residence or seat, date of birth or registry code or personal identification code and the telecommunications numbers of the applicant;
- 2) the planned use of the numbering being applied for;
- 3) the quantity of numbers and, in the case of a short number, the specific short number being applied for or the length of the short number.

(2) The Technical Surveillance Authority shall publish the form of an application for a numbering authorisation on its website.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) In the course of processing an application for a numbering authorisation, the Technical Surveillance Authority may require an applicant to submit more specific information and other data concerning the submitted information, which are necessary for the treatment of the application, and make enquiries to verify the submitted information.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The Technical Surveillance Authority shall issue a numbering authorisation to the user of numbering within 10 working days after the receipt of the application which complies with subsection (1) of this section if the user of the numbering has paid the state fee.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) The Technical Surveillance Authority shall make the decision to grant a numbering authorisation public in the register of economic activities within 10 working days after the grant of the numbering authorisation, except

in the case provided by law, and issue the authorisation also in writing at the request of the applicant for the numbering authorisation.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) A decision of the Technical Surveillance Authority concerning refusal to grant a numbering authorisation shall be delivered to the applicant within three working days after the decision is made.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

### **§ 35. Amendment and extension of numbering authorisation**

(1) The holder of a numbering authorisation may apply for an increase in the quantity of numbers set out in the numbering authorisation by submitting an application for amendment of the numbering authorisation to the Technical Surveillance Authority, adding the information provided for in subsection 34 (1) of this Act and paying the state fee for additional numbers in proportion to the number of full months until the expiry of the numbering authorisation.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) A numbering authorisation is extended one year at a time. An application for the extension of a numbering authorisation must be submitted at least 20 days before the expiry of the numbering authorisation. An applicant is required to pay the state fee for the extension of a numbering authorisation before the submission of an application for the extension of the numbering authorisation.

(3) A numbering authorisation shall be extended no later than three working days before the expiry of the valid numbering authorisation.

### **§ 36. Refusal to grant, amend or extend numbering authorisation**

The Technical Surveillance Authority may refuse to grant, amend or extend a numbering authorisation if:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) the state fee has not been paid,
- 2) incorrect information has been submitted upon applying for the numbering authorisation,
- 3) the applicant for the numbering authorisation does not meet the requirements for the users of numbering provided for in subsection 29 (1) of this Act,
- 4) the planned use of numbering does not comply with the conditions for the use of numbering,
- 5) the short number or identification code has been issued to another person.

### **§ 37. Restriction of rights of holder of numbering authorisation**

(1) The Technical Surveillance Authority may restrict the rights granted by a numbering authorisation if the holder of a numbering authorisation fails to meet the requirements provided by this Act or legislation arising therefrom and the holder of the numbering authorisation has failed to eliminate the violation within the term prescribed for the elimination of the violation in a precept issued to the holder of the numbering authorisation by the Technical Surveillance Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) A decision of the Technical Surveillance Authority to restrict the right granted by a numbering authorisation shall be delivered to the holder of the numbering authorisation not later than 10 working days before the entry into force of the decision.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The Technical Surveillance Authority shall revoke a decision to restrict the right granted by a numbering authorisation immediately after the circumstances which are the bases for the restriction cease to exist.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) A decision of the Technical Surveillance Authority to revoke the restriction of the right granted by a numbering authorisation shall be delivered to the holder of the numbering authorisation within 10 days after the decision is made.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

### **§ 38. Number reservation**

(1) A person who holds a valid numbering authorisation has the right to reserve a number. Reservation of a number grants the holder of the numbering authorisation the right to use the specific number.

(2) A number is reserved and the reservation of a number is cancelled by the holder of the numbering authorisation through the database created therefor.

(3) A number shall not be reserved if:

- 1) the number is reserved for another person,
- 2) the person who wishes to make a reservation does not hold a valid numbering authorisation or the rights of the holder of the numbering authorisation have been restricted, or

3) the quantity of numbers which the person wishes to reserve exceeds the quantity of numbers permitted to be used according to the numbering authorisation.

(4) A number shall be reserved for an unspecified term.

(5) The reservation of a number terminates upon expiry of the numbering authorisation or cancellation of the reservation.

(6) If a subscriber changes a provider of telephone or mobile telephone services and retains his or her current number, the reservation of the number in respect of the current provider of telephone or mobile telephone services ends and the reservation of the number transfers to the provider of telephone or mobile telephone services with whom the subscriber enters into a subscription contract which sets out as a condition of the contract that the current number is retained.

### **§ 39. Organisation of auction**

(1) If several persons have concurrently submitted applications for numbering authorisations for the use of the same short number or identification code and the applicants cannot be granted joint use of the short number or identification code, the Technical Surveillance Authority shall organise an auction for the issue of the numbering authorisation. Applications which have arrived on the same date are deemed to be applications that have arrived concurrently.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The Technical Surveillance Authority shall inform the applicants of an auction in writing within five working days after the receipt of the applications and the applicants are allowed to submit their tenders within five working days. The winner of the auction shall be granted a numbering authorisation within 20 working days after the submission of the applications.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The procedure for the organisation of an auction specified in § 19 of this Act and in this section shall be established by the Minister of Economic Affairs and Communications.

## **Chapter 5 SECTOR-SPECIFIC REGULATION OF MARKETS OF COMMUNICATIONS SERVICES**

### **§ 40. Purpose of sector-specific regulation of markets of communications services**

(1) The purpose of the sector-specific regulation of markets of communications services (hereinafter *market*) is to ensure the pluralism of communications service providers, their equal and non-discriminatory treatment by encouraging competition, and the quality and availability to end-users of the provided services.

(2) [Repealed - RT I 2006, 25, 187 - entry into force 02.06.2006]

(3) The sector-specific regulation of markets must be technologically neutral.

(4) The sector-specific regulation of markets shall be conducted by the Competition Authority. The Competition Authority must take account of the general objectives provided for in § 134 of this Act upon performance of sector-specific acts and application of sector-specific measures provided for in this Chapter.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

### **§ 41. Sector-specific acts and measures**

(1) For the sector-specific regulation of markets, the Competition Authority has the right to perform the following acts:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) define markets pursuant to § 43 of this Act;
- 2) conduct market analysis on the defined markets pursuant to § 44 of this Act;
- 3) designate undertakings with significant market power pursuant to § 45 of this Act.

(2) For the sector-specific regulation of markets, the Competition Authority has the right to apply the following measures:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

1) impose obligations on an undertaking with significant market power pursuant to § 46 of this Act and amend the obligations of an undertaking with significant market power pursuant to the provisions of subsections 49 (4) and (6) of this Act;

2) impose obligations on a communications undertaking and release a communications undertaking from obligations in connection with access and interconnection pursuant to § 63 of this Act.

#### **§ 42. [Repealed - RT I 2006, 25, 187 - entry into force 02.06.2006]**

#### **§ 43. Definition of markets**

(1) The Competition Authority shall define the markets of communications services and their geographical area in accordance with the principles of the European Union competition law. The Competition Authority shall define the markets on the basis of the European Commission recommendations and guidelines concerning the list of markets, the decisions of the European Commission and the rulings of the European Court of Justice.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1<sup>1</sup>) The Competition Authority has the right, if this is justified by the national competitive situation, to define the communications services market differently from the markets defined in the recommendations of the European Commission. In the specified case, the Competition Authority shall notify the European Commission of the different definition of the communications services market pursuant to the provisions of § 48 this Act.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The Competition Authority may define the whole territory of the Republic of Estonia or a part thereof as the geographical area of a communications service. If the geographical area of a communications service extends beyond the state border of the Republic of Estonia, the Competition Authority shall inform the European Commission thereof.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) A certain region forms a common geographical area if the competition conditions in the region are similar or sufficiently homogeneous and the region can be differentiated from other regions where the respective competition conditions differ to a significant extent.  
[RT I 2006, 25, 187 - entry into force 02.06.2006]

#### **§ 44. Market analysis**

(1) The Competition Authority shall regularly, but not less frequently than once every three years, analyse the competitive situation in the communications services markets defined pursuant to subsection § 43 (1) of this Act (hereinafter *market analysis*) in order to verify whether competition is present in the respective communications services market. If necessary, the Competition Authority may extend the specified period by three years if it has notified the European Commission of a reasoned proposed extension and the European Commission has not objected to it within one month after the receipt of the notice.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(1<sup>1</sup>) If the European Commission alters the recommendation on the list of markets specified in subsection 43 (1) of this Act, the Competition Authority shall, for communications services markets not previously notified by the Competition Authority to the European Commission, conduct a market analysis within two years after the adoption of the revised recommendation.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(1<sup>2</sup>) If the Competition Authority has not completed the market analysis specified in the recommendation of the European Commission within the term provided for in subsections (1) or (1<sup>1</sup>) of this section, the Body of European Regulators for Electronic Communications (*BEREC*) may, at the request of the Competition Authority, assist in preparing a draft decision. In such case the Competition Authority shall notify the European Commission of the draft decision within six months in accordance with § 48 of this Act.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) In addition to the provisions of subsection (1) of this section, the Competition Authority is required to immediately conduct a market analysis if circumstances which may significantly affect the competitive situation become evident.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The Competition Authority shall conduct a market analysis in accordance with the principles of the European Union competition law and the guidelines of the European Commission.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) [Repealed - RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) If a respective communications services market covers the territory of several Member States of the European Union, the Competition Authority shall conduct market analysis in cooperation with the supervision authorities of the corresponding Member States.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) The Competition Authority shall prepare a report on the definition of the markets provided for in § 43 of this Act and on the market analysis specified in this section.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(7) If it arises from the market analysis specified in this section that competition is present in the communications services market, the Competition Authority shall prepare a draft decision on not designating an undertaking with significant market power, which includes:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) the report specified in subsection (6) of this section;
- 2) a proposal not to designate an undertaking with significant market power.

[RT I 2006, 25, 187 - entry into force 02.06.2006]

#### **§ 45. Undertaking with significant market power**

(1) The Competition Authority shall designate one or several undertakings with significant market power in accordance with the provisions of this Chapter if, in the course of a market analysis provided for in § 44 of this Act, the Competition Authority has established that competition is not present in the respective communications services market and the undertaking meets the criteria provided for in subsection (2) of this section.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The Competition Authority shall designate a communications undertaking as having significant market power in the specific communications services market and in the region where the services are provided if, individually or together with other undertakings, the undertaking has significant market power which enables the undertaking to operate to an appreciable extent independently of competitors, contractual partners and end-users.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The Competition Authority may choose not designate an undertaking which meets the criteria provided for in subsection (2) of this section as having significant market power in the specific services market if the market of the respective services is new and developing and the imposition of obligations in the market may in the long-term restrict the development of the market and preclude the motivation of the undertaking which meets the criteria for an undertaking with significant market power to develop the respective market.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) Two or more undertakings are in a joint dominant position in a specific communications services market within the meaning of the Competition Act regardless of whether the undertakings are structurally or otherwise connected with each other if the undertakings jointly can operate in the respective market to an appreciable extent independently of competitors, contractual partners and end-users and there is no competition between such undertakings in the market of the respective services.

(5) If an undertaking has significant market power in one communications services market, the undertaking may be designated as having significant market power also in another communications services market closely related to the respective market if the two markets are related such that significant market power in one market increases market power in another market as a result of which competition is not present in the other market.

(5<sup>1</sup>) In the case specified in subsection (5) of this section the Competition Authority may impose, in accordance with Chapter 5 of this Act, on the undertaking with significant market power the obligations of non-discrimination, transparency, accounting separation as well as price control and cost accounting also in another closely related communications services market. If the specified obligations prove to be insufficient, the Competition Authority may impose obligations on the bases provided for in subsections 54 (2) and (3) of this Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(6) [Repealed - RT I, 05.07.2013, 1 - entry into force 15.07.2013]

(7) Upon determining that an undertaking has significant market power, the Competition Authority shall propose to designate the undertaking as having significant market power.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 46. Draft decision to designate undertaking as having significant market power**

(1) The Competition Authority shall prepare a draft decision to designate an undertaking as having significant market power, which sets out:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) the report specified in subsection 44 (6) of this Act;
- 2) the proposal specified in subsection 45 (7) of this Act;
- 3) obligations imposed on the undertaking with significant market power pursuant to subsection (2) of this section.

(2) Upon imposing obligations on an undertaking with significant market power, the Competition Authority shall proceed from the provisions of §§ 50-58 of this Act, imposing one or several relevant obligations on the undertaking in the services market in which the proposal to designate the communications undertaking as having significant market power has been made. Upon selecting the obligations the Competition Authority shall also take account of the recommendations and opinions of the European Commission concerning the electronic communications market as well as the corresponding practices developed in co-operation with the European Union communications market regulators.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 47. National consultation**

(1) The Competition Authority shall make a draft decision not to designate an undertaking as having significant market power specified in subsection 44 (7) of this Act or a draft decision to designate an undertaking as having significant market power specified in subsection 46 (1) of this Act available to the public on its website, omitting information containing business secret. The Competition Authority shall send the specified draft decision to the communications undertaking which the Competition Authority intends to designate as having significant market power by post and electronic means.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) Interested persons have the right to submit opinions thereon within one month after the date the draft decision specified in subsection 44 (7) or 46 (1) of this Act is made public. A communications undertaking which the Competition Authority intends to designate as having significant market power has the right to submit its objection to the draft decision by post or electronic means within one month after the receipt thereof.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The Competition Authority shall prepare a draft decision to designate the undertaking as having significant market power or a draft decision not to designate the undertaking as having significant market power, taking account of the opinions submitted concerning the draft decision specified in subsection 44 (7) or 46 (1) of this Act. If the Competition Authority does not take account of the submitted opinions, the Competition Authority must justify it in the draft decision.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The draft decision specified in subsection (3) of this section must contain the information specified in subsection 44 (7) or 46 (1) of this Act.

#### **§ 48. Consultations with European Commission, BEREC and regulators of Member States of European Union**

(1) The Competition Authority must inform the European Commission, BEREC and the communications market regulators of Member States of the European Union of a draft decision to designate an undertaking as having significant market power or not to designate an undertaking as having significant market power prepared pursuant to subsection 47 (3) of this Act.

(2) If performance of an act or application of a measure provided for in the draft decision prepared pursuant to subsection 47 (3) of this Act may affect trade between Member States of the European Union, the Competition Authority must grant the European Commission, BEREC and the communications market regulators of Member States of the European Union the possibility to submit their opinions regarding the draft decision within one month. Upon making the decision provided for in subsection 49 (1), the Competition Authority shall take account of the opinions submitted concerning the draft decision to the greatest extent possible and shall send the decision to the European Commission.

(3) Acts or measures that may have an influence, direct or indirect, actual or potential, on trade between Member States of the European Union in a manner which may hinder the implementation of the principles of the single market are deemed to be acts or measures which affect trade between Member States of the European Union. Such acts or measures may affect prices charged from users of services in other Member States, the ability of undertakings operating in other Member States to provide communications services as well as the ability to offer services on a transnational basis and market structure or access, which may in turn lead to repercussions for communications undertakings in other Member States.

(4) If the European Commission notifies the Competition Authority that definition of the communications market planned by the Competition Authority differs from the recommendation of the European Commission or that designation of an undertaking as an undertaking with significant market power or not designating an undertaking with significant market power hinders the development of the European single market and is contrary to the European Union law, the Competition Authority shall, if required by the European Commission, suspend the making of the planned decision for two months.

(5) If the European Commission decides within the term of two months specified in subsection (4) of this section that the Competition Authority must withdraw the draft decision, the Competition Authority shall withdraw the draft decision or amend it within six months as of the date of the decision of the European Commission. In the case of amendment of the draft decision, the Competition Authority shall proceed from the provisions of § 47 of this Act and subsections (1), (2) and (4) of this section.

(6) The Competition Authority may, in exceptional circumstances, in accordance with this Act, impose provisional and proportionate measures, by way of derogation from the procedure provided for in subsections (1), (2) and (4) of this section, if it considers that the performance of corresponding acts or the application of corresponding measures is necessary in order to safeguard competition and protect the interests of end-users. In such case the Competition Authority must promptly notify the European Commission, BEREC and the communications market regulators of Member States of the European Union of the applied measures and of reasons for the application thereof. If the Competition Authority wishes to make such provisional measures permanent or if it wishes to extend the period of application of such measures, it must follow the procedure provided for in subsections (1), (2) and (4).  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 48<sup>1</sup>. Special requirements for application of obligations of undertaking with significant market power**

(1) If the European Commission notifies the Competition Authority within one month after the receipt of the draft decision provided for in subsection 48 (1) of this Act that the obligations to be imposed, amended or withdrawn by the Competition Authority in the draft decision affect trade between Member States of the European Union or are contrary to the European Union law, the Competition Authority shall not make a decision within three months after the receipt of the notification from the European Commission. In the absence of such notification the Competition Authority may make the decision prepared pursuant to subsection 49 (1), taking account of the opinions of the European Commission, BEREC and the communications market regulators of Member States of the European Union to the greatest extent possible.

(2) Upon receipt of the notification from the European Commission provided for in subsection (1) of this section the Competition Authority shall co-operate with the European Commission and BEREC in order to identify the most appropriate and effective measures.

(3) The Competition Authority may amend, withdraw or maintain the draft decision before the expiry of the three-month term specified in subsection (1) of this section, taking account of the reasons presented in the notification of the European Commission provided for in subsection (1) and the opinion of BEREC to the greatest extent possible.

(4) If the Competition Authority amends or maintains the obligations provided for in the draft decision, the European Commission may, within one month after the expiry of the three-month term provided for in subsection (1) of this section, make a recommendation to the Competition Authority to amend or withdraw its draft decision. The European Commission may also make a decision to withdraw the positions presented in the notification provided for in subsection (1).

(5) The Competition Authority shall send the final measures to the European Commission and BEREC within one month after the receipt of the recommendation or decision specified in subsection (4) of this section from the European Commission. The specified one-month term may be extended to undertake a national consultation in accordance with § 47 of this Act.

(6) If the Competition Authority decides not to amend or withdraw the draft decision on the basis of the recommendation of the European Commission, it shall submit its reasons to the European Commission.

(7) The Competition Authority may withdraw the draft decision at any stage of the procedure.

(8) If the Competition Authority finds that, due to exceptional circumstances, obligations not provided for in §§ 51-54 of this Act must be imposed on an undertaking with significant market power, it must submit the respective application to the European Commission. The Competition Authority may impose the planned obligation only after the European Commission has granted permission therefor.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 49. Designation of undertaking as having significant market power, imposition of obligations and not designating undertaking with significant market power**

(1) The Competition Authority shall make a decision to designate an undertaking as having significant market power and to impose an obligation thereon (hereinafter *decision to designate an undertaking as having significant market power*) or a decision not to designate an undertaking with significant market power after consultations with the European Commission in accordance with § 48 of this Act. If the consent of the European Commission is necessary to impose an obligation in accordance with § 48 of this Act, the consent must be appended to the decision.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) A decision to designate an undertaking as having significant market power specified in subsection (1) of this section shall be delivered to the undertaking with significant market power within five days after the decision is made.

