

**REPUBLIC OF LITHUANIA**  
**LAW ON ELECTRONIC COMMUNICATIONS**

15 April 2004 No. IX-2135

Vilnius

**CHAPTER ONE**  
**GENERAL PROVISIONS**

**Article 1. Purpose, Objectives and Scope of the Law**

1. This Law shall regulate social relations pertaining to electronic communications services and networks, associated facilities and services, use of electronic communications resources as well as social relations pertaining to radio equipment, terminal equipment and electromagnetic compatibility.

2. This Law shall not regulate any social relations pertaining to the services delivered using networks and services referred to in paragraph 1 as well as any content conveyed over electronic communications networks and any services associated with such content.

3. EU legal acts that are directly applicable and that regulate the subject of this Law shall be implemented in accordance with the provisions of this Law (including the settlement of relevant disputes and imposition of sanctions) without prejudice to the conditions of such legal acts and the competence of EU institutions.

4. State institutions that apply this Law within the scope of their competence shall take into account the relevant recommendations of the Commission of the European Communities (“the European Commission”). Where state institutions make a reasoned decision not to comply with the said recommendations, they shall notify the European Commission about it indicating the reasons for such a decision.

5. This Law is aimed at promoting the objectives of EU regulatory framework for electronic communications, including the promotion of competition in providing electronic communications networks and services as well as associated facilities and services, the protection of user interests and the development of the internal market.

6. This Law has the objective of regulating electronic communications activities in the Republic of Lithuania within the framework of the requirements of EU legal acts listed in the Annex to this Law.

## **Article 2. Principles for Regulation of Electronic Communications Activities**

1. The regulation of electronic communications activities shall be based on the principles of effective management and use of limited resources, technological neutrality, functional equivalence, proportionality, minimal necessary regulation, legal certainty in a dynamic market, economic development, ensuring effective competition, consumer rights protection, objectivity of regulatory criteria, conditions and procedures, transparency and non-discrimination.

2. The principle of technological neutrality means that legal norms must be applied taking into account the objectives to be achieved and ensuring, to a reasonable extent, that their application does not encourage or discriminate the use of specific technologies as well as ensuring that the legal norms are applied, as far as possible, disregarding the technologies employed in the provision of electronic communications networks or services related to a specific legal relationship.

3. The principle of functional equivalence means that the application of the legal norms should be as uniform as possible in respect of electronic communications networks or services with analogous functions.

4. When applying the legal norms regulating electronic communications activities, due account must be taken of the principles referred to in paragraph 1 of this Article. These principles should be harmonised without giving priority to any of them and they should be applied with due regard to the purpose and objectives set out in Article 1 of this Law.

## **Article 3. Definitions**

1. “**Subscriber**” means any person who or which is party to a contract with the provider of publicly available electronic communication services for the supply of such services.

2. “**Equipment and/or devices**” means all electrical and/or electronic appliances and installations containing electrical and/or electronic components.

3. **“Protected services”** means services provided against remuneration and on the basis of conditional access, such as the broadcasting of television and radio programmes by wire or over the air, including by satellite, intended for reception by the public as well as the provision of information society services or the provision of conditional access to the abovementioned services, considered as a service in its own right.

4. **“Person”** means a natural or legal person.

5. **“Unbundled access to local loop”** means full unbundled access to the local loop and shared access to the local loop. The allocation of unbundled access does not entail a change in ownership of the local loop.

6. **“Local sub-loop”** means a partial local loop connecting the network termination point at the subscriber’s premises to a concentration point or a specified intermediate access point in the fixed public telephone network.

7. **“Electromagnetic disturbance”** means any electromagnetic phenomenon which may degrade the performance of equipment and/or devices. An electromagnetic disturbance may be electromagnetic noise, an unwanted signal or a change in the propagation medium itself.

8. **“Electromagnetic compatibility”** means the ability of equipment and/or devices to function satisfactorily in an electromagnetic environment without introducing intolerable electromagnetic disturbances to anything in that environment.

9. **“Electronic communications”** means the conveyance of signals by wire, by radio, by optical or by other electromagnetic means.

10. **“Electronic mail”** means any text, voice, sound or image message sent over a public communications network which can be stored in the network or in the recipient’s terminal equipment until it is collected by the recipient.

11. **“Electronic communications infrastructure”** means the totality of equipment, devices, lines, pipelines, cables, ducts, collectors, towers, masts and other facilities designed to carry out electronic communications activities.

12. **“Electronic communications resources”** means radio frequencies (channels), telephone numbers and other electronic communications networks identifiers, such as radio call signs, orbital resources, including the position in a geostationary orbit, and other resources necessary to carry out electronic communications activities, use electronic communications networks or radio equipment or terminal equipment and provide electronic communications services.

13. “**Assignment of electronic communications resources**” means the granting of rights under an issued authorisation to use electronic communications resources subject to conditions set forth by the Communications Regulatory Authority.

14. “**Electronic communications service**” means a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting (re-broadcasting). Electronic communications services exclude services providing, or exercising editorial control over, content transmitted using electronic communications networks and services and do not include information society services which do not consist wholly or mainly in the conveyance of signals on electronic communications networks.

15. “**Electronic communications network**” means transmission systems and/or switching or routing equipment and other facilities which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including the Internet) and mobile terrestrial networks, electricity cable systems (to the extent that they are used for the purpose of transmitting signals), networks used for radio and/or television broadcasting (re-broadcasting), and cable television and microwave multi-channel distribution system networks, irrespective of the type of information conveyed.

16. “**Provision of an electronic communications network**” means the establishment, operation, control and/or making available of such network.

17. “**Electronic communications network identifier**” means the addressing facilities identifying electronic communications network points, including network termination points, or terminal equipment connected to an electronic communications network in order to direct information specifically to these electronic communications network points or the relevant terminal equipment or to identify the sender of information.

18. “**Electronic communications activity**” means the provision of electronic communications networks and/or services.

19. “**European Community market**” means the relevant market covering the European Community or a substantial part thereof as defined by the Commission of the European Communities.

20. “**Actual user of electronic communications services**” means a natural person using publicly available electronic communications services for personal or business purposes who is not necessarily a subscriber to such services.

21. “**Terminal equipment**” means equipment, or relevant component thereof, capable of receiving and/or sending information and intended to be connected directly or indirectly by any means whatsoever to public communications networks.

22. “**End user**” means a user not providing public communications networks or publicly available electronic communications services.

23. “**Information society service**” means any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a user.

24. “**Shared access to the local loop**” means the provision to a beneficiary of access to the local loop or local sub-loop of an operator bound by the procedure and conditions set out in this Law, authorising the use of the non-voice band frequency spectrum of the twisted metallic pair.

25. “**Exclusive rights**” means the rights that are granted by the State to one undertaking, reserving it the right to provide a number of services or to engage in an electronic communications activity and/or other activity within a given geographical area.

26. “**Extraordinary circumstances**” means a state of emergency or war, extreme situations, including natural disasters, force majeure and other similar circumstances.

27. “**Cable television network**” means any mainly wire-based infrastructure established primarily for the delivery or distribution of radio or television broadcast to the public.

28. “**National Radio Frequency Allocation Table**” means a document approved by the Government setting out the allocation of radio frequencies for radio communication (including broadcasting), production, research, medical and other needs.

29. “**Operator**” means an undertaking providing or authorised to provide a public communications network or an associated facility.

30. “**User**” means a legal entity or natural person using or requesting a publicly available electronic communications service.

31. **“Enhanced digital television equipment”** means set-top boxes intended for connection to television sets or integrated digital television sets, able to receive digital interactive television services.

32. **“Wide-screen digital television service”** means a television service that consists wholly or partially of programmes produced and edited to be displayed in a full height wide-screen format. The 16:9 format is the reference format for wide-screen television services.

33. **“Value-added service”** means, to the extent that it is related to the processing of personal data and the protection of privacy, any service which requires the processing of traffic data or location data other than traffic data beyond what is necessary for the transmission of a communication or the billing thereof.

34. **“Access”** means the making available of an electronic communications infrastructure (including buildings), networks and/or services to another undertaking under defined conditions, on either exclusive or non-exclusive basis, for the purpose of providing electronic communications services. It covers inter alia:

- 1) access to network elements and associated facilities which may involve the connection of equipment, by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop);
- 2) access to physical infrastructure including buildings, ducts and masts;
- 3) access to software systems including operational support systems;
- 4) access to number translation or systems offering equivalent functionality
- 5) access to fixed and mobile networks, in particular for roaming;
- 6) access to conditional access systems for digital television services;
- 7) access to virtual network services.

35. **“Radio waves”** means electromagnetic waves propagated in space without artificial guide.

36. **“Radio amateur”** means a natural person engaged in a radio communication activity for personal purposes not related to business and without pecuniary interest.

37. **“Radio equipment”** means equipment, or relevant component thereof, capable of communication by means of the emission and/or reception of radio waves utilising the spectrum allocated to radio communication.

38. **“Radio communication channel”** means a radio frequency band assigned for a specified totality of technical facilities and radio wave propagation environment, intended for the transmission and reception of specific information.

39. **“Radio Regulations”** means an official publication of the International Telecommunication Union establishing radio communication control.

40. **“Radio communication”** means the conveyance, transmission and/or reception of information by means of radio waves.

41. **“Radio monitoring”** means the control of radio wave environment parameters.

42. **“Radio station”** means one or more transmitters or receivers, or a combination of transmitters and receivers necessary at one location for carrying a radio communication service.

43. **“Radio disturbance”** means electromagnetic disturbances occurring within the radio wave range.

44. **“Radio interference”** means the degradation of the performance of equipment and/or device, radio communication or a radio system due to radio disturbances.

45. **“Conditional access”** means any technical measure and/or arrangement whereby access to the protected service is made conditional upon prior individual authorisation of the service provider.

46. **“Interface”** means a network termination point and/or a wireless interface specifying the radio path between radio equipment and their technical specifications.