(3) The list of undertakings with significant market power and the list of obligations imposed on undertakings with significant market power and a decision not to designate an undertaking with significant market power shall be published on the website of the Competition Authority and in the official publication *Ametlikud Teadaanded*<sup>3</sup>.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) In the decision specified in subsection (1) of this section, the Competition Authority shall grant to the undertaking designated as having significant market power a reasonable term for the performance of an obligation provided therein.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) If the Competition Authority finds that the performance of an obligation imposed on an undertaking by a decision made in accordance with subsection (1) of this section does not ensure competition in the specific market, the Competition Authority shall prepare a new draft decision for the imposition of a new obligation on the undertaking with significant market power by amending the obligation imposed on the undertaking with significant market power in accordance with this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) If the Competition Authority, as a result of the market analysis provided for in § 44 of this Act, establishes that competition is present in the respective communications services market, it shall revoke the decision provided for in subsection (1) of this section, notify the undertaking thereof by post or electronic means and publish a notice concerning revocation of the decision in the official publication *Ametlikud Teadaanded*. If the Competition Authority has imposed several obligations in one or several communications services markets by the same decision and competition is present in part of the markets or in sectors related to part of the obligations, the Competition Authority shall partially revoke the decision.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

## **§ 50. Obligations related to access and interconnection on undertaking with significant market power**

(1) The Competition Authority may impose on a communications undertaking designated as having significant market power the following obligations related to interconnection and access in the respective market:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

1) the obligation to publish information related to access or interconnection concerning cost accounting, technical specifications, network characteristics, conditions for provision of services, including any conditions restricting access to services and their application and use, and charges;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

2) the obligation to publish a reference offer regarding a specific access or interconnection service which must contain the conditions for the provision of the respective service, including charges, in accordance with § 53 of this Act;

3) the obligation of non-discrimination which must ensure that an undertaking with significant market power and in particular vertically integrated undertaking with significant market power which provides services to undertakings with which it competes at the retail level applies equivalent conditions in the same circumstances to other undertakings providing similar services, and that an undertaking with significant market power provides services and discloses information to such undertakings under the same conditions and of the same quality as in the case of itself or its subsidiaries or partners;

4) the obligation to maintain separate records of activities related to interconnection or access in the framework of which the Competition Authority may require a vertically integrated undertaking to make transparent its wholesale prices and its internal transfer prices;

[RT I 2007, 66, 408 - entry into force 01.01.2008]

5) the obligation to meet a reasonable request of another communications undertaking for access to, and use of, specific network elements and associated facilities in accordance with § 51 of this Act if refusal to provide access or access under unreasonable conditions would hinder the development of competition at the retail level or would be to the detriment of the end-users' interest;

6) [Repealed - RT I, 23.03.2011, 1 - entry into force 25.05.2011]

7) the obligation related to the recovery of costs for access or interconnection and price controls as well as the obligation related to cost orientation of charges and cost accounting systems in accordance with § 52 of this Act;

8) the obligation relating to functional separation in accordance with § 55 of this Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The Competition Authority may impose obligations not specified in subsection (1) of this section on an undertaking with significant market power. In such case the Competition Authority shall take guidance from the provisions provided for in subsection § 48<sup>1</sup>(8) of this Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 51. Obligations related to interconnection of networks and equipment and provision of access thereto on undertaking with significant market power**

(1) In the framework of the obligation specified in clause 50 (1) 5) of this Act, the Competition Authority may, among other things, require an undertaking with significant market power to:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

1) provide a communications undertaking with access to specific network elements or network facilities, including full access or shared access to the local loop or local sub-loop;



[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 2) negotiate in good faith with communications undertakings requesting access;
- 3) maintain already granted access;
- 4) provide specific services on a wholesale basis for resale of such services by communications undertakings;
- 5) grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services;
- 6) to provide co-location or other forms of facility sharing, including sharing of ducts, buildings or masts;
- 7) provide services necessary to ensure interoperability of end-to-end connectivity based services to end-users, including facilities for intelligent network services or roaming service on mobile networks;

[RT I 2007, 63, 397 - entry into force 17.12.2007]

- 8) provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;
- 9) interconnect networks or network facilities;
- 10) provide end-users with access to the services of a provider of telephone services associated with the network of an undertaking with significant market power by dialling a carrier selection code and by means of pre-selection of a provider of telephone services, with a facility to override any pre-selected choice on a call-by-call basis by dialling a carrier selection code;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 11) allow wholesale of local loops of the service specified in clause 10) of this subsection to another communications undertaking;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 12) provide access to an associated service.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) When considering whether the imposition of the obligations provided for in subsection (1) of this section is necessary and proportionate to the objectives provided for in § 134 of this Act, the Competition Authority must take account in particular of the following factors:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) the technical and economic feasibility of using or installing competing facilities, in the light of the rate of market development and taking into account the nature and type of interconnection and access involved, including feasibility of access to ducts;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 2) the feasibility of providing the access proposed, in relation to the capacity available;
- 3) the initial investment by the facility owner, taking account of any public investment made and the risks involved in making the investment;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 4) the need to safeguard competition in the long term, with particular attention to competition based on economically efficient infrastructure;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 5) the need to create effective competition at the retail level and ensuring of protection of the rights of end-users;

- 6) any relevant intellectual property rights;

- 7) the possibility of providing pan-European services.

(3) When imposing an obligation provided for in subsection (1) of this section the Competition Authority may specify the manner of performance of the obligation.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

## **§ 52. Obligations related to charges and costs of access and interconnection on undertaking with significant market power**

(1) The Competition Authority may impose on an undertaking with significant market power obligations related to the costs and charges of access and interconnection provided for in clause 50 (1) 7) of this Act, including obligations related to cost orientation and cost accounting system, provided that it has established by a market analysis that due to lack of effective competition the undertaking with significant market power is able to sustain prices at an excessively high or low level, distorting competition and damaging the interests of end-users.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) Upon establishing the obligations specified in clause 50 (1) 7) of this Act and encouraging investment by the communications undertaking in the next generation communications networks, the Competition Authority shall take account of the investments made by the communications undertaking and that an undertaking with significant market power must be allowed a reasonable rate of return on adequate capital employed, taking into account the risks that are involved and specific to investing in such new network project. The Competition Authority shall impose the obligations specified in clause 50 (1) 7) on communications undertakings also on the basis of the principle that any cost recovery mechanism or pricing methodology that is mandated by the Competition Authority must serve to promote efficiency and sustainable competition and maximise consumer benefits. In this regard the Competition Authority may also take account of prices available in other comparable markets.

(3) Where an undertaking with significant market power has an obligation imposed by the Competition Authority regarding the cost orientation of its charges provided for in clause 50 (1) 7) of this Act, the undertaking with significant market power must, at the request of the Competition Authority, prove that its service charges are derived from costs, which are added a reasonable rate of return.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) For the purpose of calculating the costs for the provision of the services provided for in subsection (3) of this section, the Competition Authority may, if necessary, use cost accounting methods which are different from those used by the undertaking. If it becomes evident that charges are not derived from the costs for the provision of the services, the Competition Authority has the right to require that the charges be brought into conformity with the costs for the provision of the services.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) The cost accounting methods specified in subsection (4) of this section used by the Competition Authority for the verification of the costs shall be established by the Minister of Economic Affairs and Communications.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) If the Competition Authority has imposed on an undertaking with significant market power an obligation to use a specific cost accounting system in accordance with clause 50 (1) 7) of this Act, the Competition Authority or a qualified independent person commissioned by the communications undertaking with the approval of the Competition Authority shall verify compliance with the requirements of the cost accounting system each year. If compliance with the cost accounting system is confirmed by a qualified independent person, the costs of the person shall be covered by the undertaking with significant market power.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(7) A communications undertaking shall publish a statement concerning compliance with the requirements of the cost accounting system on its website once a year. The respective statement shall, among other things, set out the categories under which costs are grouped and the rules used for the allocation of costs.

(8) The Competition Authority may verify whether an undertaking with significant market power complies with the cost accounting system correctly.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

### **§ 53. Obligation to publish reference offer regarding access and interconnection on undertaking with significant market power**

(1) If the Competition Authority has imposed on an undertaking with significant market power the obligation to publish a reference offer regarding an access service in accordance with clause 50 (1) 2) of this Act, the specified undertaking must prepare the reference offer regarding the access service which, among other things, must include the following conditions:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) the term of the agreement;
- 2) the description and location of access;
- 3) the possibilities for the shared use of civil engineering works and equipment;
- 4) the technical requirements and standards of access, including interfaces;
- 5) the restrictions on equipment to be installed in civil engineering works;
- 6) the security requirements for the location of access;
- 7) the conditions for access of the technical staff of the parties to the equipment and civil engineering works;
- 8) the safety requirements;
- 9) the possibilities for the co-location of equipment in the location of access, the rules for the use of shared premises and the rules for the inspection of shared civil engineering works;
- 10) the conditions for the sharing of network equipment and line facilities;
- 11) the quality requirements for the network and services, and ensuring thereof;
- 12) the procedure for settling accounts and payment conditions;
- 13) the composition of and procedure for the amendment of service charges;
- 14) the procedure for the amendment of agreement terms;
- 15) the procedure for the receipt of information concerning faults and for the elimination of faults;
- 16) the procedure for the performance of repair and maintenance works;
- 17) the conditions of liability of the parties upon violation of the agreement, the conditions of limitation of liability and compensation for damage;
- 18) the procedure for the resolution of disputes;
- 19) the consequences for the violation of the agreement and cancellation of the agreement.

(2) If the Competition Authority has imposed on an undertaking with significant market power the obligation to publish a reference offer regarding an interconnection service in accordance with clause 50 (1) 2) of this Act, the specified undertaking must prepare the reference offer regarding the interconnection service which, among other things, must include the following conditions:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) the term of the agreement;
- 2) the description of the interconnection service;

- 3) the taking of services into use at the request of one party to the agreement;
- 4) the procedure for ordering interconnection lines and their capacity;
- 5) the procedure for traffic estimation and management;
- 6) the ensuring of the security of networks;
- 7) the technical requirements and standards of interconnection;
- 8) the location of the interconnection point and the conditions for taking numbering and the interconnection point into use;
- 9) the activity if one party to the agreement wishes to change the network configuration which may affect interconnection, interoperability of networks or the interconnection service provided;
- 10) the conditions for the sharing of network equipment and line facilities;
- 11) the quality requirements for the network and services, and ensuring thereof;
- 12) the procedure for the testing of interconnection and interoperability of networks;
- 13) the composition of and procedure for the amendment of interconnection charges and the conditions for payment thereof;
- 14) the conditions and charges for the use of interconnection lines;
- 15) the procedure for the amendment of agreement terms;
- 16) the procedure for the receipt of information concerning faults and for the elimination of faults;
- 17) the procedure for the performance of repair and maintenance works;
- 18) the conditions of liability of the parties upon violation of the agreement, the conditions of limitation of liability and compensation for damage;
- 19) the procedure for the resolution of disputes;
- 20) the consequences for the violation of the agreement and cancellation of the agreement.

(3) Upon mutual agreement, communications undertakings have the right to enter into an access or interconnection agreement under the conditions different from those of the reference offer, unless the conditions of the agreement to be entered into are contrary to the objectives of the obligation to publish the reference offer.

(4) A communications undertaking on whom the obligation to publish a reference offer has been imposed, is required to publish the reference offer on its website or, in the absence thereof, in any other reasonable manner and submit a copy of the access or interconnection agreement entered into to the Competition Authority at the request of the latter.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) If the reference offer specified in subsection (1) or (2) of this section does not conform to the objectives of the obligation to publish the reference offer, the Competition Authority has the right to require that the communications undertaking amend the reference offer.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) A communications undertaking must submit a copy of an access or interconnection agreement entered into under the conditions different from those of the reference offer to the Competition Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 54. Obligations on retail market of services on undertaking with significant market power**

(1) If, as a result of a market analysis conducted in accordance with § 44 of this Act, the Competition Authority determines that a retail market defined pursuant to subsection 43 (1) of this Act is not effectively competitive and imposition of the obligation of access and interconnection provided for in subsection 50 (1) on a communications undertaking does not ensure competition, the Competition Authority shall impose on the undertaking designated as having significant market power in the relevant service market one or several obligations provided for in subsection (2) of this section.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) On the basis provided for in subsection (1) of this section, the Competition Authority may require that an undertaking with significant market power avoid:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) applying excessively high prices;
- 2) preventing competitors from entering a market or restricting competition by applying excessively low prices;
- 3) showing undue preference to certain end-users;
- 4) linking the provided services to each other without reason such that, upon use of one service, a subscriber is also forced to use another service and pay for it.

(3) The Competition Authority may impose obligations not listed in subsection (2) of this section only pursuant to the procedure provided for in subsection 48<sup>1</sup>(8) of this Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(4) If obligations are imposed on an undertaking with significant market power pursuant to this section, the undertaking with significant market power must use the necessary and appropriate methodology of cost

accounting. The Competition Authority has the right to determine the methodology of cost accounting and the reporting forms.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) The Competition Authority or, on the order of the Competition Authority, a qualified independent person shall verify each year the performance of the obligations imposed on an undertaking with significant market power on the basis of this section. An undertaking with significant market power shall publish a statement concerning performance of the specified obligations on its website once a year.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

### **§ 55. Obligation to ensure functional separation on undertaking with significant market power**

(1) If, as a result of market analysis conducted pursuant to §§ 43-44 of this Act, the Competition Authority concludes that the appropriate obligations imposed on the basis of §§ 51-53 have failed to achieve effective competition and that there are important and persisting competition problems or market failures identified in relation to the market of wholesale provision of certain access products, the Competition Authority may, as an exceptional measure, impose an obligation on vertically integrated undertakings to place activities related to the wholesale provision of relevant access products in an independently operating business entity.

(2) The independently operating business entity must supply access products and services to all undertakings, including to other business entities of the parent company, on the same timescales, terms and conditions, including those relating to price and service levels, and by means of the same systems and processes.

(3) If the Competition Authority intends to impose the obligation of functional separation, it shall submit such proposal to the European Commission, setting out:

- 1) evidence justifying the conclusions specified in subsection (1) of this section;
- 2) a reasoned assessment that there is no or little prospect of effective and sustainable infrastructure-based competition within reasonable time;
- 3) an analysis of the expected impact of imposing the obligation of functional separation on the activities of the Competition Authority and the undertaking, in particular on the workforce of the separated undertaking and the electronic communications sector as a whole;
- 4) an analysis of the impact of imposing the obligation on the motivation to invest in the sector as a whole, particularly with regard to the need to ensure social and territorial cohesion, as well as the accompanying impact on other interested persons, including consumers, and the expected impact on the functioning of the competition as a whole;
- 5) an analysis to confirm that this obligation is the most efficient means to address the competition problems and market failures.

(4) The draft decision of the Competition Authority shall include the following parts:

- 1) the precise nature and level of separation, specifying in particular the legal status of the separate business entity;
- 2) information concerning the assets of the separate business entity and the products or services to be supplied by it;
- 3) the governance arrangements to ensure the independence of the staff employed by the separate business entity and the respective remuneration structure;
- 4) the rules for ensuring performance of the obligations;
- 5) rules for ensuring transparency of operational procedures, in particular towards other interested persons;
- 6) the procedure for exercising supervision over the performance of the obligations to be imposed on the business entity.

(5) The Competition Authority may impose on an undertaking which is subject to functional separation the obligations of an undertaking with significant market power in accordance with §§ 51-53 of this Act.

(6) If the European Commission, by its decision, notifies the Competition Authority about its consent to imposing the obligation specified in subsection (1) of this section, the Competition Authority shall conduct an analysis of the different markets related to the access network and may impose obligations on an undertaking with significant market power on such markets in accordance with §§ 43-53 of this Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

### **§ 56. Voluntary separation of vertically integrated undertaking**

(1) An undertaking which has been designated as having significant market power in one or several relevant markets pursuant to this Act shall notify the Competition Authority in advance and in a timely manner of its intention to transfer its local access network assets or a substantial part thereof to a separate business entity under different ownership or to establish a separate business entity. The notification must allow the Competition Authority to assess the impact of the intended changes.

(2) The undertaking specified in subsection (1) of this section shall notify the Competition Authority of any change in the specified intention and of the final result of the separation process.

(3) The Competition Authority shall assess the impact of the intended transaction on the already existing obligations of the undertaking with significant market power.

(4) The Competition Authority shall conduct an analysis of different markets related to the access network and may impose on the undertaking's legally or operationally separate business entity the obligations of an undertaking with significant market power in accordance with §§ 43-53 of this Act.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 57. Obligations of undertaking with special or exclusive rights**

[RT I, 05.07.2013, 1 - entry into force 15.07.2013]

A communications undertaking which has special or exclusive rights for the provision of services in another sector in Estonia or in another Member State of the European Union shall keep separate accounts of the expenditure and revenue relating to the provision of communications services and of the expenditure and revenue relating to the activities in another sector to the extent that would be required if these activities were carried out by legally independent undertakings. The communications undertaking which has the specified special or exclusive rights shall also separate the structural units which engage in the provision of communications services.

[RT I, 05.07.2013, 1 - entry into force 15.07.2013]

#### **§ 58. Obligations related to cable networks**

[Repealed - RT I, 05.07.2013, 1 - entry into force 15.07.2013]

(1) A communications undertaking which provides network services may not provide cable network services if this undertaking:

- 1) is a public undertaking or has special or exclusive rights within the meaning of the Competition Act or
- 2) is in a dominant position in a network or communications services market within the meaning of the Competition Act.

(2) A case where cable network services are provided by a subsidiary of a communications undertaking which provides network services is not deemed to be violation of the prohibition provided for in subsection (1) of this section.

## **Chapter 6 ACCESS AND INTERCONNECTION**

#### **§ 59. Purpose of regulation of access and interconnection**

This Chapter provides for the rights and obligations of communications undertakings in connection with the access of one communications undertaking to the equipment, networks or services of another communications undertaking in order to ensure competition, efficient investment and innovation, the interoperability of communications services and the protection of the interests of end-users.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 60. Access**

(1) Access consists in the making available of the networks, line facilities and network facilities of or services provided by one communications undertaking to another communications undertaking for the purpose of providing communications services.

(2) The access specified in subsection (1) of this section includes access to:

- 1) network elements and associated facilities, in particular the local loop, and to facilities and services necessary to provide services over the local loop,

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 2) infrastructure and line facilities, including buildings, masts and ducts,

- 3) relevant software systems or databases, including support systems,

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

- 4) number translation systems or systems offering equivalent functionality,

- 5) communications networks, in particular for roaming service or

[RT I 2007, 63, 397 - entry into force 17.12.2007]

- 6) virtual network services and conditional access systems for digital television and radio services.

(3) It is prohibited to route a call from one communications network to another by means of terminal equipment, unless there is a respective written access agreement with the communications undertaking to whose communications network the call is routed.

[RT I 2009, 37, 252 - entry into force 10.07.2009]

## **§ 61. Interconnection and obligation to negotiate interconnection**

(1) Interconnection is a special type of access which consists in the technical and logical linking of two or more communications networks in a manner which allows providing communications services to the subscribers of the connected communications networks.

(2) A communications undertaking providing network services is required, at the request of another communications undertaking, to negotiate the interconnection in good faith if this is necessary for the provision of communications services.

(3) In order to perform the obligation provided for in subsection (2) of this section, a communications undertaking is required to disclose to the party with whom it has commenced to negotiate the interconnection, among other things, all the information necessary for the interconnection, including the parameters of the network interfaces.

(4) A communications undertaking which obtains information from another communications undertaking before, during or after the process of negotiating access or interconnection arrangements must use that information only for the purpose for which it was supplied and respect the confidentiality of the information, which has been delivered or is stored. A communications undertaking must not pass on the obtained information to third parties, in particular other structural units, subsidiaries or partners, for whom such information could provide a competitive advantage.

[RT I 2007, 63, 397 - entry into force 17.12.2007]

## **§ 62. Freedom to enter into access or interconnection agreement and its form**

Communications undertakings have the right to agree on the technical and commercial conditions for access and interconnection, taking account of the provisions of subsections 63 (1)-(3) of this Act and the possible obligations imposed on the communications undertakings pursuant to §§ 50-53 of this Act. The agreement specified in this section shall be entered into in writing.

[RT I 2007, 63, 397 - entry into force 01.06.2008]

## **§ 63. Obligations in connection with access and interconnection on communications undertaking**

(1) The Competition Authority may impose on a communications undertaking providing network services and controlling access by end-users obligations necessary for ensuring end-to-end connectivity, including for the interconnection of networks.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The Competition Authority may impose on a communications undertaking providing network services the obligation to ensure access to the application program interfaces (*API*) and electronic programme guides (*EPG*) on fair, reasonable and non-discriminatory conditions if that is necessary to ensure accessibility for end-users to digital radio and television programmes.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) If a communications undertaking providing network services is entitled, pursuant to the legislation, to install facilities on, above or below public or private property, the Competition Authority may impose on a communications undertaking providing network services the obligations for shared use or co-location of network equipment or other assets installed on such basis and used for the provision of network services, including line facilities and cabling inside or outside of buildings, up to the intermediate distribution point, pursuant to the list provided for in clauses 60 (2) 1) and 2) of this Act. The Competition Authority may impose the obligations provided for in this subsection particularly if other communications undertakings do not have alternative possibilities for access due to environmental, health protection, building or planning requirements or public security.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(4) The obligation specified in subsection (3) of this section may mean that a communications undertaking must cover a proportional share of the costs related to shared use or co-location or tolerate that line facilities, equipment or other assets are used by another communications undertaking.