47. **“Transmission provider”** means an undertaking, except for broadcasters and/or re-broadcasters possessing a licence issued by the Radio and Television Commission of Lithuania granting the right to establish and operate their own electronic communications networks, who transmits to the public radio and/or television programme signals by an electronic communications network and who has the right to use radio frequencies (channels) necessary for such transmission and intended for the broadcasting(re-broadcasting) of radio and/or television programmes.

48. **“Call”** means a connection established by means of a publicly available telephone service allowing two-way communication in real time.

49. **“Leased line”** means a non-switched electronic communications line connecting termination points in an electronic communications network.

50. **“Leased line service”** means an electronic communications service enabling transmission between termination points in an electronic communications network without switching functions that the user of electronic communications services can control.

51. **“Special rights”** means the rights granted by the State to a limited number of undertakings whereby, within a given geographical area:

1) two or more undertakings are designated which are authorised to provide services or undertake an activity, or the number of such undertakings is limited to two or more, otherwise than according to objective, proportional and non-discriminatory criteria;

2) undertakings are granted, otherwise than according to objective, proportional and non-discriminatory criteria, legal or administrative privileges which substantially affect the ability of any other undertaking to provide the same services or to undertake the same electronic communications activity and/or other activities in the same geographical area on substantially equivalent conditions.

52. **“Traffic data”** means any data processed for the purpose of the conveyance of a communication on an electronic communications network and/or for the billing thereof.

53. **“Reference offer”** means the conditions made public by an operator bound by the procedure and conditions set out in this Law, whereby he makes a commitment to provide access to any undertaking requesting it.

54. **“Associated facilities”** means those facilities associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via the network and/or service. It includes conditional access systems and electronic programme guides.

55. **“Application program interface (API)”** means the software interfaces between applications, made available by broadcasters (re-broadcasters) or service providers, and the resources in the enhanced digital television equipment for digital television and radio services.

56. **“Public pay telephone”** means a telephone available to the general public, for the use of which the means of payment may include coins and/or payment instruments.

57. **“Telecommunications terminal equipment”** means equipment, or relevant component thereof, capable of communication and intended to be connected



directly or indirectly by any means whatsoever to public telecommunications networks (i.e. networks used wholly or partly for the provision of publicly available telecommunications services).

58. “**Telecommunications services**” means a service which consists wholly or mainly in the conveyance of signals on electronic communications networks, except for the transmission of television and/or radio programmes by networks used for broadcasting (re-broadcasting).

59. “**Network termination point (NTP)**” means the physical point at which a subscriber is provided with an access to a public communications network.

60. “**Interconnection**” means the physical and logical linking of public communications networks used by the same or a different undertaking in order to allow the users of one undertaking to communicate with users of the same or another undertaking, or to access services provided by another undertaking. Interconnection is a specific type of access.

61. “**Undertaking**” means a natural or legal person or a group of persons linked by virtue of control or dependency who are engaged in an electronic communications activity in the Republic of Lithuania or whose actions have an impact on or intentions, if realised, might have an impact on economic activity in the Republic of Lithuania.

62. “**Universal service**” means the minimum set of services of specified quality which must be available to all end users requesting it regardless of their geographical location and at an affordable price.

63. “**Consumer**” means any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession, i.e. for meeting personal, family or household needs.

64. “**Effective competition**” means a situation in a market where no undertaking has significant market power.

65. “**Vertically integrated undertaking**” means an undertaking engaged in two or more types of activity extending along the same value-added chain.

66. “**Fixed public telephone network**” means a public telephone network with fixed termination points.

67. “**Public mobile telephone network**” means a public telephone network with non-fixed termination points.

68. **“Public communications network”** means an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services.

69. **“Public telephone network”** means an electronic communications network which is used to provide publicly available telephone services; it supports the transfer between network termination points of speech communications and other forms of communication, such as facsimile and data.

70. **“Publicly available electronic communications services”** means electronic communications services available to the public.

71. **“Publicly available fixed telephone services”** means publicly available telephone services provided on the fixed public telephone network.

72. **“Publicly available mobile telephone services”** means publicly available telephone services provided on the public mobile telephone network.

73. **“Publicly available telephone services”** means the services available to the public for originating and receiving national and international calls and access to emergency services through a number or numbers in the National Telephone Numbering Plan, and in addition may include the following services: the provision of operator assistance, directory enquiry services, provision of public pay telephones, provision of service under special terms, provision of special facilities for customers with disabilities or with special social needs and/or provision of non-geographic services.

74. **“Local loop”** means the physical circuit connecting the network termination point at the subscriber’s premises to the main distribution frame or equivalent facility in the fixed public telephone network.

75. **“Beneficiary of access to the local loop”** means an undertaking authorised to provide electronic communications services, which may be or has been granted access to the local loop.

76. **“Location data”** means any data processed in an electronic communications network, indicating the geographic position of the terminal equipment of an actual user of electronic communications services.