(5) The Competition Authority may impose obligations specified in this section on a communications undertaking or release a communications undertaking from the specified obligations either on its own initiative or at the request of an interested person. A decision to impose obligations or release from obligations shall be made only after a reasonable period of consultation during which all interested parties are given an opportunity to submit their opinion on the specified issue to the Competition Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) The Competition Authority may impose obligations specified in this section on a communications undertaking providing network services regardless of whether the undertaking has been designated as having significant market power.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(7) The Competition Authority shall inform a communications undertaking of a decision specified in this section within five working days by post or electronic means and publish the decision on its website within seven working days after the decision is made.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(8) The law enforcement authorities are required to provide information about the type, availability and geographical location of the facilities specified in clauses 60 (2) 1) and 2) of this Act to an interested person on the basis of an application from such person. The specified facilities and conditions for access thereto shall not be deemed to be a business secret.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 64. Conditions for performance of access and interconnection obligations**

(1) If the Competition Authority has imposed an access or interconnection obligation on a communications undertaking in accordance with clause 50 (1) 5) or § 63 of this Act, the respective communications undertaking is required to enter into an interconnection or access agreement and ensure access to networks, equipment or services and interconnect the networks and equipment within a reasonable term granted by the Competition Authority, taking into account that the communications undertaking obligated to provide access or interconnection may need to create technical conditions, including to install equipment, for the provision of interconnection or access.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) A communications undertaking in respect of which an access or interconnection obligation has been imposed is required, upon performance of the access or interconnection obligation, to comply with the following requirements in accordance with the nature of the obligation:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

1) ensure the use of the network equipment, buildings and line facilities under equal conditions and with equal quality as compared to those offered by the undertaking to its parent company or subsidiaries, subscribers or business partners;

2) enable an undertaking which has submitted an application for access or interconnection to obtain information necessary for access and interconnection;

3) use the information obtained in connection with access or interconnection only for the provision of the respective service and not to disclose it to third parties, in particular other structural units, subsidiaries or partners, for whom such information could provide a competitive advantage, unless otherwise provided by law;

[RT I 2007, 63, 397 - entry into force 17.12.2007]

4) not to restrict the access of its subscribers to the services provided by another communications undertaking.

(3) The list set out in subsection (2) of this section does not preclude the obligation to comply with the requirements not listed therein if the obligation arises from law or the obligation to negotiate in good faith.

#### **§ 65. Refusal to provide access or interconnection**

(1) A communications undertaking may terminate pre-contractual negotiations and refuse to enter into an access or interconnection agreement if:

1) the creation of technical conditions for interconnection or access is unreasonably burdensome or

2) the interconnection or access damages the integrity of its network.

(2) A communications undertaking which, pursuant to this Act, has the obligation to ensure access to the local loop may refuse to provide access in addition to the bases specified in subsection (1) of this section also if the end-user using the respective local loop has not consented thereto or the access endangers the inviolability of private life.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 66. Restriction of access**

(1) A communications undertaking which has entered into an access or interconnection agreement may restrict access to the communications network by the other party to the contract if:

1) the other party has failed to pay for the provided services in a timely manner,

2) the other party has connected to the communications network terminal equipment which is not in working order or is not in compliance with the requirements and it interferes with the operation of the communications network or other subscribers of the communications undertaking,

3) the restriction of the provision of communications services is necessary for the installation, repair, exchange or maintenance of the equipment or line facilities of the communications network,

4) the other communications network connected or interconnected to the communications network which enables provision of services does not conform with the access or interconnection requirements and smooth interoperability of such networks is not ensured,

5) the integral operation of the communications network is endangered,

6) this is necessary to ensure the protection of personal data and other data to the extent provided by law,

- 7) this is necessary due to an emergency situation, a state of emergency or a state of war,
- 8) this is prescribed in the access or interconnection agreement or
- 9) this arises from legislation.

(2) Restriction of access on the bases prescribed in clauses (1) 1) and 4) of this section is permitted on the condition that a communications undertaking notifies of the restriction of access at least 30 days in advance.

(3) Upon restricting access to a communications network, a communications undertaking must observe that the restriction is based on an objective assessment of the situation and that the extent of such restriction is minimum in order to ensure the normal operation of the communications network. A communications undertaking must provide an opportunity for eliminating the reason for applying the restriction.

(4) A communications undertaking must notify, directly or through media, persons affected by the application of the restriction specified in subsection (1) of this section of the reason for and nature, extent and duration of applying such restriction as soon as possible and take all measures to ensure restoring of the availability of communications services.

#### **§ 67. Systems of conditional access to digital television and radio services**

(1) A communications undertaking which provides conditional access systems is required to ensure that the conditional access systems allow the technical conduct of cost-oriented cross-checks of services provided by other communications undertakings by means of conditional access systems.

(2) If the access of a provider of television or radio services to the potential viewers and listeners depends on the conditional access services, a communications undertaking which provides services of conditional access to the provider of television and radio services is required to:

1) provide to the provider of television or radio services on a fair, reasonable and non-discriminatory basis, technical services, which allow the viewers or listeners equipped with decoding devices to receive the digitally transmitted services of the provider of television or radio services;

2) keep separate accounts of its activities as a provider of conditional access services.

[RT I, 23.03.2011, 1 - entry into force 24.03.2011]

#### **§ 68. Resolution of complaints related to access and interconnection**

(1) Any complaints related to access or interconnection shall be resolved by the Competition Authority pursuant to § 149 of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) A complaint related to application of the restrictions provided for in § 66 of this Act shall be resolved on the basis of the procedure for resolution of complaints provided for in § 149 of this Act, taking account of the following specifications:

1) a person which has applied a restriction must give a written explanation to the Competition Authority concerning the application of the restriction within five days after the receipt of a respective demand from the Competition Authority;

[RT I 2007, 66, 408 - entry into force 01.01.2008]

2) the Competition Authority shall resolve the complaint within 10 working days as of the receipt of the application;

[RT I 2007, 66, 408 - entry into force 01.01.2008]

3) if the Competition Authority decides that a restriction established with regard to another communications undertaking is unlawful, it shall issue to the undertaking which has applied the restriction a precept for immediate termination of the violation.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

## **Chapter 7 UNIVERSAL SERVICE**

### **Division 1 Provision of universal service**

#### **§ 69. Definition and objective of universal service**

A universal service is a set of services which conforms to the technical and quality requirements established by the European Union law, which is of specified quality and available to all end-users requesting it to the extent provided for in this Chapter, regardless of the location of the end-user, uniformly and at an affordable price. The following are universal services:

1) connection to a communications network in a fixed location enabling telephone services;

2) public pay-phone service or other publicly accessible communications service enabling calls;

3) the availability of a universal electronic public number directory and directory enquiry services.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]



## **§ 70. Connection to communications network at fixed location**

The connection to a communications network specified in clause 69 1) of this Act must enable:

- 1) the making and receiving of calls;
- 2) the sending or receiving of faxes;
- 3) the use of data communication services at data rates sufficient to permit functional Internet access, taking into account the hardware and software used by most of the end-users.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 71. Public pay-phone service or other publicly accessible communications service**

(1) Public pay-phone service or other publicly accessible communications service enabling calls means a possibility to make and receive calls using public terminal equipment.

(2) Public pay-phone service or other publicly accessible communications service enabling calls must ensure that it is possible to make emergency calls to the national emergency numbers and the single European emergency call number "112", all free of charge and without having to use any means of payment.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 72. Universal service obligation**

(1) The universal service obligation means provision of the services specified in clauses 69 1)-3) of this Act to the end-users pursuant to the procedure provided for in this Act. The conditions for the provision of a universal service shall be set out in a universal service contract between the state and an undertaking.

(2) A universal service contract regarding services provided for in clauses 69 1) and 2) of this Act may be entered into only with a communications undertaking.

(3) The universal service obligation shall be based on a universal service contract entered into between a communications undertaking and the state represented by the Minister of Economic Affairs and Communications or, on the authorisation of the Minister of Economic Affairs and Communications, by the Competition Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) A universal service contract shall, among other things, set out the following:

- 1) the obligation to provide a service provided for in clauses 69 1)-3) of this Act to the end-users requesting it within the territory specified in the contract;
- 2) a term during which a communications undertaking with the universal service obligation is required to enter into a subscription contract which complies with the requirements provided for in § 96 of this Act for the provision of a service provided for in clause 69 1) of this Act with the end-users;
- 3) an affordable charge payable for the provision of the universal service by the end-users for the establishment and preservation of a connection with the communications network pursuant to § 74 of this Act and for the services provided for in clauses 69 2) and 3) of this Act;
- 4) the maximum charge payable for providing the universal service;
- 5) the term of validity of the contract;
- 6) the provisions concerning the termination and amendment of the contract;
- 7) sanctions for violation of the contract.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 73. Designation of undertaking with universal service obligation**

(1) The provider of the services provided for in clauses 69 1)-3) of this Act shall be designated by way of a public competition the conditions of which shall be established by the Minister of Economic Affairs and Communications. If the presumed charge payable for the provision of the universal services based on the contract for the provision of universal services is higher than the amount specified in subsection 15 (1) of the Public Procurement Act, a public procurement shall be organised pursuant to the procedure provided for in the Public Procurement Act.

[RT I 2007, 15, 76 - entry into force 01.05.2007]

(2) If the public competition or public procurement provided for in subsection (1) of this section fails, the Competition Authority shall make a decision whereby the universal service obligation is imposed on the provider of universal services who had the universal service obligation at the time of organising the public competition or public procurement specified in subsection (1) of this section under the conditions effective at the time of organising the public competition or public procurement until the contract specified in subsection 72 (3) of this Act is entered into.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(3) A public competition or public procurement provided for in subsection (1) of this section shall be organised by the Ministry of Economic Affairs and Communications or, on the authorisation of the Minister of Economic Affairs and Communications, by the Competition Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) Upon designation of a communications undertaking with the universal service obligation pursuant to the procedure provided for in subsections (1) and (2) of this section, the need to ensure provision of the universal services in a cost-effective manner which does not prejudice competition, at an affordable price and, in short-term and long-term perspective, in accordance with the objectives provided for in § 134 of this Act shall be taken into account.

(5) A provider of the services provided for in clauses 69 1)-3) of this Act may be designated separately:

1) for each specified service within the territory specified by the person who organises the competition provided for in subsection (1) of this section or a public procurement or

2) for each specified service within the territory provided for in subsection (2) of this section where the communications undertaking is in control of essential facilities within the meaning of the Competition Act.

[RT I, 05.07.2013, 1 - entry into force 15.07.2013]

(6) The bases for determining the territories provided for in clauses (5) 1) and 2) of this section shall be established by the Minister of Economic Affairs and Communications.

(7) A provider of the service provided for in clause 69 2) of this Act shall be designated only if the specified service is not reasonably available for the end-users at an affordable price, taking account of the residences or seats of end-users, the number of public pay-phones and availability of the service for people with special social needs.

(8) A provider of the service provided for in clause 69 3) of this Act shall be designated only if the specified service is not reasonably available for the end-users at an affordable price.

(9) If the provider of universal services designated pursuant to subsection (1) or (2) of this section intends to transfer its entire access network or a part thereof to a separate legal person, it must give a prior notice thereof to the Competition Authority, which shall assess the impact of the intended transaction on the provision of access in the determined territory and on the provision of telephone services in accordance with the provisions of § 70 of this Act and, if necessary, establish, amend or revoke the corresponding special obligations.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(10) The Competition Authority is required to notify the European Commission of an undertaking with the universal service obligation and of the obligations imposed thereon. The Competition Authority shall publish the specified information on its website.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 74. Charge payable for universal service by end-user**

(1) The conditions of the competition or the tender documents of the public procurement specified in subsection 73 (1) of this Act must set out the affordable charge to be paid for the services provided for in clauses 69 1) and 3) of this Act by end-users to the provider of universal service.

[RT I 2007, 15, 76 - entry into force 01.05.2007]

(2) The affordable charge specified in subsection (1) of this section shall be determined by the Minister of Economic Affairs and Communications on the proposal of the Competition Authority uniformly throughout the territory of the state for both of the services specified in clauses 69 1) and 3) of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 75. Costs related to performance of universal service obligation**

(1) A communications undertaking with the universal service obligation may submit an application to the Competition Authority for compensation for the unreasonably burdensome costs related to the performance of the universal service obligation.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) Upon assessment of the costs related to the performance of the universal service obligation, the Competition Authority shall verify whether the costs related to the performance of the universal service obligation by the communications undertaking with the universal service obligation are justified.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) If, as a result of the assessment provided for in subsection (2) of this section, the Competition Authority finds that performance of the universal service obligation is unreasonably burdensome for the communications undertaking with the universal service obligation, taking account of the revenue and any market benefit arising from the performance of the specified obligation for the communications undertaking, the Competition Authority shall decide on compensating for the costs related to the universal service obligation to the extent provided for in subsection (4) of this section.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The costs specified in subsection (3) of this section shall be compensated for communications undertakings with the universal service obligation only to the extent to which the charge specified in § 74 of this Act to be paid by end-users does not enable covering of the costs related to performance of the universal service obligation and ensuring reasonable profit.

(5) The procedure for the assessment of and compensation for the costs specified in subsections (2)-(4) of this section shall be established by the Minister of Economic Affairs and Communications.

#### **§ 76. Specifications for designation of provider of universal service**

(1) The conditions of the competition or the tender documents of the public procurement specified in subsection 73 (1) of this Act must include the obligation of the tenderer to submit at least the following information:

[RT I 2007, 15, 76 - entry into force 01.05.2007]

1) the incremental costs of and revenue involved in the provision of universal service;  
2) the costs specified in clause (1) 1) of this section, ordinary business expenses incurred without the universal service obligation and charges for establishment and preservation of a connection with the communications network for end-users and charges for the services specified in clauses 69 2) and 3) of this Act which are planned on the basis of the expenses made so far;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

3) the combined tariff schemes for the connection of end-users to the communications network and for services provided over the network and possibilities for advance payments and payment in instalments;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

4) information on increase of the number of subscribers of the communications undertaking and the satisfaction of subscribers during the year preceding the tender.

(2) Upon determining the costs specified in clause (1) 1) of this section:

1) only the costs necessary for performance of the universal service obligation shall be taken into account;  
2) the costs which the communications undertaking would incur also without the universal service obligation (ordinary business expenses), and costs which have been incurred before the beginning of the calendar year of submission of the tender shall not be taken into account.

#### **§ 77. Entry into subscription contract with end-user**

The provisions of Chapter 9 of this Act apply to a subscription contract between an end-user and a communications undertaking with the universal service obligation.

#### **§ 78. Publication of information concerning universal services**

(1) A communications undertaking with the universal service obligation shall make available to the public at least the following information concerning the provision of universal services pursuant to the concepts and methods of measurement provided for in the Estonian standard EVS 874:2003:

- 1) the supply time for initial connection;
- 2) the fault rate per access line;
- 3) the fault repair time;
- 4) the response times for operator services;
- 5) the response times for directory enquiry services;
- 6) the proportion of public pay-phones in working order;
- 7) the number of bill correctness complaints.

(2) Information which is made available to the public must be submitted to the Competition Authority. The correctness and comparability of information submitted to the Competition Authority may be verified on the order of the Competition Authority by a qualified independent person at the expense of the communications undertaking with the universal service obligation if the communications undertaking does not agree with the results of the verification of information conducted by the Competition Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) If the information submitted to the Competition Authority has been verified pursuant to subsection (2) of this section at the expense of the communications undertaking with the universal service obligation and the results of the verification confirm the correctness and comparability of the information submitted by the communications undertaking, the Competition Authority shall compensate to the communications undertaking for the amount paid for the verification to a reasonable extent.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) In order to ensure access to information, the Minister of Economic Affairs and Communications may specify the content and form of information to be made available to the public pursuant to subsection (1) of this section and the manner of making the specified information available to the public.

(5) The Competition Authority may require that a communications undertaking with the universal service obligation reduce the supply time provided for in clause (1) 1) of this section and the fault rate provided for in clause (1) 2) of this section within a reasonable term, taking account of the technical or economic possibilities of the communications undertaking.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 79. Verification of expenditure**

(1) Upon provision of a universal service, a communications undertaking with the universal service obligation must provide the end-users with the following possibilities to verify expenditure related to the universal service:

1) submission of itemised bills such that they separately set out charges for the establishment and preservation of a connection with the communications network and for the use of the telephone service;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

2) possibility to bar outgoing calls of defined types or to defined types of numbers;

3) advance payment for the use of the communications network and telephone service;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

4) payment for connection to the communications network by instalments in accordance with the contract.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The possibilities provided for in clauses (1) 3) and 4) of this section must be provided only to consumers.

(3) The use of the possibilities provided for in subsection (1) of this section shall be free of charge for consumers. The service provided for in clause (1) 2) of this section shall be free of charge for other end-users.

#### **§ 80. Communication of information to number directory and directory enquiry services**

(1) If, pursuant to § 73 of this Act, the obligation to provide the service provided for in clause 69 3) of this Act has been imposed on an undertaking, the provider of the telephone or mobile telephone service shall communicate the information concerning the name and numbers of the subscriber of the telephone or mobile telephone service provided by it to the undertaking specified in § 73 of this Act at least once during a calendar year if the subscriber has consented to disclosure of the information.

(2) A provider of the telephone or mobile telephone service may require a reasonable charge for the communication of information specified in subsection (1) of this section. The specified charge must be cost-oriented and may include a reasonable profit.

## **Division 2**

### **Financing of universal service**

#### **§ 81. Source of financing**

(1) The costs specified in § 75 of this Act shall be compensated for out of the universal service charge payable by communications undertakings with the obligation to pay the universal service charge (hereinafter *financing obligation*).

(2) Only costs incurred for the provision of universal services provided for in clauses 69 1) and 2) of this Act shall be compensated for out of the universal service charge.

#### **§ 82. Universal service charge**

Universal service charge means a payment made by a communications undertaking with the financing obligation to compensate for the costs specified in § 75 of this Act.

#### **§ 83. [Repealed - RT I, 23.03.2011, 1 - entry into force 25.05.2011]**

#### **§ 83<sup>1</sup>. Rate of universal service charge**

(1) The rate of the universal service charge is 0.01 to 1 per cent of the turnover of a communications undertaking with the financing obligation in the preceding financial year.

(2) The rate of the charge specified in subsection (1) of this section shall be established by a regulation of the Government of the Republic on the proposal of the Minister of Economic Affairs and Communications at least three months before the beginning of a calendar year, taking account of:

1) the justification and amount of the unreasonably burdensome costs specified in § 75 of this Act;

2) reports prepared by the Competition Authority in accordance with § 137 of this Act.

(3) The establishment of the rate of the charge specified in subsection (2) of this section shall be based on the principles of transparency, non-discrimination and proportionality.

[RT I, 23.03.2011, 1 - entry into force 01.01.2016]

#### **§ 84. Communications undertaking with financing obligation**

(1) A communications undertaking which has the obligation to submit a notice provided for in subsection 4 (1) of this Act and whose turnover for communications services exceeds 383 500 euros per calendar year has the financing obligation.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(2) The financing obligation of a person specified in subsection (1) of this section arises as of the moment when the specified person submits or should submit the notice specified in subsection 4 (1) of this Act.

(3) The financing obligation of a person specified in subsection (1) of this section terminates as of the moment when the person submits a notice concerning termination of activities specified in § 5 of this Act.

(4) If the financing obligation arises or terminates before the fifteenth day of a calendar month, the financing obligation is deemed to have arisen or terminated as of the beginning of the calendar month.

(5) If the financing obligation arises or terminates after the fifteenth day of a calendar month, the financing obligation is deemed to have arisen or terminated as of the following calendar month.

#### **§ 85. Payment of universal service charge**

(1) Universal service charge shall be paid, in instalments of one-third of the total amount, by 15 May, 15 September and 15 January.

(2) For universal service charge to be paid, the Competition Authority shall send a respective notice not later than 30 days before the due date for payment of the universal service charge.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) If the universal service charges paid during a calendar year exceed the costs compensated during the calendar year to the communications undertaking with the universal service obligation pursuant to § 75 of this Act, the universal service charges paid but not used during the calendar year are deemed as prepayments for future charges.

(4) The paid universal service charges shall not be refunded upon termination of the financing obligation.

#### **§ 86. Receipt and use of universal service charge**

(1) Universal service charge is paid into the state budget.

(2) The procedure for payment of the universal service charge into the state budget and for the use thereof shall be established by the Minister of Finance.

## **Chapter 8 REQUIREMENTS FOR PROVISION OF COMMUNICATIONS SERVICES**

#### **§ 87. Requirements for provision of communications services and communications networks, quality of communications services**

(1) Upon provision of communications services, communications undertakings shall be guided by the following principles and objectives:

- 1) ensuring of security of operation of the communications network;
- 2) preservation of integrity of the communications network;
- 3) ensuring of protection of transmitted or stored information;
- 4) ensuring of interoperability of communications networks and services;
- 5) compliance with health and environmental requirements;
- 6) compliance with planning and land readjustment requirements;
- 7) ensuring of quality of communications services;
- 8) avoidance of harmful and interfering effects between other space-based or terrestrial technical systems;
- 9) ensuring of public order and national security;
- 10) monitoring of compliance with applicable requirements, submitting of information and organisation of statistics;
- 11) avoidance of activities which prejudice free competition on the communications market.

(2) Based on the principles and objectives provided for in subsection (1) of this section, the Government of the Republic may establish technical requirements for the communications networks and requirements for the provision of communications services if this is necessary for:

- 1) protection of subscribers;
- 2) publication of information on subscribers in the number directory and through directory enquiry services;
- 3) ensuring connection to the national emergency numbers and the single European emergency call number "112" and determining the location of the emergency number caller,  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]
- 4) ensuring public order and national security;
- 5) providing communications services for people with special needs;
- 6) interconnection and ensuring interoperability of communications networks or
- 7) determining the locations of interconnection points,
- 8) promoting the ensuring of connection to a pan-European harmonised short number beginning with 116.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(3) A communications undertaking must make information on the quality of the communications services provided to end-users and measures taken to ensure equivalence in access for end-users with special needs publicly available on its website or in the absence thereof, in any other reasonable manner.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(4) The provider of a communications service, whose service is consumed by at least one thousand end-users, shall be a provider of the vital services specified clauses 34 (2) 2)-14) and 16) of the Emergency Act in respect of the corresponding service.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

### **§ 87<sup>1</sup>. Requirements for use of subscriber identity module and terminal equipment**

(1) It is prohibited to clone or change a subscriber identity module.

(2) A subscriber identity module may be used only under the conditions prescribed in the subscription contract.

(3) It is prohibited to change the terminal equipment identity code, except by the producer of the terminal equipment or by a person authorised by the producer in writing.  
[RT I 2009, 37, 252 - entry into force 10.07.2009]

### **§ 87<sup>2</sup>. Ensuring of security and integrity of communications networks and services**

(1) A communications undertaking is required to take appropriate technical and organisational measures to manage the risks related to security and integrity of the communications services and network. The measures must be proportionate to the potential emergency situation and ensure minimum impact of incidents endangering the ensuring of security and integrity on users of communications services and related networks and ensure continuity of the provided services.

(2) A communications undertaking is required to notify the Estonian Information System's Authority immediately of all incidents endangering the ensuring of security and integrity of the communications network and services which to a significant extent affect the functioning of the communications services or network and of measures taken to eliminate such incidents.  
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(3) If necessary, the Estonian Information System's Authority shall notify the cases specified in subsection (2) of this section to foreign supervision authorities and the European Network and Information Security Agency (ENISA). If the Estonian Information System's Authority finds that due to public interest it is justified to make the violation public, it may inform the public thereof or require the communications undertaking to do it.  
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(4) The Estonian Information System's Authority shall submit a summary report on the notices submitted pursuant to subsection (2) of this section and on measures applied to the European Commission and ENISA once per calendar year.  
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(5) The Estonian Information System's Authority is entitled to require a communications undertaking to:  
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

- 1) provide information needed to assess the security and integrity of their communications services and networks, including security policies;
- 2) order a security audit carried out by a qualified independent body or a competent national authority and make the results thereof available to the Estonian Information System's Authority. The cost of the audit shall be covered by the communications undertaking.  
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

### **§ 88. Placement of calls to emergency number and security authority and determining of location of caller**

[RT I 2007, 63, 397 - entry into force 17.12.2007]

(1) A communications undertaking providing telephone or mobile services must organise the operation of the communications network such that establishing of connection to the national emergency numbers and the single European emergency number "112" is guaranteed free of charge over each communications network.

(1<sup>1</sup>) Upon providing mobile telephone services, a communications undertaking is required to ensure access to the single European emergency call number "112" by the short message service (SMS) for notification of emergencies over its communications network.

[RT I, 23.03.2011, 1 - entry into force 01.01.2012]

(2) A user of communications services is required to enable calls to be placed to national emergency numbers and the single European emergency call number "112" for notification of accidents, or to forward such messages themselves.

(3) For calls placed to national emergency numbers, the single European emergency call number "112" and one short number of the security authority, the communications undertaking specified in subsection (1) of this section shall make available, free of charge, the telephone number of the caller and information on the location of the caller to the national emergency service, the alarm centre and the security authority.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

### **§ 89. Requirement for number portability**

(1) A subscriber has the right to keep the number the use of which has been granted to the subscriber by the communications undertaking and which belongs to the Estonian numbering plan upon changing the communications undertaking or the geographical location of the subscriber's access point.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The right of the subscriber specified in subsection (1) of this section does not extend to:

- 1) switching from telephone services to mobile telephone services;
- 2) switching from mobile telephone services to telephone services;
- 3) communications services contracts where the subscriber is not identified;
- 4) numbers determined by the conditions for the use of numbering established by the Minister of Economic Affairs and Communications on the basis of subsection 29 (2) of this Act.

(3) A communications undertaking is required to provide a consumer with free information concerning number portability through telephone enquiries and on its website.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(4) The charge for number portability must be cost-oriented. The charge shall be paid by the communications undertaking with whom the subscriber has entered into a new subscription contract providing as a condition the keeping of the current telephone number.

(5) In the case of changing the communications undertaking, compliance with the number portability requirement shall be ensured by making use of the numbering management database. In the case of changing the geographical location of the subscriber's access point, compliance with the number portability requirement shall be ensured by making use of the respective database or information system of the communications undertaking.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(6) The requirements necessary for ensuring number portability shall be established by a regulation of the Minister of Economic Affairs and Communications.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(7) [Repealed - RT I 2007, 63, 397 - entry into force 17.12.2007]

### **§ 90. Special requirement for provision of cable distribution services**

(1) A communications undertaking which provides cable distribution services must guarantee the continuous retransmission of the following programmes:

- 1) television programmes of the Estonian public provider of media services;
- 2) television programmes transmitted by a provider of television services with unrestricted access that are received in the cable network area at a signal intensity compatible with the technical requirements and for the transmission of which the provider of television services requires no charge.

[RT I, 06.01.2011, 1 - entry into force 16.01.2011]

(1<sup>1</sup>) A provider of television services with unrestricted access has the right to require a reasonable charge for retransmission of television programmes from the communications undertaking which provides cable distribution services.

[RT I, 07.11.2012, 1 - entry into force 08.11.2012]

(2) The programmes specified in subsection (1) of this section shall be transmitted as a single package based on a subscription contract entered into between the communications undertaking which provides cable distribution services and the end-user.

(3) The programmes not specified in subsection (1) of this section shall be transmitted based on an agreement between the communications undertaking and the end-user.

(4) A communications undertaking must ensure the end-user with the possibility to view the programmes offered by way of cable distribution services to the full extent of the duration of the broadcasting time, unless the contracting parties agree otherwise.

(5) The requirements for the provision of the cable distribution services provided for in clause (1) 2) of this section shall be established by the Minister of Economic Affairs and Communications.

#### **§ 90<sup>1</sup>. Special requirement for provision of multiplexing services**

(1) A provider of multiplexing services must ensure, at the request of a public provider of media services, the transmission of television programmes of the latter. A public provider of media services must give the provider of multiplexing services an advance written notice of its wish for transmission of its television programmes at least six months prior to the commencement of transmission.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) A provider of multiplexing services who transmits television programmes of the public provider of media services and the holder of an activity licence for the provision of television services with unrestricted access may change the transmission parameters such that the reception of television programmes is guaranteed in conformity with the requirements provided for in this Act and legislation issued on the basis thereof.

(3) The requirements for the transmission and retransmission of television programmes with both conditional access and unrestricted access shall be established by the Minister of Economic Affairs and Communications.

[RT I, 06.01.2011, 1 - entry into force 16.01.2011]

## **Chapter 9**

# **PROVISION OF COMMUNICATIONS SERVICES TO END-USERS AND PROTECTION OF RIGHTS OF END-USERS**

#### **§ 91. Communications services contracts**

(1) Communications services are provided to end-users on the basis of communications services contracts.

(2) Communications services contracts are subscription contracts or other contracts for the provision of communications services.

(3) The provisions of the Law of Obligations Act apply to communications services contracts insofar as they are not regulated by the provisions of this Act.

#### **§ 92. Freedom of entry into communications services contract**

(1) Taking account of the restrictions arising from this Act and the restrictions established for the protection of the rights of end-users, communications undertakings and end-users are free to agree on the conditions of a communications services contract.

(2) Any condition of a communications services contract which restricts the rights of the end-user, as compared to the rights provided for in this Act, is null and void.

#### **§ 93. Obligation to enter into subscription contract with end-user**

(1) A communications undertaking who provides connection to a communications network is required to enter into a subscription contract with a person based on an application to this effect submitted by the person. A subscription contract is entered into in writing at the request of a party.

(2) Entry into a subscription contract specified in subsection (1) of this section may be refused only if:

1) at the time of submitting the application, connection of terminal equipment to the communications network is not technically possible in the requested area or in the requested manner;



- 2) the applicant has failed to provide information necessary for his or her identification or for communication with him or her, or the address of the location of connection to the communications network allowing the provision of requested communications services;
- 3) the applicant provides incorrect information upon submitting the application or upon entering into a requested subscription contract;
- 4) the applicant owes collectable arrears for provided communications services or
- 5) the applicant is subject to bankruptcy proceedings.

#### **§ 94. Procedure for entry into subscription contract**

(1) A communications undertaking specified in subsection 93 (1) of this Act shall send, within 30 days after submission by a person of an application for entry into a subscription contract, a notice whereby the undertaking informs the applicant of the possibility to enter into a subscription contract and of the term of such contract.

(2) If the provision of communications services is technically possible, the communications undertaking must set out in the notice specified in subsection (1) of this section and sent to the person that the person may enter into a subscription contract with the communications undertaking. A communications undertaking may not delay the entry into a subscription contract without good reason.

(3) If provision of communications services to a person is technically impossible, the communications undertaking must register the application submitted by the person for entry into a subscription contract and notify the person, by way of the notice specified in subsection (1) of this section, of the absence of a technical possibility.

(4) When the provision of communications services becomes possible, subscription contracts shall be entered into in the order of receipt of the applications. The date of submitting the application shall be the basis for satisfaction of the application also in the cases where the person submitting the application assigns the rights arising from the application to another person or where the place of connection to the communications network which enables the provision of the communications services indicated in the application by the person is changed.

(5) If two or more applications are received at the same time, priority to enter into a subscription contract shall be given to an application submitted by a person with a profound or severe disability within the meaning of the Social Benefits for Disabled Persons Act or by his or her caregiver for the provision of communications services in the place of residence of a disabled person. The specified priority right is not transferable.

#### **§ 95. Creation of possibility to use electronic communications service**

A communications undertaking must create a possibility to the end-user to commence the use of electronic communications services within 10 working days after entry into a subscription contract provided that the end-user has performed the obligations assumed by the subscription contract.

#### **§ 96. Mandatory terms and conditions of communications services contract**

(1) A communications services contract entered into with the end-user must contain at least the following terms and conditions:

- 1) the name, address and other contact details of the communications undertaking;
- 2) a description of the communications service and possibilities to use other related services;
- 3) the number assigned to the end-user where the communications service requires assignment of a number;
- 4) charges for the services, including charges payable for maintenance, procedure for settlement of accounts as well as discounts and other price packages;
- 5) differences in payment and compensation mechanisms in the event that the service does not conform to the agreed conditions;
- 6) quality requirements set for the communications service, including service quality parameters in accordance with subsection 87 (2) of this Act;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]
- 7) maintenance services offered to the end-user by the communications undertaking, including types of maintenance services, and support service offered to the end-user as well as the manner of ordering these services;  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]
- 8) the procedure and time limit for elimination of faults;
- 9) the procedure and time limit for submission of complaints and claims, and procedure for resolution of disputes;
- 10) the conditions for disclosure of information on the end-user pursuant to §§ 102-107 of this Act, including the procedure for obtaining the consent of the end-user for disclosure, transmission or other processing of information concerning the end-user, and the conditions for refusal to grant consent;
- 11) the basis and procedure for amendment of the contract;

12) the term of the contract and conditions for cancellation and extension of the contract, including minimum duration required to benefit from promotional items, costs and time period related to portability of number and other identifiers, costs related to termination of the contract and costs related to the terminal equipment, including costs related to early termination of the contract;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

13) if the communications undertaking does not provide an opportunity to establish a connection over the communications network to the national emergency number and the single European emergency call number "112", explicit exclusion of such opportunity;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

14) the condition of establishing a connection to the emergency number and determining the location of the caller;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

15) other conditions restricting access to and use of the communications service and application;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

16) information concerning the procedure established by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link, and information concerning how such procedure may affect the service quality;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

17) all restrictions imposed by the communications undertaking on the use of the supplied terminal equipment;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

18) the measures taken by the communications undertaking to ensure security and integrity of communications networks and services in accordance with § 87<sup>2</sup> of this Act;

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

19) the terms and conditions of a product or communications service intended for end-users with special needs.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) In addition to the terms and conditions specified in subsection (1) of this section, a subscription contract must set out:

1) the location of the communications network termination point, except where connection to the communications network is based on the use of radio frequencies;

2) the time of and conditions for connection to the communications network.

(3) A communications undertaking is required to make the terms and conditions specified in clauses (1) 1), 2) and 4)-19) and the condition specified in clause (2) 2) of this section as well as other standard conditions established by it for the provision of communications services available to the public on its website or in the absence thereof, in any other reasonable manner.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(4) Upon entering into a communications services contract, a communications undertaking is required to provide an opportunity, if the consumer so requests, to enter into a communications services contract for a term of one year.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(5) The initial minimum term of a fixed-term communications services contract entered into with a consumer must not exceed two years.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 97. Elimination of communications network faults**

(1) An end-user of communications services must inform the repair service of the communications undertaking of any fault in the communications network. A communications undertaking must organise the receipt from end-users of communications services and recording of information concerning faults, inform the end-users of communications services of the procedure and times for the receipt of such information and, after receiving information on a fault, provide information about the time period needed for elimination of the fault.

(2) A communications undertaking shall eliminate a fault in the communications network or a line of an end-user within a reasonable period of time after becoming aware of the fault.

(3) In the case of a fault in the communications network, an end-user of communications services must provide access for the representative of the communications undertaking to the equipment which forms part of the network, to the terminal equipment and to other terminal equipment connected to the communications network through such terminal equipment for inspecting the equipment and for determining the location of the fault.

(4) The costs of elimination of faults in the line, terminal equipment or other terminal equipment connected to the communications network through such terminal equipment, if belonging to an end-user of communications services, shall be covered by the end-user of communications services, except in the cases where the communications undertaking is responsible for causing the fault.

## **§ 98. Restriction of provision of communications services**

(1) A communications undertaking may restrict the provision of communications services to an end-user only if:

- 1) the end-user has delayed payment for the services provided to the end-user for more than 14 days or has exceeded the credit limit extended to the user;
- 2) the end-user has connected faulty or non-conforming terminal equipment to the communications network;
- 3) the end-user interferes, by using the terminal equipment, with the operation of the communications network or other users of communications services;
- 4) the restriction of the provision of communications services is necessary for installation, repair, exchanging or maintenance of communications network equipment or a line facility;
- 5) the end-user materially violates the terms or conditions of the communications services contract or
- 6) the restriction arises from law.

(2) A communications undertaking may restrict the provision of communications services only after notifying the end-user thereof by appropriate means and specifying the duration of and reasons for the restriction. A communications undertaking must give at least five working days' notice of the work prescribed in clause (1) 4) of this section.

(3) Restriction of the provision of communications services on the bases provided for in clauses (1) 2) and 3) of this section is carried out pursuant to § 127 of this Act.

(4) A communications undertaking must not restrict the provision of communications services if the end-user eliminates the circumstances which constitute the basis for the restriction prior to restricting the provision of communications services and the undertaking is aware thereof.

(5) Upon restricting the provision of communications services, the possibility to establish a connection to the national emergency numbers and the single European emergency call number "112" free of charge must be maintained.

(6) A communications undertaking must not restrict the provision of communications services if the end-user contests the amount of the charge payable for provided communications services in writing before the due date for payment and pays, in a timely manner, for the part of the communications services the charge for which is not contested. If the contesting of the charge for the communications services by the end-user is unjustified, the communications undertaking has the right to require a fine for delay from the end-user payable at the rate of 0.15 per cent per day for the period from the due date for payment of the contested amount until actual payment thereof.

(7) The communications undertaking must restore the provision of communications services to the end-user to the former extent within two working days after the elimination of the circumstances which constituted the basis for restricting the provision of communications services.

(8) An end-user has the right to require that the provision of communications services be restricted to the extent requested. The communications undertaking is required to apply the restriction requested by the end-user within one working day after the receipt of the respective application. If the service of restriction of communications services is provided for a charge, the communications undertaking is required to inform the end-user thereof, allowing the end-user at least one working day during which the end-user may withdraw the request.

(9) The Technical Surveillance Authority has the right to require a communications undertaking to restrict the access of a subscriber to a communications service or to restrict the dialling of a number if this is justified due to fraud or misuse. In the specified case the Technical Surveillance Authority may require the communications undertaking to terminate the interconnection agreement entered into pursuant to § 62 of this Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 99. Amendment of terms and conditions of communications services contract**

(1) A communications undertaking may amend the terms and conditions of a communications services contract unilaterally if the need for amendment arises from amendments to legislation, or if the circumstances which constitute the basis for entry into the contract change after the contract is entered into and such change involves a significant increase in the costs of performance of the contract for the communications undertaking.

(2) In addition to the provisions of subsection (1) of this section, a communications undertaking may amend a communications services contract pursuant to the terms and conditions established in the contract.

(3) A communications undertaking must give the end-user a written notice of the intended amendment of the communications services contract at least one month in advance and explain to the end-user in the notice that upon disagreement with the amendments, the end-user has the right to cancel the contract. Any agreement requiring the end-user to pay a contractual penalty for cancelling the contract in connection with amendment thereof by the communications undertaking is null and void.

(4) In order to comply with the notification obligation provided for in subsection (3) of this section, a communications undertaking may publish the respective notice on its website or, in the absence thereof, in at least one national daily newspaper.

#### **§ 100. Cancellation of communications services contract**

(1) A consumer has the right to cancel a communications services contract at any time without prior notice by informing the communications undertaking of cancellation of the contract. In respect of a communications undertaking, the cancellation of a contract is deemed to enter into force as of the following working day after the receipt of the notice unless a later date is indicated in the notice.

(2) A communications undertaking has the right to cancel a contract without prior notice if the provision of communications services has been restricted pursuant to clauses 98 (1) 1-3 or 5 of this Act and the basis for the restriction has not ceased to exist within one month after the date when the basis for applying the restriction arose.

#### **§ 100<sup>1</sup>. Comparison of prices of communications services**

The Competition Authority shall make a technical means for the comparison of prices of communications services available to the public free of charge on its website.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **Chapter 10 SECURITY AND PROTECTION OF DATA**

#### **§ 101. Requirement of security**

(1) A communications undertaking must guarantee the security of a communications network and prevent third persons from accessing the data specified in subsection 102 (1) of this Act without legal grounds.

(2) If a specific hazard exists to a communications service or the security of the communications network, the communications undertaking must immediately inform the subscriber of such hazard in a reasonable manner and, unless the hazard can be eliminated by measures taken by the undertaking, also of possible remedies and of any costs related thereto.

#### **§ 102. General principles of data protection**

(1) A communications undertaking is required to maintain the confidentiality of all information which becomes known thereto in the process of provision of communications services and which concerns subscribers as well as other persons who have not entered into a contract for the provision of communications services but who use communications services with the consent of a subscriber; above all, it must maintain the confidentiality of:

- 1) information concerning specific details related to the use of communications services;
- 2) the content and format of messages transmitted over the communications network;
- 3) information concerning the time and manner of transmission of messages.

(2) The information specified in subsection (1) of this section may be disclosed only to the relevant subscriber and, with the consent of the subscriber, to third persons, except in the cases specified in §§ 112, 113 and 114<sup>1</sup> of this Act. A subscriber has the right to withdraw his or her consent at any time.

(3) A communications undertaking may process the information provided for in subsection (1) of this section if the undertaking notifies the subscriber, in a clear and unambiguous manner, of the purposes of processing the information and gives the subscriber an opportunity to refuse the processing.

(4) The obligation of a communications undertaking specified in subsection (3) of this section does not restrict the right of the undertaking to collect and process, without the consent of a subscriber, information which processing is necessary for the purposes of recording the transactions made in the course of business and for other business-related exchange of information. In addition to the above, the restriction provided for in subsection (3) of this section does not limit the right of a communications undertaking to store or process information without the consent of a subscriber if the sole purpose thereof is the provision of services over the communications network, or if it is necessary for the provision, upon a direct request of the subscriber, of information society services within the meaning of the Information Society Services Act.

[RT I 2006, 31, 234 - entry into force 16.07.2006]

#### **§ 102<sup>1</sup>. Protection of personal data**

(1) Personal data breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed in connection with the provision of communications services.

(2) In the event of personal data breach, a communications undertaking is required to notify the Data Protection Inspectorate thereof at the earliest opportunity.

(3) The notice specified in subsection (2) of this section must also include, in addition to the information provided for in subsection (5), the potential consequences of the personal data breach and the measures proposed or taken.

(4) If the personal data breach may adversely affect the personal data or privacy of a subscriber or a user whose data have been submitted to the communications undertaking by the subscriber, the communications undertaking is required to notify the subscriber thereof at the earliest opportunity.