77. **“Full unbundled access to the local loop”** means the provision to a beneficiary of access to the local loop or local sub-loop of the operator bound by the procedure and conditions set out in this Law, authorising the use of the full frequency spectrum of the physical circuit.

78. **“Harmful interference”** means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with the applicable regulations.

## **CHAPTER TWO**

### **SYSTEM FOR THE FORMULATION AND REGULATION OF POLICY AND STRATEGY ON ELECTRONIC COMMUNICATIONS ACTIVITIES**

#### **Article 4. Institutions Responsible for the Formulation and Regulation of Policy and Strategy on Electronic Communications Activities**

1. The Government or an institution authorised by the Government shall formulate the policy and strategy on electronic communications activities in the Republic of Lithuania.

2. Electronic communications activities in the Republic of Lithuania shall be regulated by the Communications Regulatory Authority and other state institutions of the Republic of Lithuania within the scope of competence defined by this Law.

3. Electronic communications used for the purpose of national defence, national security, maintenance of public order, guarding of state borders, maritime security, maritime search and rescue operations, oil spillage response, civil aviation and rail traffic safety, and ensuring stable and reliable operations in the energy system shall be regulated by relevant state institutions within the scope of their competence. The work of these institutions shall be coordinated by a Government authorised institution.

4. The development, production, import, export, placing on the market, acquisition, and use of encoding facilities for the information transmitted by electronic communications networks and/or delivered using electronic communications services shall be regulated by the Government on the basis of its resolutions. Compliance with such resolutions shall be supervised by a Government authorised institution.

#### **Article 5. Tasks and Functions of the Government or Government Authorised Institution in the Field of Electronic Communications**

1. When formulating the policy and strategy on electronic communications activities, the Government or an institution authorised by the Government shall establish political and strategic objectives to ensure the economic development and competitiveness of the electronic communications sector.

2. The Government shall:

1) establish price caps for universal service, the rules for the provision of universal service, obligations on undertakings not designated to provide universal service which are necessary for the proper provision of this service, including the obligation to provide information about subscribers at fair, objective and reasonable costs and on non-discriminatory terms as well as the obligation intended for enabling end users to use directory enquiry services; the Government shall also establish additional universal service, the procedure and conditions for the provision thereof, quality of service requirements, and the procedure, conditions and cases for imposition of additional universal service obligations on providers of electronic communications services;

2) approve the National Radio Frequency Allocation Table and the Strategy for Assigning Radio Frequencies to Broadcast and Transmit Radio and Television Programmes (hereinafter referred to as the “Strategy”);

3) perform other functions defined in legal acts.

3. The Government or an institution authorised by the Government shall approve a strategy for the development of electronic communications in the Republic of Lithuania.

4. All regulatory authorities governing electronic communications activities shall act in accordance with the strategy for the development of electronic communications in the Republic of Lithuania.

5. The Government or an institution authorised by the Government shall:

1) implement national policy and strategy in the field of electronic communications;

2) coordinate the development of state investment programmes in the field of electronic communications, make economic, financial and technical assessments of such programmes and exercise control over their implementation;

3) maintain cooperation with foreign institutions responsible for the formulation of electronic communications policy and strategy and represent, within the scope of its competence, the Republic of Lithuania in international organisations,

EU institutions, committees and groups the activities of which are related to electronic communications (telecommunications), radio equipment and terminal equipment, electromagnetic compatibility and/or radio spectrum management;

4) collect information relevant to the formulation of policy and strategy on electronic communications activities;

5) in cases of force majeure, extreme situations or other extraordinary circumstances as well as for the purpose of preparing for universal mobilisation or national defence or ensuring national security and public order, give, in accordance with the procedure established by laws and other legal acts, mandatory instructions, tasks and assignments to undertakings providing electronic communications networks and/or services as well as to owners or users of equipment and devices;

6) designate certification and inspection bodies as well as testing laboratories responsible for assessing the conformity of equipment and devices in accordance with the procedure established by the Government;

7) perform other functions established by legal acts.

#### **Article 6. The Communications Regulatory Authority**

1. The Communications Regulatory Authority shall be an independent state institution responsible for the regulation of electronic communications activities and for the supervision of compliance with and implementation of the provisions of this Law, except where such supervision and implementation fall within the scope of competence of other state institutions. The Communications Regulatory Authority shall operate in accordance with this and other laws as well as its own regulations. The regulations of the Communications Regulatory Authority shall be approved by the Government. The Communications Regulatory Authority shall be a national regulatory authority of the Republic of Lithuania within the meaning of the EU legal acts regulating social relations pertaining to the subject of this Law.

2. The Communications Regulatory Authority shall be a public legal entity having its bank account and a seal with the Lithuanian state emblem and its name inscribed therein.

3. The Communications Regulatory Authority shall be financed from the state budget and a separate budget of its own, comprised of revenues from services provided and work performed. The objects and scope of such services and work as

well as the procedure of payment shall be established by the Communications Regulatory Authority on the basis of their costs.

4. Each year, by May 1, the Communications Regulatory Authority shall submit to the Seimas and the Government and publish an annual report of the Communications Regulatory Authority on its operating and financial activities for the previous calendar year, indicating the charges collected and the costs incurred by the Communications Regulatory Authority. After having published the annual report identifying such costs and the amount of charges collected, the Communications Regulatory Authority shall make calculation of the difference between the costs incurred and the total sum of charges collected and approve appropriate adjustments to be made.

5. The Communications Regulatory Authority shall publish any information necessary for the development of an open and competitive market. The rules of publication of such information, including its scope, shall be established by the Communications Regulatory Authority, taking account of the legal norms regulating the protection of confidential information, including state, business or commercial secrets or private information about a natural person.

6. The Communications Regulatory Authority shall publish information related to the implementation of this Law within the scope and subject to the procedure and conditions set forth by the Authority itself.

7. The legal acts adopted by the Communications Regulatory Authority or the non-adoption thereof may be appealed against in court within the established time limit and in accordance with the procedure established by this and other laws. The filing of an appeal to court concerning a legal act adopted by the Communications Regulatory Authority shall not suspend the legal act, except for the cases where the court decides otherwise in accordance with procedure established by the law.

#### **Article 7. Management of the Communications Regulatory Authority**

1. The Communications Regulatory Authority shall be headed by a director. The director of the Communications Regulatory Authority shall be appointed for a period of five years by the President of the Republic on a proposal from the Prime Minister.

2. The director's remuneration (service pay, premium for years of service to the State of Lithuania, and bonus payments) shall be set out in the Law on Work Pay for Politicians, Judges and State Officials.

3. The Council of the Communications Regulatory Authority (hereinafter referred to as the "Council") shall be a collegiate body of the Communications Regulatory Authority. The Council shall comprise seven members and it shall be chaired by the director of the Communications Regulatory Authority. The Council shall be appointed for a period of five years by the President of the Republic of Lithuania on a proposal from the Prime Minister. Members of the Council shall not be remunerated. The Council's working procedure, the rules for holding meetings and adopting resolutions shall be established by its rules of procedure approved by the Council. The technical servicing of the Council shall be provided by the Communications Regulatory Authority from its funds.

4. The director of the Communications Regulatory Authority shall issue orders and the Council shall adopt resolutions.

5. The director of the Communications Regulatory Authority shall address any issues falling within the scope of competence of the Communications Regulatory Authority. In cases provided for in this Law, the director of the Communications Regulatory Authority shall coordinate his decisions with the Council.

6. The director of the Communications Regulatory Authority shall:

1) represent and/or authorise another person to represent the Communications Regulatory Authority in the Republic of Lithuania and abroad;

2) approve, after coordination with the Council, the structure and the regulations of structural divisions of the Communications Regulatory Authority;

3) approve the list of staff positions and job descriptions for the Communications Regulatory Authority;

4) in accordance with the procedure established by the law, hire and dismiss public servants and employees of the Communications Regulatory Authority working under employment contracts; give incentives to and impose penalties on them;

5) approve strategic plans of activity of the Communications Regulatory Authority;

6) sign resolutions adopted by the Council;

7) issue orders, approve legal acts by orders and exercise control over their implementation;

8) ensure that the Communications Regulatory Authority should act in conformity with the laws and other legal acts;

9) every year, by 31 March, present to the Council, and by 1 May – to the Seimas and the Government, and publish a written report on the activities of the Communications Regulatory Authority ;

10) exercise other powers conferred upon him by the laws and other legal acts of the Republic of Lithuania.

7. The director of the Communications Regulatory Authority may have deputies. Such deputies are appointed by the director of the Communications Regulatory Authority in accordance with the procedure established by the Law on Public Service. In the case of absence of the director, he shall be temporarily replaced by one of the deputies appointed by him.

8. The Council shall:

1) consider radio communication development plans;

2) coordinate the rates of charges for the services provided and the work performed by the Communications Regulatory Authority and the procedure of payment thereof;

3) coordinate the revenue/expenditure estimate of the budget of the Communications Regulatory Authority;

4) coordinate the rules for market analysis;

5) coordinate the legal acts referred to in Articles 29 and 34 of this Law;

6) coordinate the rules for the publication of information necessary for the development of an open and competitive market, including the scope of such information;

7) coordinate the procedure, scope and conditions of publication by the Communications Regulatory Authority of information related to the implementation of this Law;

8) coordinate the rules of consultation provided for in paragraph 4 of Article 11 of this Law;

9) coordinate the rules for the settlement of disputes between undertakings as well as the rules for mediation and/or conciliation procedures;



10) coordinate the rules for the settlement of disputes between end users and providers of electronic communications services;

11) approve the rules of procedure of the Council and coordinate the internal rules of procedure of the Communications Regulatory Authority;

12) hear a report on the activities of the Communications Regulatory Authority by the director thereof;

13) consider draft strategic plans of activity of the Communications Regulatory Authority;

14) consider and submit proposals to the director of the Communications Regulatory Authority relating to the imposition of economic sanctions on undertakings that fail to comply with the requirements of this Law;

15) consider draft legal acts prepared by the Communications Regulatory Authority;

16) analyse the activities of the Communications Regulatory Authority;

17) approve other legal acts in the cases provided for by this Law.