(5) The notice specified in subsection (4) of this section shall contain at least the following information:

- 1) a description of the personal data breach;
- 2) the contact details, where additional information can be obtained;
- 3) the recommendations for mitigating the potential adverse effects of the personal data breach.

(6) A communications undertaking is not required to notify the person specified in subsection (4) of this section of a personal data breach if it has proven to the Data Protection Inspectorate that due technological protective measures were applied after the breach became evident. Application of the specified protective measure must ensure that the respective information is rendered illegible for all persons who have no right to access such information.

(7) In the case specified in subsection (6) of this section, the Data Protection Inspectorate may still require notification of the subscriber considering the adverse effect of the breach.

(8) A communications undertaking is required to maintain records of personal data breaches, which must include at least:

- 1) a description of the breach;
- 2) a description of the potential adverse effect of the breach;
- 3) an outline of protective measures applied to eliminate the breach.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

### **§ 103. Processing of information for marketing purposes**

If a communications undertaking wishes to process, with the subscriber's consent, information specified in subsection 102 (1) of this Act for marketing purposes, the undertaking is required to inform the subscriber, prior to obtaining the consent, of the type of information needed for such purposes and the duration of the intended use of such information. A communications undertaking is entitled to use for marketing purposes information which the undertaking is permitted to use only until it is necessary for achieving the relevant goal. If the subscriber so desires, the communications undertaking must provide the subscriber with details concerning the use of the information.

### **§ 103<sup>1</sup>. Use of electronic contact details for direct marketing**

(1) The use of electronic contact details of a subscriber or user of communications services, who is a natural person, for direct marketing is allowed only with the person's prior consent. The consent must comply with the conditions provided for in § 12 of the Personal Data Protection Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The use of electronic contact details of a subscriber or user of communications services, who is a legal person, for direct marketing is allowed if:

- 1) upon use of contact details, a clear and distinct opportunity is given to refuse such use of contact details free of charge and in an easy manner;
- 2) the person is allowed to exercise its right to refuse over an electronic communications network.

(3) If a person obtains the electronic contact details of a buyer, who is a natural or legal person, in connection with selling a product or providing a service, such contact details may still be used, regardless of the provisions of subsection (1) of this section, for direct marketing of its similar products to the buyer if:

- 1) the buyer is given, upon the initial collection of electronic contact details, a clear and distinct opportunity to refuse such use of its contact details free of charge and in an easy manner;
- 2) the buyer is given, each time when its electronic contact details are used for direct marketing, a clear and distinct opportunity to refuse such use of its contact details free of charge and in an easy manner;
- 3) the buyer is allowed to exercise its right to refuse over an electronic communications network.

(4) It is prohibited to use electronic contact details for direct marketing if:

- 1) the person on whose behalf the information is communicated cannot be identified;
- 2) the communicated information does not include any such instruction or information allowing the user of communications services, subscriber or buyer to exercise its right to refuse.

- 3) the communicated information does not comply with the requirements provided for in subsection 5 (2) of the Information Society Services Act;
- 4) the communicated information encourages people to visit websites where information is provided which does not comply with the requirements referred to in clause 3) of this subsection;
- 5) the user of communications services, subscriber or buyer has refused the use of electronic contact details of the person for direct marketing.

(5) The burden of proof of the consent specified in subsection (1) of this section rests with the person on whose behalf direct marketing is conducted.

(6) The provisions of this section do not apply to multi-party voice calls in real time.  
[RT I 2010, 38, 230 - entry into force 10.07.2010]

#### **§ 104. Processing of information necessary for billing subscribers**

A communications undertaking may process the information provided for in subsection 102 (1) of this Act without the subscriber's consent if it is necessary for billing the subscriber, including for the determination and calculation of interconnection charges.

#### **§ 105. Processing of location data of subscribers**

(1) A communications undertaking has the right to process subscribers' location data, the processing of which is not provided for in § 104 or § 111<sup>1</sup> of this Act, only if such data are rendered anonymous prior to processing.  
[RT I 2007, 63, 397 - entry into force 17.12.2007]

(2) A communications undertaking may also process, with the consent of the subscriber, the data provided for in subsection (1) of this section to provide other services in the process of using the communications services to an extent and during the term necessary for processing and without rendering the data anonymous.

(3) Before obtaining the consent of a subscriber, a communications undertaking is required to inform the subscriber of the data it wishes to use for the provision of the service, the purpose and term of using such data and whether such data are forwarded to third persons for the purposes of providing the service. A subscriber has the right to withdraw his or her consent at any time.

(4) A subscriber who has granted consent for the processing of the data provided for in subsection (1) of this section must have an opportunity to temporarily refuse, free of charge and in an easy manner, the processing of the data in the part of establishment of a connection or transmission of information as indicated by the subscriber.

(5) A communications undertaking may process the data provided for in subsection (1) of this subsection without the subscriber's consent for the purposes of informing the subscriber promptly of an event which endangers the subscriber's life or health and providing instructions about safe conduct, whereas such information is forwarded to the communications undertaking by the Police and Border Guard Board or a rescue service agency.

[RT I 29.12.2011, 1 - entry into force 01.01.2012]

#### **§ 106. Persons authorised to process data and deletion of data**

(1) The data provided for in subsection 102 (1) and in §§ 103-105 of this Act may be processed only by communications undertakings and persons duly authorised thereby who are engaged in organising settlements or processing of the data specified in subsection 102 (1), answering to subscriber enquiries, detection of fraud, marketing of communications services, resale of communications services or provision of other services, which are provided in the process of use of communications services. The processing of the data is permitted only to the extent necessary for the activities specified above.

[RT I 2009, 37, 252 - entry into force 10.07.2009]

(2) Communications undertakings and persons duly authorised thereby are required to delete or render anonymous the data provided for in subsection 102 (1) of this Act and in §§ 103 and 105 of this Act within one calendar month after the need to store such data ceases to exist or the purpose of processing such data has been achieved. The data provided for in § 104 of this Act must be deleted or rendered anonymous immediately when one year has passed from payment for the communications services prescribed in the communications services contract or payment of the arrears by the subscriber.

(3) The data specified in subsections 111<sup>1</sup>(2) and (3) of this Act and requests submitted and information given pursuant to § 112 must be deleted immediately after the expiry of the term specified in subsection 111 (4).

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

#### **§ 107. Publication of data in number directories and through directory enquiry services**

(1) Undertakings wishing to publish data on subscribers in number directories or through directory enquiry services are required, prior to publication of data on subscribers in number directories or through directory enquiry services, to provide the subscribers with information concerning the purposes of the databases of the

number directories or directory enquiry services free of charge. If the data are to be published by electronic means, the communications undertaking is required to inform the subscriber also of the possibilities to use the databases by means of search engines.

(2) Undertakings wishing to publish data on subscribers in number directories or through directory enquiry services must provide the subscribers with an opportunity to decide on whether and to which extent they wish such data to be published. Subscribers must also have an opportunity to verify and amend the data which concerns them, and to terminate the publication of such data.

(3) Refusal by subscribers to publish their data in number directories or through directory enquiry services, the verification or amendment by subscribers of such data, and termination of the publication of such data in number directories and through directory enquiry services shall be free of charge to the subscribers. Subscribers have no right to require the amendment or deletion of the data already published concerning them in a number directory on paper.

#### **§ 108. Presentation and restriction of calling line and connected line identification**

(1) If a communications undertaking offers the presentation of calling line identification as a part of communications services, the communications undertaking must provide the subscriber making the call with a possibility to eliminate, in an easy manner and free of charge, the presentation of the calling line identification, if technically possible, with respect to each separate call and number. A communications undertaking is required to guarantee that the identity and telephone number of the caller is not disclosed to the person receiving the call even after the call is ended.

(2) If a communications undertaking offers the presentation of calling line identification specified in subsection (1) of this section, the communications undertaking must provide the end-user receiving the call with a possibility to eliminate in an easy manner and, provided that this function is used reasonably, free of charge the presentation of the calling line identification if technically possible.

(3) If a communications undertaking offers the presentation of calling line identification specified in subsection (1) of this section and the number of the calling line is presented prior to connecting the call, the communications undertaking must provide the end-user with a possibility to prevent the establishing of a connection if the caller has eliminated the presentation of calling line identification if technically possible.

(4) If a communications undertaking offers the presentation of connected line identification as a part of communications services, the communications undertaking shall provide the end-user who receives a call with a possibility to eliminate, in an easy manner and free of charge, the presentation of the connected line identification to the end-user who has made the call if technically possible.

(5) Subsection (1) of this section applies also to calls to third countries originated in other Member States of the European Union. Subsections (2)-(4) of this section also apply to incoming calls to the Member States of the European Union originated in third countries.

(6) A communications undertaking is required to inform the public of the possibilities provided in this section on its website or, in the absence thereof, in any other reasonable manner.

(7) The possibility provided for in subsection (1) of this section cannot be used in the case of calls placed to the national emergency numbers, the single European emergency call number "112" and the short number of the security authority.

[RT I 2007, 63, 397 - entry into force 17.12.2007]

#### **§ 109. Termination of automatic call forwarding**

A communications undertaking is required, if technically possible, to provide the end-user with a possibility to terminate, in an easy manner and free of charge, automatic forwarding of calls by a third person to the subscriber's terminal equipment.

#### **§ 110. Waiver of itemised bill**

A subscriber has the right to request that a bill presented to the subscriber does not reflect the details of provision of the service.

#### **§ 111. [Repealed - RT I, 23.03.2011, 1 - entry into force 25.05.2011]**

#### **§ 111<sup>1</sup>. Obligation to preserve data**

(1) A communications undertaking is required to preserve the data that are necessary for the performance of the following acts:

- 1) tracing and identification of the source of communication;
- 2) identification of the destination of communication;
- 3) identification of the date, time and duration of communication;
- 4) identification of the type of communications service;
- 5) identification of the terminal equipment or presumable terminal equipment of a user of communications services;
- 6) determining of the location of the terminal equipment.

(2) The providers of telephone or mobile telephone services and telephone network and mobile telephone network services are required to preserve the following data:

- 1) the number of the caller and the subscriber's name and address;
- 2) the number of the recipient and the subscriber's name and address;
- 3) in the cases involving supplementary services, including call forwarding or call transfer, the number dialled and the subscriber's name and address;
- 4) the date and time of the beginning and end of the call;
- 5) the telephone or mobile telephone service used;
- 6) the international mobile subscriber identity (*IMSI*) of the caller and the recipient;
- 7) the international mobile equipment identity (*IMEI*) of the caller and the recipient;
- 8) the cell ID at the time of setting up the call;
- 9) the data identifying the geographic location of the cell by reference to its cell ID during the period for which data are preserved;
- 10) in the case of anonymous pre-paid mobile telephone services, the date and time of initial activation of the service and the cell ID from which the service was activated.

(3) The providers of Internet access, electronic mail and Internet telephony services are required to preserve the following data:

- 1) the user IDs allocated by the communications undertaking;
- 2) the user ID and telephone number of any incoming communication in the telephone or mobile telephone network;
- 3) the name and address of the subscriber to whom an Internet Protocol (IP) address, user ID or telephone number was allocated at the time of the communication;
- 4) the user ID or telephone number of the intended recipient of an Internet telephony call;
- 5) the name, address and user ID of the subscriber who is the intended recipient in the case of electronic mail and Internet telephony services;
- 6) the date and time of beginning and end of the Internet session, based on a given time zone, together with the IP address allocated to the user by the Internet service provider and the user ID;
- 7) the date and time of the log-in and log-off of the electronic mail service or Internet telephony service, based on a given time zone;
- 8) the Internet service used in the case of electronic mail and Internet telephony services;
- 9) the number of the caller in the case of dial-up Internet access;
- 10) the digital subscriber line (*DSL*) or other end point of the originator of the communication.

[RT I 2007, 63, 397 - entry into force 15.03.2009]

(4) The data specified in subsections (2) and (3) of this section shall be preserved for one year from the date of the communication if such data are generated or processed in the process of provision of communications services. Requests submitted and information given pursuant to § 112 of this Act shall be preserved for two years. The obligation to preserve the information provided pursuant to § 112 rests with the person submitting the request.

(5) The data specified in subsections (2) and (3) of this section shall be preserved in the territory of a Member State of the European Union. The following shall be preserved in the territory of Estonia:

- 1) the requests and information provided for in § 112 of this Act;
- 2) the log files specified in subsection 113 (5) and the applications provided for in subsection 113 (6) of this Act;
- 3) the single requests provided for in § 114<sup>1</sup> of this Act.

(6) In the interest of public order and national security the Government of the Republic may extend, for a limited period, the term specified in subsection (4) of this section.

(7) In the case specified in subsection (6) of this section the Minister of Economic Affairs and Communications shall immediately notify the European Commission and the Member States of the European Union thereof. In the absence of an opinion of the European Commission within a period of six months the term specified in subsection (4) shall be deemed to have been extended.

(8) The obligation to preserve the data provided for in subsections (2) and (3) of this section also applies to unsuccessful calls if those data are generated or processed upon providing telephone or mobile telephone services or telephone network or mobile telephone network services. The specified obligation to preserve data does not apply to call attempts.

(9) Upon preserving the data specified in subsections (2) and (3) of this section, a communications undertaking must ensure that:



- 1) the same quality, security and data protection requirements are met as those applicable to analogous data on the electronic communications network;
- 2) the data are protected against accidental or unlawful destruction, loss or alteration, unauthorised or unlawful storage, processing, access or disclosure;
- 3) necessary technical and organisational measures are in place to restrict access to the data;
- 4) no data revealing the content of the communication are preserved.

(10) The expenses related to the preserving or processing of the data specified in subsections (2) and (3) of this section shall not be compensated to communications undertakings.

(11) The data specified in subsections (2) and (3) of this section are forwarded to:

- 1) an investigative body, a surveillance agency, the Prosecutor's Office or a court pursuant to the Code of Criminal Procedure;
- 2) a security authority;
- 3) the Data Protection Inspectorate, the Financial Supervision Authority, the Environmental Inspectorate, the Police and Border Guard Board, the Security Police Board and the Tax and Customs Board pursuant to the Code of Misdemeanour Procedure;
- 4) the Financial Supervision Authority pursuant to the Securities Market Act;
- 5) a court pursuant to the Code of Civil Procedure;
- 6) a surveillance agency in the cases provided for in the Organisation of the Defence Forces Act, the Taxation Act, the Police and Border Guard Act, the Weapons Act, the Strategic Goods Act, the Customs Act, the Witness Protection Act, the Security Act, the Imprisonment Act and the Aliens Act.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

## **§ 112. Obligation to provide information**

[RT I 2007, 63, 397 - entry into force 01.01.2008]

(1) If an agency or authority specified in subsection 111<sup>1</sup>(11) of this Act submits a request, a communications undertaking is required to provide at the earliest opportunity, but not later than ten hours after receiving an urgent request or within ten working days after receipt of the request if the request is not urgent, if adherence to the specified terms is possible based on the substance of the request, the agency or authority with information concerning the data specified in subsections 111<sup>1</sup>(2) and (3) of this Act.

(2) A request specified in subsection (1) of this section shall be submitted in writing or by electronic means. Requests concerning the data specified in clauses 111<sup>1</sup>(2) 1) and 2) and (3) 3) of the Act may also be submitted in oral form confirming the request with a password. Access to the data specified in subsection (1) of this section may be ensured, on the basis of a written contract, by way of continuous electronic connection.

(3) A communications undertaking providing mobile telephone services is required to provide a surveillance agency and security authority and the Police and Border Guard Board on the bases provided for in the Police and Border Guard Act with real time identification of the location of the terminal equipment used in the mobile telephone network.

(4) Access to the data specified in subsection (3) of this section must be ensured on the basis of a written contract and by way of continuous electronic connection.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

## **§ 112<sup>1</sup>. Notification of European Commission**

(1) A communications undertaking is required submit to the Technical Surveillance Authority by 1 February each year the following information concerning the requests submitted in accordance with § 112 of this Act during the previous calendar year:

- 1) the number of requests which resulted in providing information;
- 2) the period, in days, between the date of preserving the data specified in subsections 111<sup>1</sup>(2) and (3) of this Act and the date of the request;
- 3) the number of requests where providing information was not possible.

(2) The Technical Surveillance Authority shall submit the information specified in subsection (1) of this section to the European Commission by 1 April each year.

(3) The information specified in subsections (1) and (2) of this section shall not contain personal data.

(4) The Technical Surveillance Authority shall publish the form for presenting the information specified in subsection (1) of this section on its website.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

### **§ 113. Obligation to grant access to communications network**

(1) A communications undertaking must grant a surveillance agency or security authority access to the communications network for the conduct of surveillance activities or for the restriction of the right to confidentiality of messages, correspondingly.

(2) In connection with granting access to the communications network, a communications undertaking is required to submit information concerning the technical parameters of the communications network to a surveillance agency or security authority, if they so request. Upon modification of technical parameters of the communications network or launching of new services, a communications undertaking is required, if this may interfere with the performance of the obligations specified in subsection (3) of this section, to immediately notify the surveillance agency or security authority thereof and to commence the performance of the obligation specified in subsection (3) of this section with regard to all offered services within a reasonable period of time.

(3) Upon granting access to the communications network, a communications undertaking is required to:

1) enable the surveillance agency or security authority to select messages and ensure their transmission to a central or portable surveillance device of the surveillance agency or security authority in an unchanged form and in real time;

2) ensure the quality of message transmission which must be equivalent to the quality of the regular services provided by the communications undertaking;

3) ensure the protection of the messages and of the data related to their transmission.

(4) Transmission by a communications undertaking of messages to a central or portable surveillance device of a surveillance agency or security authority shall be decided by the surveillance agency or security authority. A surveillance agency or security authority shall inform the Ministry of Economic Affairs and Communications of communications undertakings who transmit messages to central or portable surveillance devices of the surveillance agency or security authority.

(5) Transmission of messages to a central surveillance device must be carried out by using a message splitting interface and appropriate hardware and software, which ensures the preservation of independent log files concerning the actions performed by means of the central surveillance device (time, type, object and number of action) for a period of at least five years.

[RT I 2009, 37, 252 - entry into force 10.07.2009]

(6) For transmission of messages to a portable surveillance device, a surveillance agency or security authority shall submit to a communications undertaking in writing or by electronic means an application for access to the communications network which shall set out the date, number and term of validity of the authorisation of a court for the conduct of a surveillance activity or for the restriction of the right to the confidentiality of messages. The communications undertaking is required to preserve the specified applications for at least five years.

[RT I 2009, 37, 252 - entry into force 10.07.2009]

(7) In the event of termination of the provision of communications services by a communications undertaking, as well as upon dissolution, including as a result of a merger or division, or in the case of bankruptcy or death, the data medium containing the log files specified in subsection (5) of this section, the applications specified in subsection (6) of this section as well as the data preserved on the basis of § 111<sup>1</sup> and the requests submitted pursuant to § 112 of this Act shall be immediately delivered to the Technical Surveillance Authority. The procedure for the preservation, delivery to the Technical Surveillance Authority, deletion and destruction of the log files, applications, data and requests shall be established by the Minister of Economic Affairs and Communications.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(8) A Prosecutor's Office, in order to exercise supervision over the activities of surveillance agencies, and the special security authorities surveillance committee of the *Riigikogu*<sup>4</sup>, in order to exercise supervision over the activities of surveillance agencies and security authorities, have the right to examine the applications specified in subsection (6) of this section and in the case of transmission of messages to a central surveillance device, also with the log files which are preserved.

[RT I 2009, 37, 252 - entry into force 10.07.2009]

(9) A communications undertaking is required to preserve the confidentiality of information related to the conduct of surveillance activities and activities which restrict the right to inviolability of private life or the right to the confidentiality of messages.

(10) Any extraordinary unavoidable acts which are to be performed to provide access to a communications network and which interfere with the provision of communications services as well as work to be performed by a communications undertaking on the communications network which interferes with the transmission of messages to the surveillance devices shall be carried out under the conditions agreed upon between the communications undertaking and the surveillance agency or security authority in writing.

### **§ 114. Compensating for costs of providing information and enabling access to communications network**

(1) A communications undertaking shall be compensated for the costs incurred thereby in relation to the provision of the information specified in subsections 112 (1) and (3) to a surveillance agency or security

authority, the enabling of access to the communications network specified in subsection 113 (3) of this Act and the transmission of messages to the surveillance device of a surveillance agency or security authority.  
[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

(2) The costs specified in subsection (1) of this section consist of the cost of the hardware and software specified in subsection 113 (5), the cost of maintenance thereof, the cost of transmission of messages to the surveillance devices and the cost of providing the information specified in subsections 112 (1) and (3) of this Act.

[RT I 2009, 37, 252 - entry into force 10.07.2009]

(3) The cost of the hardware and software specified in subsection 113 (5) of this Act and the cost of maintenance thereof shall be compensated to the communications undertaking out of the state budget fees sector through the budget of the Ministry of Economic Affairs and Communications. Such fees shall be paid in the form of fixed payments to be made in yearly instalments during a period not exceeding 10 years per one acquired object. The need to acquire or replace hardware or software, the manner of acquisition and the costs of the acquisition and maintenance are subject to approval by the Ministry of Economic Affairs and Communications before the acquisition or replacement of the hardware or software. The fees shall be paid in accordance with the contract entered into between the Ministry of Economic Affairs and Communications and the communications undertaking.

(4) The costs related to transmission of messages and provision of information shall be compensated to the communications undertaking out of the state budget through the budget of the ministry in the area of government to which the surveillance agency or security authority belongs. Such costs shall be compensated for in accordance with the contract entered into between the surveillance agency or security authority and the communications undertaking.

(5) The procedure for compensation for the costs provided for in subsections (3) and (4) of this section shall be established by the Government of the Republic.

#### **§ 114<sup>1</sup>. Obligation to provide information to courts**

In order to establish the truth, a communications undertaking must provide the court, on the basis of single written requests thereof, with information at its disposal which is specified in subsections 111<sup>1</sup>(2) and (3) of this Act on the bases and pursuant to the procedure prescribed in the Code of Civil Procedure and within the term specified by the court. For the purposes of this section, single request means a request for obtaining the information specified in clauses 111<sup>1</sup>(2) and (3) concerning a particular telephone call, a particular electronic mail, a particular electronic commentary or another communication session related to the transmission of a single message.

[RT I 2007, 63, 397 - entry into force 01.01.2008]

#### **§ 115. Restriction of radiocommunication**

(1) The following authorities are allowed to restrict radiocommunication in the interests of public order and national security in the following cases:

- 1) the Defence Forces, within the territory of objects which serve a national defence purpose and are marked correspondingly;
- 2) the prisons, within their territory;
- 3) the crisis management committee of the Government of the Republic, for responding to emergencies in the emergency areas;

[RT I 2009, 39, 262 - entry into force 24.07.2009]

- 4) the authorities responsible for internal security, for providing security protection in the areas of occurrence of events which require heightened security;
- 5) the authorities responsible for internal security, for prevention of explosion in the areas of potential explosion risk.

(2) The list of objects specified in clause (1) 1) of this section, the list of events which require heightened security specified in clause (1) 4) of this section and the procedure for the restriction of radiocommunication shall be established by the Government of the Republic.

(3) The requirements for electromagnetic radiation and radio receiving parameters, and for the restriction of radiocommunication in the cases specified in subsection (1) of this section shall be established by the Minister of Economic Affairs and Communications.

## **Chapter 11**

# LINE FACILITY

## § 116. Planning and construction of line facilities

The requirements for planning and construction of buildings apply to the planning and construction of line facilities.

## § 117. Protective zone of line facility

(1) For the purposes of this Act, the protective zone of a line facility means an area with the measurements determined in subsection (2) of this section where any activity likely to expose the line facility to danger is permitted under the conditions and pursuant to the procedure provided for in §§ 118 and 119 of this Act.

(2) The measurements of the protective zone of a line facility specified in subsection (1) of this section are:

- 1) on land, two metres from the central line of the line facility or from the outer wall of civil engineering works to an imaginary line parallel to the line facility or, in case of guyed radio mast, the radius on land in metres equivalent to its height, or in case of a self-supported radio mast, the radius on land in metres equivalent to 1/3 of its height;
- 2) on internal bodies of water, 100 metres;
- 3) at sea, 0.25 nautical miles.

## § 118. Marking of line facility

(1) In order to facilitate the determination of the location of a line facility, the owner of the line facility is required to mark the location thereof.

(2) The conditions and procedure for operation within the protective zone of line facilities providing also the technical means for the protection of line facilities and the requirements for marking line facilities shall be established by the Minister of Economic Affairs and Communications.

## § 119. Organisation of activities within protective zone of line facility

(1) Without the permission of the owner of a line facility, any activity which may expose the line facility to danger is prohibited within the protective zone of the line facility, in particular:

- 1) building, performing any excavation, loading, dredging, blasting, flooding, irrigation or land improvement operations, planting or removing trees, igniting open flames, using flammable materials and substances, storing waste, preventing access to the line facility and causing the corrosion of the line facility;
- 2) climbing up a radio mast or attaching items on structures of the radio mast or the surrounding fence;
- 3) within a protective zone of submerged line facilities: performing dredging operations, mooring water craft, or moving with dropped anchor, chains, logs, trawls or nets, installing traffic signs and buoys for water craft, or blasting or collecting ice;
- 4) within a protective zone of line facilities built as overhead transmission lines: driving vehicles and operating machinery the height of which above ground level, with or without cargo, exceeds 4.5 metres;
- 5) within a protective zone of underground line facilities: operating impact mechanisms, compacting or levelling ground, constructing passageways for means of transport and mechanisms, performing earthwork at a depth exceeding 0.3 metres, or 0.45 metres in ploughable land.

[RT I 2007, 63, 397 - entry into force 17.12.2007]

(2) The owner of a line facility has the right to require a person operating within the protective zone of the line facility to be under the direct supervision of the owner of the line facility or a representative thereof and require, in the organisation of the activities, the implementation of such measures and the operation in such manner that any damage to the line facility would be prevented.

(3) The requirements specified in subsection (2) of this section shall be formalised in writing and signed by the person setting such requirements and the person who performs the work.

(4) If a person operating within the protective zone of a line facility finds that the requirements set by the owner of the line facility pursuant to the provisions of subsection (2) of this section are unjustified, the person has the right to present his or her diverging written opinion to the person setting the requirements and operate in a manner and implement such measures which, in the opinion of the person, prevent damage to the line facility.

(5) If a person operating within the protective zone of a line facility has caused an unsafe situation as a result of his or her acts, the owner of the line facility has the right to request the suspension of the operation of such person or to take measures until the danger is eliminated. A person operating within the protective zone of a line facility is required to stop any unsafe activities immediately after receiving a respective request from the owner of the line facility or a representative thereof.

(6) A person operating within the protective zone of a line facility is required to immediately inform the owner of the line facility or a representative thereof of any damage to the line facility. In the case of damage to other infrastructure within the protective zone of a line facility, the owner of the line facility is required to send, within two hours after receiving a respective message, a representative to the site of the accident.

(7) The person eliminating the accident has the right to commence elimination of the accident immediately but the person must organise the activity such that any damage to the line facility would be prevented.

(8) A person operating within the protective zone of a line facility shall bear all costs of implementing measures necessary for the protection of the line facility due to the person's activities within the protective zone of the line facility, including the costs related to the determination and marking of the exact location of the line facility in the area of the construction work. The owner of a line facility must provide a person operating within the protective zone of the line facility with information concerning the exact location of the line facility free of charge.

(9) The costs related to cutting the branches of trees growing within the protective zone of a line facility shall be covered by the owner of the line facility, unless the owner of the line facility and the owner of the immovable have agreed otherwise. The owner of a line facility has the right to remove, without the consent of the owner of the immovable, any trees or branches of trees which have caused damage to the line facility or create an unsafe situation.

(10) The costs related to the elimination of damage to a line facility shall be covered by the person responsible for causing the damage.

#### **§ 120. Resolution of disputes related to line facilities**

(1) Upon resolution of disputes related to line facilities, the Technical Surveillance Authority shall take guidance from the provisions of § 149 of this Act.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) Any disputes related to line facilities must be resolved within six months at the latest.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **Chapter 12 REQUIREMENTS FOR APPARATUSES**

#### **§ 121. Scope of application of this Chapter**

(1) This Chapter provides for the requirements for apparatuses and the conditions for and supervision over placing on the market and putting into service of apparatuses.

(2) The Product Conformity Act applies with the specifications arising from this Act to the obligations of the manufacturer, authorised representative of the manufacturer, importer and distributor of an apparatus, to the notified body, to the assessment and attestation of conformity of an apparatus as well as to market supervision.  
[RT I 2010, 31, 158 - entry into force 01.10.2010]

(3) [Repealed - RT I 2010, 31, 158 - entry into force 01.10.2010]

#### **§ 122. Conditions for placing on market and putting into service of apparatus**

(1) It is permitted to place an apparatus on the market if:

1) the apparatus, if it is installed and maintained according to the prescribed procedure and used for its intended purposes, meets the requirements provided for in § 123 of this Act and legislation established on the basis thereof;

2) the conformity of the apparatus has been attested pursuant to the procedure established on the basis of this Act;

3) the apparatus is supplied with a conformity declaration;

4) the apparatus is supplied with a user manual and all other requisite information;

5) the apparatus bears requisite marking and a conformity mark pursuant to the procedure established on the basis of subsection 125 (3) of this Act;

6) the Technical Surveillance Authority has been notified, pursuant to the procedure provided for in subsection (4) of this section, of the intention to place on the market radio equipment which is not operating at radio frequencies harmonised in the Member States of the European Economic Area.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) An apparatus may be put into service for its prescribed purpose, if:

1) the apparatus conforms to the requirements provided for in § 123 of this Act and legislation established on the basis thereof;

2) the apparatus bears requisite marking and a conformity mark pursuant to the procedure established on the basis of subsection 125 (3) of this Act.

- (3) The provisions of this Chapter do not apply to the following apparatuses:
- 1) radio equipment used by radio amateurs, unless such equipment is sold by way of public offer of goods;
  - 2) radio equipment included in the safety equipment of ships, requirements for which are established on the basis of the Maritime Safety Act;
  - 3) radio equipment and systems installed on an aircraft and used for air traffic management;
  - 4) radio receiving equipment intended exclusively for receiving television or radio programmes;
- [RT I, 06.01.2011, 1 - entry into force 16.01.2011]
- 5) equipment intended exclusively for surveillance activities;
  - 6) equipment used for national defence purposes.

(4) A person who intends to place on the market radio equipment specified in clause (1) 6) of this section, must submit a notice to this effect to the Technical Surveillance Authority not later than four weeks before commencing the placing of the equipment on the market. The notice must contain at least the information provided for in subsection 132 (3) of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) The form of a notice specified in subsection (4) of this section shall be established by the Minister of Economic Affairs and Communications.

(6) An apparatus which does not conform to the requirements provided for in this Act or legislation established on the basis thereof, or with regard to which the procedure for assessment and attestation of conformity has not been observed, may be presented at fairs, exhibitions, demonstrations and other public presentations. Such apparatus may be presented on the condition that it is accompanied by clearly visible information which states that it is not permitted to place the apparatus on the market or put the apparatus into service before the apparatus is brought into conformity with the requirements.

(7) The Technical Surveillance Authority shall publish on its website a list of radio equipment operating within the radio frequency band harmonised in the Member States of the European Economic Area.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

### **§ 123. Requirements for apparatuses**

- (1) An apparatus must meet the following requirements:
- 1) the use of an apparatus must be safe and not damage the life, health and possessions of its users and third parties;
  - 2) an apparatus must be planned, designed and produced such that the requirements for electromagnetic compatibility are met.
- [RT I 2007, 12, 64 - entry into force 20.07.2007]

(2) In addition to the requirements specified in subsection (1) of this section, radio equipment must be manufactured in a manner which prevents the occurrence of radio interference and guarantees the effective use of radio frequencies and satellite orbital positions.

(3) On the basis of a decision of the European Commission, the Government of the Republic may establish additional requirements for certain equipment categories or specific types of equipment with the objective to guarantee:

- 1) the interoperability of apparatuses and the terminal equipment of other communications networks, and the possibility to connect apparatuses with interfaces of the necessary type in the Member States of the European Economic Area;
  - 2) the interoperability of terminal equipment and communications networks;
  - 3) that apparatuses are equipped with safety devices in order to protect the confidentiality of messages and personal data of users;
  - 4) prevention of fraud;
  - 5) access for rescue service agencies;
- [RT I 2010, 29, 151 - entry into force 20.06.2010]
- 6) adaptability of apparatuses for the use of persons with special needs.

(4) The Minister of Economic Affairs and Communications has the right to establish technical requirements for radio equipment used on the basis of a frequency authorisation provided for in § 11 of this Act to avoid radio interference, ensure interoperability of the equipment and protect human health and the environment from the harmful effect of electromagnetic fields.

[RT I 2007, 63, 397 - entry into force 17.12.2007]

### **§ 124. Harmonised standards**

(1) If an apparatus is manufactured in conformity with the requirements of the harmonised standard or a part thereof dealing with one or several relevant requirements, concerning which a reference has been published in the Official Journal, it is presumed that the apparatus conforms to the requirements provided for in § 123 of this Act and legislation established on the basis thereof which are dealt with by the harmonised standard.

(2) If the Technical Surveillance Authority finds that adherence to harmonised standards does not guarantee conformity of the apparatus, the Technical Surveillance Authority shall notify the committee specified in

Article 13 of Directive 1999/5/EC of the European Parliament and of the Council on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 07.04.1999, p. 10 - 28) thereof.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 125. Assessment and attestation of conformity of apparatus**

(1) The assessment and attestation of the conformity of an apparatus in accordance with the procedure established for the attestation of conformity must be ensured, pursuant to the procedure established on the basis of subsection (3) of this section, by the manufacturer, a representative of the manufacturer or the person who places the apparatus on the market.

(2) Pursuant to the procedure established on the basis of subsection (3) of this section, the obligation to involve a notified body may be prescribed in the conformity assessment procedures necessary for the assessment and attestation of the conformity of an apparatus.

(3) The procedure for marking of an apparatus, for affixing a conformity mark to an apparatus and for conformity assessment and attestation thereof, the conformity assessment procedures required for the assessment and attestation of conformity, and the requirements for supplying user manuals and other information with an apparatus shall be established by the Minister of Economic Affairs and Communications.

#### **§ 126. Notified body**

(1) Notified body is a conformity assessment body which has been granted the right to conduct conformity assessment procedures in respect of apparatuses.

(2) The Product Conformity Act applies to the notified body, including the grant of an activity licence thereto, its suspension and revocation, to the operation of a person as a notified body and to the exercise of state supervision over that person.

[RT I 2010, 31, 158 - entry into force 01.10.2010]

#### **§ 127. Right of communications undertaking to restrict use of apparatus in communications network**

(1) A communications undertaking may restrict the use of an apparatus in a communications network if the apparatus does not conform to the requirements provided for in § 123 of this Act, it affects the integrity of the communications network, it is illegally manufactured or reconstructed, or if the use of the apparatus interferes with other users of communications services. Upon restricting the use of an apparatus, the communications undertaking may restrict the provision of communications services to the end-user or restrict access to the communications network until the time that the reason for the restriction ceases to exist.

(2) In the cases provided for in subsection (1) of this section, the communications undertaking may disconnect the apparatus from the communications network, informing the subscriber in writing of the reasons for disconnection. Giving a prior written notice of disconnection is not required in the cases where a delay in restricting communications services or restricting access may cause damage to the communications undertaking or third persons. A communications undertaking must inform the Technical Surveillance Authority of disconnecting of an apparatus from the communications network within three working days after the apparatus is disconnected.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) If the subscriber ceases to use the apparatus specified in subsection (1) of this section in the communications network and starts to use a conforming apparatus, the communications undertaking must immediately restore the provision of services.

(4) If after receiving the notice specified in subsection (2) of this section, the Technical Surveillance Authority establishes that use of a conforming apparatus causes material damage to the communications network or causes radio interference, the Technical Surveillance Authority may grant permission to the communications undertaking to refuse to connect such apparatus to the communications network. The Technical Surveillance Authority shall inform the European Commission of each such permission.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 128. Giving notification of interface**

(1) A communications undertaking shall publish the specifications of the types of interfaces offered to the end-users in the process of provision of communications services prior to the commencement of the provision of communications services via such interfaces, update the specifications at least once a year, and within three working days after the publication or updating of such information, notify the Technical Surveillance Authority thereof.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The procedure for publication and updating of the specifications of the types of interfaces provided for in subsection (1) of this section shall be established by the Minister of the Economic Affairs and Communications..

(3) The specifications provided for in subsection (1) of this section must be in sufficient detail to allow the designing of such terminal equipment which would enable the use of all the services provided by means of the corresponding interface.

(4) The specifications provided for in subsection (1) of this section must include sufficient information for selecting testing methods for the verification of the conformity of terminal equipment.

(5) The Technical Surveillance Authority shall inform the European Commission of the types of interfaces regulated by the Estonian legislation, unless notice has been given pursuant to § 43 of the Product Conformity Act, and of the specifications of the types of interfaces used by Estonian communications undertakings.  
[RT I 2010, 31, 158 - entry into force 01.10.2010]

### **§ 129. Protective measures**

(1) If an apparatus does not conform to the requirements provided for in this Act or legislation established on the basis thereof, the Technical Surveillance Authority may require the withdrawal from the market of the non-conforming apparatus or the termination of provision of communications services by means of such apparatus, prohibit the placing on the market and putting into service of such apparatus or restrict the free movement of such apparatus.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The Technical Surveillance Authority may apply appropriate protective measures in order to prohibit or restrict the placing on the market of radio equipment or to require the withdrawal from the market of radio equipment and types of radio equipment which have caused or are likely to cause radio interference affecting existing or planned radiocommunication.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The Technical Surveillance Authority shall make a decision which constitutes the basis for applying the measure specified in subsection (1) of this section within 15 working days after becoming aware of the non-conformity of an apparatus.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The Technical Surveillance Authority shall immediately inform the European Commission of applying any of the protective measures provided for in subsection (1) of this section, setting out the reasons for applying such protective measures and indicating whether the non-conformity of the apparatus arises from:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) incorrect application of the harmonised standards;
- 2) deficiencies in the harmonised standards, or
- 3) non-compliance of the apparatus with the harmonised standards.

### **§ 130. Supervision over conformity of apparatus**

(1) The Technical Surveillance Authority shall exercise supervision over the conformity of apparatuses pursuant to the procedure provided for in the Product Conformity Act, with the specifications provided for in this Act.

[RT I 2010, 31, 158 - entry into force 01.10.2010]

(2) [Repealed - RT I 2010, 31, 158 - entry into force 01.10.2010]

(3) [Repealed - RT I 2010, 31, 158 - entry into force 01.10.2010]

(4) [Repealed - RT I 2010, 31, 158 - entry into force 01.10.2010]

(5) The procedure for ordering, and compensation for the costs related to, assessment services for the inspection of conformity of apparatuses shall be established by the Government of the Republic.

### **§ 131. Procedure for notification of European Commission**

The European Commission shall be notified in the cases provided for in subsections 127 (4), 128 (5) and 129 (4) of this Act pursuant to the procedure established by the Minister of Economic Affairs and Communications.

### **§ 132. Radio equipment database**

(1) The radio equipment database (hereinafter *database*) is a state authority database within the meaning of the Public Information Act.

[RT I 2007, 12, 66 - entry into force 01.01.2008]

(2) Only radio equipment the conformity of which has been assessed and attested and which bears a conformity mark shall be entered in the database.



(3) The database contains the following information:

- 1) the name of the notifier;
- 2) the name and address of the person notifying of placing the radio equipment on the market;
- 3) the name and address of the person responsible for placing the radio equipment on the market;
- 4) the information necessary for identification of the radio equipment;
- 5) the technical data of the radio equipment;
- 6) the conformity assessment information concerning the radio equipment;
- 7) the information on any restrictions on use of the radio equipment.

(4) The information is entered in the database based on the notices submitted to the Technical Surveillance Authority pursuant to subsection 122 (4) of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

## **Chapter 13**

# **STATE ORGANISATION OF ELECTRONIC COMMUNICATIONS SECTOR**

### **§ 133. State supervision**

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(1) State supervision over compliance with this Act and legislation established on the basis thereof shall be exercised by the following law enforcement bodies:

- 1) the Ministry of Economic Affairs and Communications and the Technical Surveillance Authority within the limits of competence provided by this Act;
- 2) the Competition Authority within the limits of competence provided by this Act and the Competition Act.

(2) State supervision over compliance with this Act shall also be exercised by the Consumer Protection Board within the limits of competence provided by the Consumer Protection Act.

(3) Supervision over compliance with the personal data processing requirements provided for in this Act and over the use of electronic contact details provided for in § 103<sup>1</sup> of this Act shall be exercised and administrative coercion shall be applied by the Data Protection Inspectorate pursuant to the procedure provided for in Chapter 6 of the Personal Data Protection Act.

(4) State supervision over compliance with the ensuring of security and integrity of communications networks and services provided for in § 87<sup>2</sup> of this Act shall be exercised by the Estonian Information System's Authority.

(5) The state organisation of the electronic communications sector shall be exercised by the Ministry of Economic Affairs and Communications and the Technical Surveillance Authority within the limits of competence provided by this Act and the Competition Authority within the limits of competence provided by this Act and the Competition Act.

(6) Upon performing the duties arising from this Act and exercising supervision, guidance shall also be taken from European Union law.