9. The President of the Republic on a proposal from the Prime Minister, shall dismiss the director of the Communications Regulatory Authority and/or members of the Council in accordance with the procedure established by the law in the following cases:

1) at the request of the director and/or Council member;

2) on expiry of the term of powers;

3) for health reasons;

4) on reaching retirement age;

5) on election to another position or on transfer to another job with their consent;

6) if convicted by a final judgement;

7) if he or she discredits the status of the director and/or member of Council;

8) if member of the Council discontinues to hold his position in an institution where he had performed such duties at the time of his appointment.

10. The working procedure for the administration of the Communications Regulatory Authority shall be established in the internal rules procedure of the Communications Regulatory Authority approved by the director thereof.

## **Article 8. Objectives and Tasks of the Communications Regulatory Authority**

1. The Communications Regulatory Authority shall have the objective of developing effective competition in the field of electronic communications, efficient use of electronic communications resources and ensured protection of the rights of consumers of electronic communications services.

2. The Communications Regulatory Authority shall have the following tasks:

1) ensure conditions necessary for effective competition in electronic communications markets;

2) ensure the protection of rights and legitimate interests of the users of electronic communications services, in particular ensure simple and affordable dispute settlement procedures and promote the transparency of conditions for the provision of electronic communications services and their tariffs, and ensure, within the scope of its competence, the possibility to use universal service;

3) promote effective long-term investments and the development of electronic communications;

4) ensure an effective use of electronic communications resources and sufficient national telephone numbering resources necessary for publicly available electronic communications services so that numbering plans and procedures are applied in a manner that gives equal treatment to all providers of publicly available electronic communications services, in particular ensure that undertakings allocated a range of numbers do not discriminate against other providers of electronic communications services as regards the number sequences used to give access to their services;

5) ensure, within the scope of its competence, that the equipment and devices used in the Republic of Lithuania are in conformity with the mandatory requirements in force in the Republic of Lithuania and ensure the electromagnetic compatibility of the equipment and devices;

6) promote, within the scope of its competence, the development of the European Community's internal market and a harmonised regulation of electronic communications in the European Community;

7) cooperate with competent authorities including the State Data Protection Inspectorate to secure the right to privacy with regard to personal data processing;

8) ensure that the operators and providers of electronic communications services fulfil their obligations that may be imposed on them in the interest of national defence, national security and maintenance of public order as well as in cases of extraordinary circumstances.

### **Article 9. Functions of the Communications Regulatory Authority**

1. The Communications Regulatory Authority shall perform the following functions:

1) exercise control over, supervision of and implementation of the provisions of this Law and the legal acts implementing it, except where such control, supervision and implementation fall within the scope of competence of other state institutions as defined by this Law;

2) prepare and approve requirements for equipment and devices and the conditions of their use; in the cases provided for in legal acts, issue permits to use equipment and devices, import and use radio monitoring equipment;

3) prepare and submit to the Government for approval the National Radio Frequency Allocation Table and implement it within the scope of its competence; prepare, together with the Radio and Television Commission of Lithuania, the Strategy and submit it to the Government for approval; draw up, on the basis of the Strategy and together with the Radio and Television Commission of Lithuania, the Strategic Plan for the Assignment of Radio Frequencies to Broadcasting and Transmission of Radio and Television Programmes (hereinafter referred to as the “Strategic Plan”);

4) cooperate with foreign regulatory authorities governing electronic communications activities; participate, within the scope of its competence, in the work of international organisations and EU institutions, committees and groups the activities of which are related to electronic communications (telecommunications), radio equipment and terminal equipment, electromagnetic compatibility and/or radio spectrum management appointing, where appropriate, experts to participate in relevant committees and groups; pursue international coordination of radio frequencies (channels) and international protection of radio stations (radio frequencies). The Communications Regulatory Authority may undertake obligations on behalf of the Republic of Lithuania only subject to the powers conferred upon it in accordance with the procedure established by legal acts, except for the cases where an

5) prepare and submit to the Government or an institution authorised by the Government proposals for national policy and strategy in the field of electronic communications and implementation thereof;

6) prepare and submit to the Government proposals regarding price caps for universal service;

7) prepare and submit to the Government for approval the rules for the provision of universal service;

8) collect and store, in accordance with the procedure established by the Government, information about the nature of technical data on electronic communications recorded and stored by undertakings providing electronic communications networks and/or services;

9) on the basis of this Law and other legal acts, adopt legal acts and perform other functions established by this and other laws, regulations of the Communications Regulatory Authority as well as other legal acts.