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

### **§ 133<sup>1</sup>. State supervision**

In order to exercise state supervision provided for in this Act, a law enforcement authority may apply the specific state supervision measures provided for in §§ 30, 31, 32, 49, 50, 51, 52 and 53 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

### **§ 134. Objectives of state organisation**

(1) The objective of state organisation of the electronic communications sector is to promote competition in the provision of electronic communications services and services related thereto. The achievement of the specified objective shall be ensured, among other things, by means of:

- 1) protecting subscribers, including people with special needs and the elderly, in particular regarding the range of services, quality and price;
- 2) preventing distortion or hindering of competition in the market of communications services;
- 3) promoting effective use of radio frequencies and numbering and ensuring effective management thereof.

(2) The objective of state organisation of the electronic communications sector is to promote the development of the communications market, among other things, by means of:

- 1) removing obstacles to the provision of communications services within the European Union, including any obstacles in the area of offering communications networks and facilities related thereto;
- 2) supporting the creation and development of pan-European communications networks as well as the interoperability and end-to-end connectivity of pan-European communications services;
- 3) transparent co-operation with other supervision authorities operating in the area of communications services, the European Commission and BEREC in order to guarantee the uniform nature and consistency of regulatory practices and the consistent application of European Union law regulating the electronic communications sector.

(3) The objective of state organisation of the electronic communications sector is to protect the rights of users of communications services, among other things, by ensuring:

- 1) the access of end-users to universal services;
- 2) the protection of the interests of end-users;
- 3) the protection of personal data and inviolability of private life;
- 4) the provision of information by communications undertakings and above all, ensuring the transparency of the charges for and conditions of providing communications services;
- 5) the taking account of the interests of various social groups, including people with special needs and the elderly;
- 6) the integrity and safety of communications networks;
- 7) the ability of end-users to access information of their choice, to its distribution as well as to the use of applications and services.

(4) The objectives of state organisation of the electronic communications sector provided for in subsections (1)-(3) of this section shall be pursued on the basis of objective, transparent, non-discriminatory and proportionate regulatory principles, among other things, the following:

- 1) the promotion of foreseeability of regulation by ensuring uniform regulatory approach also after regulatory amendments;
- 2) the ensuring of equal and non-discriminatory treatment of communications undertakings;
- 3) the promotion of infrastructure-based competition;
- 4) the promotion of investment in communications networks and other units of electronic communications infrastructure, the supporting of innovation and the protection of investments;
- 5) the taking account of existing competition and the peculiarities of locations of end-users upon access to services;
- 6) the establishment of the requirements provided for in Chapter 5 of this Act only in the absence of effective and sustainable competition.

(5) The implementation of and compliance with this Act shall be based on the principle of technological neutrality.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

### **§ 135. Obligations of law enforcement authorities upon performance of acts and application of measures**

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1) Upon performing an act or applying a measure on the basis of this Act, regardless of whether an administrative act is issued to this effect, the law enforcement authorities must ensure that the act or measure:

- 1) is reasonable and expedient;
- 2) is objectively considered, non-discriminatory and impartial;
- 3) is transparent;
- 4) serves the purpose of achieving a specific objective provided for in § 134 of this Act and is in proportion to the objective sought.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) If a communications undertaking which has notified of commencement of activities or a holder of a frequency authorisation or numbering authorisation has violated the conditions for notification of commencement of activities or the conditions of a frequency authorisation or a numbering authorisation such that it represents immediate or serious threat to public safety, public security or public health or if it may cause serious economic or operational problems for other providers or users of communications networks or communications services or users of radio frequencies, the Technical Surveillance Authority may apply temporary measures to eliminate the violation without regard to the provisions of §§ 18 and 37 of this Act. Temporary measures may be applied for a period of six months.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

### **§ 136. Participation of law enforcement authorities in legislative drafting**

[RT I 2007, 66, 408 - entry into force 01.01.2008]

The law enforcement authorities have the right to make proposals for amendment of this Act and legislation established on the basis thereof. The law enforcement authorities shall make the respective proposal to the Ministry of Economic Affairs and Communications.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

### **§ 137. Reporting by law enforcement authorities**

(1) The law enforcement authorities shall prepare and submit to the Ministry of Economic Affairs and Communications, not later than by 1 April each year, a report on the developments and problems in the electronic communications sector and on their own activities during the previous calendar year.

(2) The report specified in subsection (1) of this section must, in accordance with the competence of the authority, set forth:

- 1) changes in the electronic communications sector, a description thereof and an analysis of the situation;
- 2) an analysis of the activities of the supervision or organising authority, problems which have arisen in the activities thereof and proposals for planning future activities.

(3) In addition to the provisions of subsection (2) of this section, the report of the Technical Surveillance Authority must include a review of the quality of services in the electronic communications sector and an analysis of the situation.

(4) In addition to the provisions of subsection (2) of this section, the report of the Competition Authority must include a review of the use of universal service charges and an estimation of the rate of the universal service charge and the affordable charge payable for universal services for the next calendar year.

[RT I, 23.03.2011, 1 - entry into force 01.01.2016]

(5) The law enforcement authorities shall publish the report specified in subsection (1) of this section on their website with the exception of information intended for internal use.

(6) In addition to the yearly report specified in subsection (1) of this section, the law enforcement authorities shall submit to the Ministry of Economic Affairs and Communications a review of the changes in the electronic communications sector once in every three months. The report must include, among other things, statistical data concerning the main indicators of the communications services market.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

### **§ 138. [Repealed - RT I, 23.03.2011, 1 - entry into force 25.05.2011]**

### **§ 139. Special clothing of official of Technical Surveillance Authority**

Special clothing is prescribed for officials of the Technical Surveillance Authority exercising or organising supervision.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

### **§ 140. Supervisory control over law enforcement authorities**

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1) The Minister of Economic Affairs and Communications exercises supervisory control over the law enforcement authorities pursuant to the procedure provided by the Government of the Republic Act. Supervisory control must not restrict the independence of the law enforcement authorities upon performing the duties thereof pursuant to this Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) Information concerning the decision on the release from service of a head of the supervision or organising authority shall be published on the website of the Ministry of Economic Affairs and Communications.

The reason for the release from service shall be published if so requested by the head of the supervision or organising authority.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

### **§ 141. Explanations by law enforcement authorities**

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1) In order to clarify and introduce this Act, the law enforcement authorities may provide explanations and instructions which are not binding and which serve the objective of ensuring uniform application of this Act. Such explanations and instructions shall be published on the website of the supervision or organising authority or as a periodical printed publication.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The supervision or organising authority must inform the European Commission of its intention to issue the explanations and instructions specified in subsection (1) of this section and of the reasons therefor and extent thereof if these relate to Chapter 10 of this Act.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(3) Upon issuing the explanations and instructions specified in subsection (2) of this section, the law enforcement authorities shall take account of the proposals of the European Commission to the greatest extent possible.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 142. Competence of law enforcement authorities in foreign relations**

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1) The law enforcement authorities shall organise, within the limits of their competence, performance of the obligations of the Republic of Estonia arising from international agreements related to the electronic communications sector.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The Technical Surveillance Authority shall submit the standards concerning the electronic communications sector adopted by the European standards organisation to the Estonian standards organisation for transposition thereof into Estonian standards.

[RT I 2010, 31, 158 - entry into force 01.10.2010]

(3) The law enforcement authorities shall represent, within the limits of their competence, Estonia in international electronic communications organisations and respective international and European standardisation organisations.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 143. Co-operation of law enforcement authorities with experts, other supervision authorities, European Commission and BEREC**

In order to perform the duties provided for in this Act, the law enforcement authorities shall, if necessary, involve independent experts and co-operate with other supervision authorities of Estonia and of foreign states as well as with the European Commission and BEREC.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 144. Co-operation of law enforcement authorities**

(1) The law enforcement authorities shall co-operate in the area of market regulation and exercising of supervision in the electronic communications sector and, if necessary, exchange appropriate information. The law enforcement authorities may specify the conditions for and organisation of their co-operation by way of a protocol concerning co-operation between such authorities.

(2) The law enforcement authorities may also exchange confidential business information if necessary. In such case the obligation provided for in subsection 148 (5) of this Act applies to the officials of the law enforcement authorities.

(3) If a communications undertaking is an undertaking with significant market power within the meaning of this Act and also an undertaking in a dominant position on the market within the meaning of the Competition Act, and if the Competition Authority has applied any measures specific to the sector as provided by this Act with respect to the undertaking, the Competition Authority may not apply any such measures with respect to the undertaking or make any such decisions or perform any such acts on the basis of the Competition Act which are contradictory to the measures applied by the Competition Authority pursuant to this Act.

(4) If a communications undertaking is an undertaking with significant market power within the meaning of this Act and also an undertaking in a dominant position on the market within the meaning of the Competition Act, the Competition Authority shall exercise supervision over the charges for communications services of such communications undertaking on the market on which the communications undertaking has been designated as having significant market power on the basis of this Act.

(5) If a communications undertaking is an undertaking with significant market power within the meaning of this Act and also an undertaking in a dominant position on the market within the meaning of the Competition Act, the Competition Authority shall exercise supervision over the communications undertaking on the communications network access services market on which the undertaking has been designated as having significant market power on the basis of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 144<sup>1</sup>. Co-operation of law enforcement authorities with Statistical Office**

In producing official statistics the law enforcement authorities shall co-operate with the Statistical Office pursuant to the procedure provided for in the Official Statistics Act. The law enforcement authorities may also forward confidential information to the Statistical Office. In such case the obligation provided for in subsection 148 (5) of this Act extends to the officials of the Statistical Office. The Statistical Office and the law enforcement authorities may specify the conditions for and organisation of their co-operation by way of a protocol concerning co-operation between such authorities.

[RT I 2007, 63, 397 - entry into force 17.12.2007]

#### **§ 145. Administrative acts of law enforcement authorities**

[RT I 2007, 66, 408 - entry into force 01.01.2008]

In order to perform the duties provided for in this Act, the law enforcement authorities shall issue administrative acts. The administrative acts of the law enforcement authorities are issued in the format of a precept or decision.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 146. Precept of supervision and organising authorities**

[Repealed - RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(1) The Director General of the law enforcement authorities and an official authorised by the Director General have the right, within the limits of their competence, to issue mandatory precepts for the elimination of violations of the requirements provided for by this Act, of legislation established on the basis of this Act and of regulations of the European Union, or for the performance of the obligations provided by this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) A precept of the law enforcement authorities shall set out at least the following:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

1) the time and place of issue of the precept;

2) the address of the supervision or organising authority;

[RT I 2007, 66, 408 - entry into force 01.01.2008]

3) the official title, given name and surname of the official who issued the precept;

4) the person to whom the precept is issued;

5) the circumstances of the issue of the precept;

6) the provisions of legislation violated by the person to whom the precept is issued;

7) the demand that the violation of law be terminated or the obligation be performed;

8) a reasoning about the compliance with the objectives and requirements provided for in §§ 134 and 135 of this Act;

9) the term for compliance with the precept.

A precept shall be delivered to a person or a representative of the person against signature at a specified date and time or shall be sent by post with advice of delivery.

(4) In the event of failure to perform an obligation imposed by a precept, the law enforcement authorities may apply a coercive measure pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a penalty payment is 9600 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 147. Decision of law enforcement authorities**

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1) The law enforcement authorities shall make a decision in the cases provided for in this Act, and also in the cases where the law enforcement authorities have the obligation to issue an administrative act pursuant to a provision of law which however, does not specify whether the administrative act must be issued in the form of a precept or a decision. The Director General of the law enforcement authorities and an official authorised by the Director General have the right to make a decision of the law enforcement authorities.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) Upon making a decision, the law enforcement authorities shall take account of the requirements established in subsections 146 (2) and (3) of this Act, with the specifications arising from this Act and the contents of the decision.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 148. Obligation to provide information to law enforcement authorities**

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1) The law enforcement authorities have the right to require information needed for performance of the duties assigned to the law enforcement authorities by this Act from communications undertakings and other persons.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) Persons are required to provide the law enforcement authorities with information needed for performance of the duties assigned to the law enforcement authorities by this Act, except in the case of information on specific messages and information on the users of communications services the disclosure of which is restricted pursuant to §§ 102-107 of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) Information requested by the law enforcement authorities must be necessary for performance of a specific duty and in proportion thereto.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) In order to obtain information or a document, the law enforcement authorities shall prepare a written request. The law enforcement authorities must provide in the request an explanation on the duty for the performance of which information is requested and on the manner it will be used. The law enforcement authorities must grant in the request a reasonable term for a person to submit information, which may not be shorter than 10 working days as of the date of receipt of the request for information.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) Officials of the law enforcement authorities are required to maintain the confidentiality of state secrets, classified information of foreign states and confidential information which have become known to them in the course of performing their service duties and they have the right to use such information only for the performance of their service duties.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 149. Resolution of disputes by law enforcement authorities**

(1) If resolution of a dispute by the law enforcement authorities is provided for in this Act, a party to the dispute must submit a written petition to such effect. A dispute which is in the competence of supervision authorities of more than one Member State of the European Union is a cross-border dispute.

(2) The Director General of the law enforcement authorities or an official authorised by the Director General must participate in hearing the petition specified in subsection (1) of this section.

(3) The law enforcement authorities shall resolve a cross-border dispute in cooperation with the respective supervision authorities of Member States of the European Union, consulting with BEREC if necessary.

(4) The law enforcement authorities shall inform the other party to the dispute within ten working days as of the submission of the petition specified in subsection (1) of this section and require explanations. The law enforcement authorities shall grant a reasonable term for providing explanations which may not be shorter than ten working days as of the date of receipt of the request.

(5) The law enforcement authorities must resolve the dispute specified in subsection (1) of this section without undue delay but not later than within four months after the receipt of the petition specified in subsection (1) of this section. If the dispute is particularly complicated, the law enforcement authorities are not required to observe the term of four months. In such event the law enforcement authorities must explain why the dispute is considered to be particularly complicated and communicate the term for resolution of the dispute.

(6) If, upon resolving a cross-border dispute, the opinion of BEREC is requested, the law enforcement authorities participating in the resolution of the dispute specified in subsection (3) of this section must wait for the opinion of BEREC before making the determination specified in subsection (5) of this section.

(7) If the law enforcement authorities have failed to resolve a cross-border dispute within the term specified in subsection (5) of this section and the dispute has not been brought before the courts by the party seeking redress and if either party requests it, the law enforcement authorities shall proceed from the provisions of § 134 of this Act, taking account of any opinion adopted by BEREC to the greatest extent possible.

(8) The law enforcement authorities shall resolve a dispute by making a determination to satisfy or to deny the petition specified in subsection (1) of this section. The determination shall be made in the form of a decision or precept of the Director General of the law enforcement authorities. The determination shall be made in the form of a precept if the resolution of the dispute involves issuing instructions for future conduct to one of the parties of the dispute. The law enforcement authorities shall forward such determination immediately to the parties of the dispute.

(9) If the law enforcement authorities make a precept to a communications undertaking upon resolving a cross-border dispute, they shall take account of the opinion of BEREC to the greatest extent possible.

(10) If the petitioner so desires, the law enforcement authorities may participate in the dispute as the conciliator without making the binding determination specified in subsection (8) of this section. In this case the petitioner must set out in the petition specified in subsection (1) that it wishes the law enforcement authorities to participate in the dispute as the conciliator.

(11) The law enforcement authorities shall collect information concerning the content, number and duration of resolution of complaints and the number of decisions to apply temporary measures.

(12) The law enforcement authorities do not settle private law disputes between end-users and communications undertakings and the complaints of consumers against communications undertakings.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 150. Exchange of information with European Commission, BEREC and supervision authorities of Member States of European Union**

(1) The Ministry of Economic Affairs and Communications and the law enforcement authorities are required to provide information to the European Commission and BEREC if such request is submitted.

(2) The law enforcement authorities may also provide information to the supervision authorities of other Member States of the European Union.

(3) If information provided by the law enforcement authorities to the European Commission and BEREC includes data which the law enforcement authorities have obtained from a communications undertaking, the law enforcement authorities must inform the communications undertaking about forwarding such information to the European Commission and BEREC and undertake all measures to protect the confidentiality of the information entrusted to them by the communications undertaking also after it has been forwarded.

(4) If the law enforcement authorities find that disclosure to the supervision authorities of other Member States of the European Union of information provided to the European Commission and BEREC is not justified, the law enforcement authorities must inform the European Commission and BEREC at the time of submission of such information to the European Commission and BEREC that the law enforcement authorities do not wish that the information is communicated to the supervision authorities of the Member States and present the reasons for wishing the non-disclosure of the information.

(5) If the law enforcement authorities have provided information to the supervision authority of one Member State of the European Union, the law enforcement authorities are also required to provide, upon a reasoned request, the information to the supervision authorities of other Member States.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 151. Publication of information concerning electronic communications sector**

(1) The law enforcement authorities shall, pursuant to their competence and in adherence to the requirement of confidentiality of business secrets, make the following information publicly available on their website:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) decisions to designate undertakings as having significant market power;
- 2) decisions to impose obligations on undertakings;
- 3) decisions on defining communications services markets;
- 4) determinations made in disputes between undertakings,
- 5) other information and decisions which publication arises from this Act.

(2) The law enforcement authorities shall publish the information specified in subsection (1) of this section in adherence to the provisions of § 152 of this Act, unless otherwise provided by this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) A state fee is charged for certified copies of documents issued by the Technical Surveillance Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The law enforcement authorities may provide to interested persons, on the basis of their request, statistical information concerning the number of subscribers of publicly available electronic communications services provided by communications undertakings at the retail level and the market shares calculated on the basis of the number of subscribers of communications undertakings providing the service. The specified information cannot be regarded as business secret. If the disclosure of such information contradicts stock exchange rules, such information may be disclosed only in accordance with the stock exchange rules.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **§ 152. Consultation obligation**

(1) Prior to performing an act, imposing an obligation or applying a measure provided for in this Act, and prior to establishing legislation which significantly affects the relevant communications services market or the rights of end-users and consumers, the interested persons, including end-users and people with special social needs, and communications undertakings must be given an opportunity to present their opinion on the planned decision or legislation.