#### **Article 10. Rights of the Communications Regulatory Authority**

The Communications Regulatory Authority shall have the following rights:

1) assess the conformity of equipment and devices, radio equipment and terminal equipment with mandatory requirements and/or standards;

2) make measurements and perform other actions aimed at assessing whether the technical parameters of equipment and devices, radio equipment and terminal equipment conform to mandatory requirements;

3) set up advisory commissions and approve rules of procedure for such commissions;

- 4) organise meetings, conferences, and other events;
- 5) conclude agreements, assume obligations, have other civil rights and duties, provided that this does not contradict the laws of the Republic of Lithuania;
- 6) implement the provisions of directly applicable EU legal acts regulating the subject of this Law, except where such implementation falls within the scope of competence of the State Data Protection Inspectorate subject to paragraph 5 of Article 12 of this Law;
- 7) publish information and/or notices in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios*;
- 8) take feasible, transparent, proportionate and non-discriminatory actions and/or measures in order to implement the provisions of this Law and the legal acts implementing it;
- 9) enjoy the rights established in this and other legal acts.

#### **Article 11. Public Consultation**

1. The Communications Regulatory Authority, when adopting legal acts on the basis of this Law or on the basis of implementing legal acts which are expected to have a significant impact on the relevant market, except for the cases referred to in paragraph 13 of Article 16 of this Law and except for the legal acts whereby disputes are settled, shall publish drafts of such legal acts in accordance with the procedure and conditions set forth by the Communications Regulatory Authority, granting interested persons a reasonable period of time to express their views.

2. The Communications Regulatory Authority shall, subject to the cases, procedure and conditions set forth by it, publish drafts of decisions of the Communications Regulatory Authority concerning issues related to any rights of the end users and consumers with respect to publicly available electronic communications services, in particular where decisions on such issues have a significant impact on the market, granting the end users and consumers (in particular disabled users), producers, and providers of electronic communications network and/or services a reasonable period of time to express their views.

3. The Communications Regulatory Authority shall consult interested persons when making decisions on mandatory application of standards adopted by international, European Union and other regional standards organisations as well as national standards.

4. The Communications Regulatory Authority shall establish consultation rules defining the cases, procedures and conditions of consultation. The information related to any consultations under way shall be placed on the Web page of the Communications Regulatory Authority. The Communications Regulatory Authority shall publish the results of consultations, except for the information which constitutes state, business or commercial secrets or which is related to the private life of a natural person.

#### **Article 12. Cooperation between Institutions of the Republic of Lithuania**

1. The Competition Council shall, in so far as it is related to electronic communications activities:

1) exchange with the Communications Regulatory Authority any information required for the performance of functions of the Competition Council and the Communications Regulatory Authority, including confidential information, ensuring the protection of the information received;

2) provide consultation to the Communications Regulatory Authority on matters concerning the performance of its functions related to the supervision of competition in the field of electronic communications;

3) cooperate with and consult the Communications Regulatory Authority when exercising supervision of competition in the field of electronic communications in accordance with the Law on Competition.

2. The National Consumer Rights Protection Board shall:

1) coordinate the activities of the Communications Regulatory Authority in the field of consumer rights protection with respect to their use of electronic communications services;

2) provide consultations to the Communications Regulatory Authority on matters concerning the performance of its functions related to the protection of consumer rights with respect to their use of electronic communications services;

3) within the scope of competence established by the Law on Product Safety, exercise supervision of product safety, including the safety of products related to electronic communications networks and/or services and radio equipment and terminal equipment;

4) cooperate with and consult the Communications Regulatory Authority in the field of consumer rights protection with respect to the use of electronic communications services.

3. The State Non Food Products Inspectorate shall, within the scope of competence established by the Law on Product Safety and the powers conferred upon it by the Government, protect consumer rights with respect to the use of electronic communications and shall exercise supervision of product safety, including the safety of products related to electronic communications networks and/or services and radio equipment and terminal equipment.

4. The Radio and Television Commission of Lithuania shall:

1) when making decisions related to the licensing of broadcasting/re-broadcasting activities, consult the Communications Regulatory Authority on matters concerning electronic communications;

2) submit applications to the Communications Regulatory Authority concerning the coordination of radio frequencies (channels) assigned to broadcast and/or re-broadcast terrestrial radio and television programmes.

5. The State Data Protection Inspectorate shall:

1) supervise the implementation of provisions of Chapter 9 of this Law, except for paragraph 5 of Article 63, paragraph 4 of Article 65 and paragraph 7 of Article 70; examine, in accordance with the procedure established by the Law on Public Administration, complaints regarding the processing of personal data and the protection of privacy and draw up reports on infringements of administrative law in accordance with the procedure established by the Code of Administrative Offences; perform other functions established by the law;

2) cooperate with the Communications Regulatory Authority in the field of protection of personal data and privacy;

3) implement the provisions of directly applicable EU legal acts regulating the subject of Chapter 9 of this Law, except for the provisions of paragraph 5 of Article 63, paragraph 4 of Article 65 and paragraph 7 of Article 70.

6. The Customs Department shall cooperate, within the scope of its competence, with the Communications Regulatory Authority in the performance of its functions related to the placement on the market of radio equipment, terminal equipment and equipment/devices, and exchange relevant information.