(2) In order to obtain the opinions specified in subsection (1) of this section, the governmental authority planning the issue of a decision or legislation shall publish a notice to this effect on its website, setting out a short description of the obligation, act or legislation, information about the time and place for receiving additional information, and granting a reasonable term for the submission of opinions. The governmental authority planning the issue of a decision or legislation shall publish a summary of received opinions on its website.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(3) The law enforcement authorities shall inform the Ministry of Economic Affairs and Communications of any current consultation and the results thereof. The Ministry of Economic Affairs and Communications shall provide, at the respective request, the specified information to the interested persons.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

## **Chapter 14**

### **LIABILITY**

**§ 153. [Repealed - RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force postponed RT I, 22.12.2013, 1)]**

**§ 154. Failure to submit information and delayed submission of information**

Failure, by a legal person, to submit the information specified in subsection 148 (2) of this Act, submission of incomplete information, delayed submission of information or knowing submission of incorrect information is punishable by a fine of up to 2000 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 155. Unlawful use of radio frequencies**

(1) Unlawful use of radio frequencies or violation of conditions for use thereof is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 155<sup>1</sup>. Failure to submit conditions for installation of radio transmission equipment to Health Board for approval**

[RT I 2009, 49, 331 - entry into force 01.01.2010]

(1) Failure to submit the conditions for the installation of radio transmission equipment to the Health Board for approval by a holder of a frequency authorisation using self-planned radio frequency band is punishable by a fine of up to 300 fine units.  
[RT I 2009, 49, 331 - entry into force 01.01.2010]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 156. Causing of radio interference**

(1) Causing of radio interference which interferes with the operation of a radio navigation service or distorts, interrupts or prevents other legitimate radiocommunication is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 157. Use of incorrect or inaccurate radio call sign**

(1) Use of incorrect or inaccurate radio call sign is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 158. Violation of confidentiality of radiocommunication**

(1) Obtaining and use, by third persons not engaged in radiocommunication, of information by means of radio equipment concerning persons engaged in radiocommunication and messages transmitted by them is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]



#### **§ 159. Sending of incorrect and misleading message**

(1) Sending, by means of radiocommunication, of incorrect or misleading messages which may prejudice the safety of aircraft, ships or vehicles on land or of persons or the functioning of the activities of any rescue service agency

is punishable by a fine of up to 300 fine units.  
[RT I 2010, 29, 151 - entry into force 20.06.2010]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 160. Preventing of access to radio equipment**

(1) Preventing of immediate access of an official of the Technical Surveillance Authority exercising supervision to radio equipment for the purpose of inspecting the conformity of radio equipment and the right to use radio frequencies

is punishable by a fine of up to 100 fine units.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 161. Interrupting of lawful radio transmission session**

(1) Interrupting unjustly of lawful radio transmission session is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 162. Unlawful use of numbering**

(1) Using of numbering without a numbering authorisation or reservation is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 163. Violation of conditions for use of numbering**

(1) Violation of the conditions for use of numbering is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 164. Violation of number portability requirements**

(1) Violation of number portability requirements is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 165. Failure by communications undertaking to grant access to numbers, short numbers or numbers of European Telephony Numbering Space 3883**

(1) Failure by a communications undertaking to grant access to numbers, short numbers or numbers of the European Telephony Numbering Space (*ETNS*) 3883 is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person,

is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 166. Violation of obligation imposed on undertaking with significant market power**

(1) Violation of the obligation imposed on an undertaking with significant market power is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 166<sup>1</sup>. Violation of access or interconnection obligation**

(1) Violation by a communications undertaking providing network services of the obligation imposed on the basis of subsections 63 (1)-(3) of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 166<sup>2</sup>. Unlawful restriction of access**

(1) Imposing by a communications undertaking of an unlawful restriction of access on a communications undertaking with whom it has entered into an access or interconnection agreement is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 166<sup>3</sup>. Unlawful routing of call by means of terminal equipment**

(1) Routing of a call by means of terminal equipment used in an electronic communications network from one communications network to another without a respective written access agreement is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 167. Violation of requirements established for provision of universal services**

(1) Violation of the requirements established for the provision of universal services is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 168. Violation of requirement to pay universal service charge**

(1) Violation of the requirement to pay the universal service charge is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 169. Violation of technical requirements established for communications networks**

(1) Violation of the technical requirements established for communications networks is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 170. Violation of requirements established for quality of communications services**

(1) Violation of the requirements established for the quality of communications services is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 170<sup>1</sup>. Violation of requirements established for security and integrity of communications networks and services**

(1) Violation of the requirements established for the security and integrity of communications networks and services is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

#### **§ 171. Violation of special requirement for provision of cable distribution services**

(1) Violation of the special requirement for the provision of cable distribution services is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2600 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 171<sup>1</sup>. Violation of roaming service requirements**

(1) Violation of roaming service requirements is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 171<sup>2</sup>. Violation of requirements for provision of multiplexing services**

(1) Violation of the requirements for the provision of multiplexing services provided for in § 90<sup>1</sup> of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 172. Refusal to enter into subscription contract and violation of procedure for entry into subscription contract**

(1) Refusal to enter into a subscription contract, except in the cases specified in subsection 93 (2) of this Act, or violation of the procedure for entry into a subscription contract is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 173. Failure by communications undertaking to create possibility to end-user to commence using communications services**

(1) Failure by a communications undertaking to create a possibility to an end-user to commence using communications services within the term provided for in § 95 of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

**§ 174. Failure by communications undertaking to adhere to mandatory terms and conditions of communications services contract**

(1) Failure by a communications undertaking to adhere to the mandatory terms and conditions of a communications services contract provided for in § 96 of this Act is punishable by a fine of up to 300 fine units.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 175. Failure by communications undertaking to comply with requirements established for elimination of communications network faults**

(1) Failure by a communications undertaking to comply with the requirements established for the elimination of communications network faults provided for in § 97 of this Act is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1300 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 176. Unlawful restriction by communications undertaking of communications services for end-user of communications services**

(1) Unlawful restriction by a communications undertaking of communications services for an end-user of communications services is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 177. Failure to enable establishing of connection to national emergency numbers and single European emergency call number "112" during restriction of provision of communications services**

(1) Failure to enable the establishing of a connection to the national emergency numbers or the single European emergency call number "112" during the restriction of the provision of communications services is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 178. Violation of requirements for amendment of terms and conditions of communications services contract**

(1) Violation of the requirements for amendment of the terms and conditions of the communications services contract provided for in § 99 of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 179. Damaging of communications network, line facility and line**

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(1) Activity or organisation of activity which involved damaging of a communications network, line facility or line is punishable by a fine of up to 300 fine units.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 180. Activity within protective zone of line facility without permission of owner of line facility**

(1) Activity or organisation of activity without the permission of the owner of a line facility within the protective zone of the line facility which has caused an unsafe situation or has exposed the line facility to danger is punishable by a fine of up to 100 fine units.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1300 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 181. [Repealed - RT I 2010, 31, 158 - entry into force 01.10.2010]**

#### **§ 182. Failure to submit notice on placing of radio equipment on market and incomplete or untimely submission of information**

(1) Failure to submit a notice on placing of radio equipment on the market specified in subsection 122 (4) of this Act or incomplete or untimely submission of information is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 183. Failure to publish and untimely publication of and failure to update and untimely updating of specifications of types of interfaces offered to end-users**

(1) Failure to publish or untimely publication of or failure to update or untimely updating of the specifications of the types of interfaces offered to the end-users specified in subsection 128 (1) of this Act is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 184. Violation of terms and conditions of technical licence for third generation mobile telephone network**

Violation by a legal person of the terms and conditions of the technical licence for a third generation mobile telephone network (*Universal Mobile Telecommunication System – UMTS*) is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 184<sup>1</sup>. Violation of obligation to preserve data**

(1) Violation of the obligation to preserve the data specified in § 111<sup>1</sup>, the log files specified in subsection 113 (5) or the application specified in subsection 113 (6) of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 184<sup>2</sup>. Violation of requirements established for use of electronic contact details**

(1) Violation of the requirements established for the use of electronic contact details provided for in § 1031 of this Act

is punishable by a fine of up to 300 fine units.

[RT I 2010, 38, 230 - entry into force 10.07.2010]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 38, 230 - entry into force 01.01.2011]

### **§ 185. Violation of obligation to provide information to surveillance agency and security authority and grant access to communications network**

(1) Violation of the obligation to provide information to a surveillance agency or security authority or to grant access to the communications network provided for in §§ 112 and 113 of this Act is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2600 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

### **§ 186. Violation of obligation to maintain confidentiality of information related to conduct of surveillance activities and activities which restrict right to inviolability of private life or right to confidentiality of messages**

(1) Violation of the obligation to maintain the confidentiality of information related to the conduct of surveillance activities and activities which restrict the right to inviolability of private life or the right to the confidentiality of messages provided for in subsection 113 (9) of this Act is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2600 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

### **§ 187. Violation of obligation to maintain confidentiality of information**

(1) Violation of the obligation to maintain the confidentiality of information concerning the user which has become known in the process of provision of communications services or failure to give notice thereof is punishable by a fine of up to 200 fine units.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

### **§ 188. Proceedings**

(1) The provisions of the General Part of the Penal Code and of the Code of Misdemeanour Procedure apply to the proceedings concerning the misdemeanours provided for in §§ 153-187 of this Act.

(2) The Technical Surveillance Authority may confiscate, in accordance with the provisions of the Penal Code, the thing which was the direct object of commission of the misdemeanours provided for in §§ 155, 156, 158, 159, 161 and 166<sup>3</sup> of this Act.  
[RT I 2010, 31, 158 - entry into force 01.10.2010]

(3) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 153-155, 156-165, 166<sup>3</sup>, 169, 170 and 171-184<sup>1</sup> of this Act shall be conducted by the Technical Surveillance Authority.  
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(3<sup>1</sup>) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 154, 166-166<sup>2</sup>, 167, 168 and 171<sup>1</sup> of this Act shall be conducted by the Competition Authority.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(4) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 172-178 of this Act shall be conducted by the Consumer Protection Board within the limits of its competence.

(5) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 185 and 186 of this Act shall be conducted by the Police and Border Guard Board or the Security Police Board.  
[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

(6) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 184<sup>2</sup> and 187 of this Act shall be conducted by the Data Protection Inspectorate.  
[RT I 2010, 38, 230 - entry into force 10.07.2010]

(7) Extra-judicial proceedings concerning the misdemeanour provided for in § 155<sup>1</sup> of this Act shall be conducted by the Health Board.  
[RT I 2009, 49, 331 - entry into force 01.01.2010]

(8) Extra-judicial proceedings concerning the misdemeanour provided for in § 170<sup>1</sup> of this Act shall be conducted by the Estonian Information System's Authority.

## **Chapter 15**

### **IMPLEMENTING PROVISIONS**

#### **§ 189. Revocation of activity licences**

(1) Upon entry into force of this Act, activity licences issued pursuant to the Telecommunications Act and the Cable Distribution Act prior to the entry of this Act into force are revoked.

(2) Communications undertakings which have submitted a notice of commencement of activities before the entry into force of this Act are deemed to have submitted the notice of commencement of activities provided for in § 4 of this Act with regard to the communications services and geographical area notified before the entry into force of this Act.

(3) Communications undertakings which hold a valid activity licence at entry into force of this Act are deemed to have submitted the notice of commencement of activities provided for in § 4 of this Act with regard to the communications services and geographical area defined in the activity licence.

(4) The Technical Surveillance Authority is required to make the information specified in subsections 4 (2) and (3) of this Act available to the public on its website within three months after the entry into force of this Act.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

#### **§ 190. Transition to frequency authorisation**

(1) The permits for the use of radio transmitting equipment, ship radio licences, aircraft radio licences and amateur radio station operating authorisations issued before the entry into force of this Act are valid until the date of expiry indicated in the permits, licences and authorisations.

(2) The permits for the installation of radio transmission equipment issued before the entry into force of this Act are valid until the date of expiry indicated in the permits, but not for longer than until 31 December 2005.

(3) [Repealed - RT I 2006, 25, 187 - entry into force 02.06.2006]

(3<sup>1</sup>) The frequency authorisations for third generation mobile telephone networks (*Universal Mobile Telecommunication System – UMTS*) shall be amended and the terms and conditions of technical licences for third generation mobile telephone networks shall be entered thereon. Section 15 of this Act does not apply to the specified amendment. Upon amendment of the frequency authorisation, the technical licence for a third generation mobile telephone network shall be revoked.

(4) [Repealed - RT I 2006, 25, 187 - entry into force 02.06.2006]

(5) The transfer of the right to use radio frequencies provided for in § 17 of this Act shall not be applied earlier than on 31 December 2006.

(6) As an exception, the Technical Surveillance Authority shall issue, without a competition, the first three national frequency authorisations for digital broadcasting to the undertaking specified in subsection 21 (1) of the Broadcasting Act. Additional frequency authorisations for digital broadcasting shall be issued pursuant to the procedure provided for in §§ 12-14 of this Act.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(7) The undertaking specified in subsection (6) of this section is required, for digital broadcasting purposes, to launch one national digital broadcasting network not later than on 31 December 2007 and the next two digital broadcasting networks not later than on 31 December 2009.  
[RT I 2007, 3, 12 - entry into force 17.01.2007]

#### **§ 190<sup>1</sup>. Issue of frequency authorisation for third generation mobile telephone network**

(1) The Technical Surveillance Authority shall issue the fourth national frequency authorisation for a third generation mobile telephone network within the radio frequency band 1900 to 2170 MHz for a term of ten years.  
[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

(2) The authorisation specified in subsection (1) of this section shall be issued by way of public competition established on the basis of subsection 9 (4) of this Act at a base price of 4,473,815 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) The following are the conditions of the authorisation specified in subsection (1) of this section:

- 1) to launch, not later than during the seventh year after the issue of the frequency authorisation, a third generation mobile telephone network covering at least 30 per cent of the population of Estonia which, as to its network architecture and planned services, complies with the standards set by the European standards organisations for third generation mobile telephone networks;
- 2) the network specified in clause 1) of this subsection shall provide a data transfer rate of at least 144 kbit/sec in cities and at least 64 kbit/sec elsewhere.

(4) Persons who hold a valid frequency authorisation for a third generation mobile telephone network issued prior to the competition cannot participate in the public competition specified in subsection (2) of this section.  
[RT I 2006, 25, 187 - entry into force 02.06.2006]

## **§ 190<sup>2</sup>. Charge for use of frequency band of third generation mobile telephone network**

(1) The holder of a frequency authorisation for a third generation mobile telephone network granting the right to use the radio frequency band 1900 to 2170 MHz is required to pay each year, except the years of issuing or extending the frequency authorisation, by the date of issue of the licence, a charge for the use of the respective frequency band in the amount provided for in clause 3.1 of Annex 3 to the State Fees Act, taking account of the provisions of clause 194 (5) 4) of the State Fees Act.  
[RT I, 23.03.2011, 1 - entry into force 24.03.2011]

(2) Upon failure to perform the obligation to pay the charge provided for in subsection (1) of this section, the Technical Surveillance Authority shall revoke the specified authorisation.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

## **§ 191. Transition to numbering authorisation**

(1) The permits for the use of a numbering block, identification code or short number issued before the entry into force of this Act remain valid until the date of expiry set out therein and the numbers booked by a communications undertaking before the entry into force of this Act are deemed to be reserved. The person specified in subsection 29 (1) of this Act must submit an application for a numbering authorisation to the Technical Surveillance Authority one month before the expiry of a permit for the use of a numbering block, identification code or short number.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) The holder of a permit for the use of a numbering block, identification code or short number issued prior to the entry into force of this Act may apply, after the entry into force of this Act, for the replacement of the permit for the use of a numbering block, identification code or short number issued prior to the entry into force of this Act with a numbering authorisation under the conditions specified in subsection (1) of this section.

(3) Before the establishment of the numbering management database provided for in subsection 28 (3) of this Act, the Technical Surveillance Authority shall grant a numbering authorisation to a person specified in subsection 29 (1) of this Act within one month after receipt of an application to this effect, and shall reserve a respective number. The Technical Surveillance Authority shall change or annul a reservation within 10 days after the receipt of an application to this effect.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The obligation of the Technical Surveillance Authority to reserve numbers provided for in subsection (3) of this section ends after the establishment of the numbering management database specified in subsection 28 (3) of this Act.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) Upon the grant of a numbering authorisation pursuant to this Act before the expiry of the previous authorisation, the state fee to be paid shall be set off against the paid state fee for the overlapping period in the cases specified in subsections (2) or (9) of this section.

(6) The procedure for the set-off of the state fee specified in subsection (5) of this section shall be established by the Government of the Republic.

(7) The Technical Surveillance Authority shall establish the numbering management database provided for in subsection 28 (3) of this Act within nine months after the entry into force of this Act, consulting beforehand with the interested persons pursuant to the procedure provided for in § 152 of this Act.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(8) Upon establishing the numbering management database, the Technical Surveillance Authority shall enter the reserved numbers in the database in accordance with subsection (3) of this section.  
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(9) After the establishment of the numbering management database, the holders of permits for the use of a numbering block, identification code or short number issued prior to the entry into force of this Act have the right to submit an application for the replacement of such permit with a numbering authorisation, specifying the quantity of numbers the applicant wishes to use. The applicant for a numbering authorisation must to modify,



within fifteen days after the submission of the application, the quantity of numbers reserved thereto such that it would not be higher than the quantity requested in the application.

### **§ 191<sup>1</sup>. Review of frequency and numbering authorisations**

The frequency and numbering authorisations granted before 25 May 2011 shall be brought into conformity with this Act not later than by 19 September 2011.

[RT I, 23.03.2011, 1 - entry into force 25.05.2011]

### **§ 192. Transition to market regulation**

The obligations of undertakings with significant market power in accordance with Article 27 of the Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.04.2002, p. 33 - 50) remain valid with regard to undertakings which have been designated as having significant market power for the year 2005 prior to the entry into force of this Act pursuant to the Telecommunications Act until the making of the decision specified in § 49 of this Act to designate an undertaking as having significant market power or a decision not to designate an undertaking with significant market power. The Communications Board shall conduct the market analysis provided for in § 44 and make the decisions provided for in § 49 not later than by 31 December 2007.

[RT I 2005, 71, 545 - entry into force 01.01.2006]

### **§ 193. Provision of universal service**

(1) The obligation to provide universal services pursuant to the Telecommunications Act which was effective prior to the entry into force of this Act remains valid under the conditions applicable before the entry into force of this Act until a communications undertaking with the universal service obligation is designated pursuant to § 73 of this Act, but not for longer than until 31 December 2006.

(2) The rate of the universal service charge provided for in subsection 83 (1) of this Act shall be established by the Government of the Republic not later than on 30 September 2006.

### **§ 194. Bringing of communications services contract into conformity with this Act**

(1) If a communications services contract entered into with the end-user before the entry into force of this Act does not conform to the requirements of this Act, the communications undertaking is required to bring the communications services contract into conformity with the provisions of this Act within one year after the entry into force of this Act.

(2) For bringing a communications services contract into conformity with this Act, a communications undertaking shall propose amendment of the contract to the end-user and grant the end-user a reasonable term for acceptance or refusal of the proposal. If the end-user fails to give an answer within this term, the contract shall be deemed to be amended.

(3) If the end-user refuses to amend the contract, the communications undertaking has the right to terminate the communications services contract entered into with the end-user.

### **§ 195. Bringing of access and interconnection agreements into conformity with this Act**

(1) If an access or interconnection agreement entered into before the entry into force of this Act does not conform to the requirements of this Act, the communications undertaking is required to bring the access or interconnection agreement into conformity with the provisions of this Act within one year after the entry into force of this Act.

(2) For bringing an access or interconnection agreement into conformity with this Act, the communications undertaking shall propose amendment of the contract to the other communications undertaking and grant a reasonable term thereto for acceptance or refusal of the proposal. If the other communications undertaking fails to give an answer within this term, the contract shall be deemed to be amended.

(3) If the communications undertaking refuses to amend the agreement, the communications undertaking who proposed amendment has the right to terminate the access or interconnection agreement.

(4) Access or interconnection agreements entered into in oral form remain valid until the agreed date, but not for longer than until 1 June 2008.

[RT I 2007, 63, 397 - entry into force 17.12.2007]

## **§ 195<sup>1</sup>. Use of electronic contact details**

The obligation provided for in clause 103<sup>1</sup>(3) 1) of this Act is not applied in the manner specified in subsection (3) in the case of contact details obtained before the entry into force of § 103<sup>1</sup>.  
[RT I 2010, 38, 230 - entry into force 10.07.2010]

## **§ 196. Termination of state register of telecommunications systems**

The operation of the state register of telecommunications systems shall be terminated pursuant to the procedure provided for in the Public Information Act.  
[RT I 2007, 12, 66 - entry into force 01.01.2008]

**§ 197.–§ 203.**[Omitted from this text.]

## **§ 204. Repeal of Cable Distribution Act**

(1) The Cable Distribution Act is repealed.

(2) Legislation issued on the basis of subsections 3 (4), 4 (3), 12 (4), 18 (7), 19 (4) and 26 (4) of the Cable Distribution Act and valid at the entry into force of this Act remain valid after the entry into force of this Act in so far as it does not contradict this Act until it is repealed.

## **§ 205. Repeal of Telecommunications Act**

(1) The Telecommunications Act is repealed.

(2) Legislation issued on the basis of subsections 3 (23), 4 (5), 6 (8), 7 (2), 18 (7), 19 (8), 31 (4) and (4<sup>1</sup>), 37 (3) and (4), 47 (3), 51 (7), 53 (6), 56 (1), 57 (3) and (4), 58 (5), 64 (2) and (4), 65 (3), 66 (4), 69 (1) and (5), 74 (10), 80 (3) and (4), 82 (5), 84 (6), 95 (12) and 113 (10) of the Telecommunications Act and valid at the entry into force of this Act remain valid after the entry into force of this Act in so far as it does not contradict this Act until it is repealed.

## **§ 206. Entry into force of Act**

This Act enters into force on 1 January 2005.

<sup>1</sup>Directive 1999/5/EC of the European Parliament and of the Council on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 07.04.1999, p. 10 - 28); Directive 2002/19/EC of the European Parliament and of the Council on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.04.2002, p. 7 - 20), amended by Directive 2009/140/EC (OJ L 337, 18.12.2009, p. 37 - 69); Directive 2002/20/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, 24.04.2002, p. 21 - 32), amended by Directive 2009/140/EC (OJ L 337, 18.12.2009, p. 37 - 69); Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.04.2002, p. 33 - 50), amended by Directive 2009/140/EC (OJ L 337, 18.12.2009, p. 37 - 69); Directive 2002/22/EC of the European Parliament and of the Council on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.04.2002, p. 51 - 77), amended by Directive 2009/136/EC (OJ L 337, 18.12.2009, p. 11 - 36); Directive 2002/58/EC of the European Parliament and of the Council of concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)(OJ L 201, 31.07.2002, p. 37 - 47), amended by Directive 2006/24/EC (ELT L 105, 13.04.2006, p. 54 - 63) and Directive 2009/136/EC (OJ L 337, 18.12.2009, p. 11 - 36); Commission Directive 2002/77/EC on competition in the markets for electronic communications networks and services (OJ L 249, 17.09.2002, p. 21 - 26); Directive 2006/24/EC of the European Parliament and of the Council on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (OJ L 105, 13.04.2006, p. 54 - 63). [RT I, 23.03.2011, 1 - entry into force 25.05.2011]