7. The Lithuanian national standards institution shall cooperate with an institution authorised by the Government, responsible for the formulation of policy and strategy on electronic communications activities, and with the Communications Regulatory Authority when both of these institutions participate, in accordance with the procedure established by the Law on Standardisation, in the process of standardisation related to the provision of electronic communications networks/services, associated facilities and services, including the broadcasting of radio and/or television programmes, also related to technical interfaces and/or the functioning of networks, the interoperability of terminal equipment, including radio and television programme reception equipment, and shall exchange information concerning standardisation.

8. To ensure electronic communications needs, national security institutions shall cooperate within the scope of their competence with the Communications Regulatory Authority.

9. When setting the hygiene norms related to electromagnetic radiation norms, the Ministry of Health shall consult the Communications Regulatory Authority. The Ministry of Health and the Communications Regulatory Authority shall exchange information on the hygiene norms related to electromagnetic radiation norms. The State Public Health Supervision Service, when performing its functions related to the supervision of electromagnetic radiation norms, shall consult the Communications Regulatory Authority and shall exchange relevant information with it.

10. The Communications Regulatory Authority and the Department of Statistics shall provide other state and/or municipal institutions on request with the available information required to perform their functions to the extent that it is necessary for the performance of such functions. Having received confidential information, state and/or municipal institutions must ensure the proper protection thereof.

11. The Communications Regulatory Authority shall cooperate with the Second Investigation Department at the Ministry of National Defence within the scope of competence defined by the legal laws regulating the activity of these institutions.

12. The procedure and conditions of cooperation between the institutions of the Republic of Lithuania, including conditions designed for ensuring proper performance of functions by each of the institutions concerned, the settlement of



disputes relating to the collision of competences, and the formation of uniform practices, may be regulated by agreements between such institutions. Such agreements shall be published in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios*.

### **Article 13. Cooperation with EU Institutions and Member States**

1. State institutions shall cooperate with EU institutions and Member States as well as their institutions in conformity with EU legal acts and mutual agreements. The documents drawn up, issued or approved by EU institutions or Member States as well as the copies and translations of such documents shall not be subject to any authentication procedures.

2. The Communications Regulatory Authority shall submit information to the European Commission and the national regulatory authorities of EU Member States, upon a reasoned request by these institutions. Should the Communications Regulatory Authority provide the European Commission with information, or part of information, which was received earlier from undertakings at the request of the Communications Regulatory Authority, the Communications Regulatory Authority shall inform the relevant undertakings that such information has been submitted.

3. The Communications Regulatory Authority shall provide the European Commission with information about the implementation of EU legal acts regulating the subject of this Law in the Republic of Lithuania.

4. Where EU legal provisions relating to the subject of this Law are applied to EEA states which are not EU Member States, the European Union and the European Community shall be also regarded, for the purpose of this Law, as the European Economic Area.

## **CHAPTER THREE**

### **REGULATORY FRAMEWORK FOR ELECTRONIC COMMUNICATIONS ACTIVITIES**

### **Article 14. Supervision of Competition in the Field of Electronic Communications**

1. The Communications Regulatory Authority shall seek to create conditions for effective competition and its development in the field of electronic

communications as well as conditions to prevent the abuse of market power by undertakings.

2. The Competition Council shall exercise supervision of competition in the field of electronic communications in accordance with the Law on Competition.

#### **Article 15. Significant Market Power on the Relevant Market**

1. An undertaking shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, i.e. a position of economic strength affording it a power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.

2. Where an undertaking has significant market power on the relevant market, it may also be deemed to have significant market power on a closely related market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the undertaking.

3. An undertaking shall be identified as having significant market power where this has been determined by a decision of the Communications Regulatory Authority based on market analysis, and it shall be deemed as such until the Communications Regulatory Authority determines by its decision based on another market analysis that the undertaking does not have significant market power.

#### **Article 16. Market Analysis**

1. The purpose of a market analysis conducted by the Communications Regulatory Authority shall be to ensure effective competition in the field of electronic communications and prevent the abuse of market power by undertakings with significant market power. The Communications regulatory Authority shall lay down the rules on market analysis.

2. The market analysis procedure shall include the following stages:

1) definition of a relevant market (product/service and geographic), the characteristics of which may be such as to justify the imposition of obligations referred to in Article 17 of this Law;

2) analysis whether a relevant market is effectively competitive and in the case it is not effectively competitive, identification of undertakings with significant market power on that market;

3) imposition, amendment and/or withdrawal of obligations referred to in Article 17 of this Law with respect to undertakings with significant market power.

3. The Communications Regulatory Authority shall carry out a market analysis after the European Commission adopts a recommendation defining relevant product and service markets or a decision defining the European Community market or in the event that these legal acts are amended.

4. The Communications Regulatory Authority shall also have the right to conduct a market analysis:

- 1) at the request of interested undertakings;
- 2) at the request of state or municipal institutions;
- 3) at its own initiative.

5. Market analysis shall be conducted by the Communications Regulatory Authority. It shall be initiated by a decision of the Communications Regulatory Authority. The Communications Regulatory Authority shall have the right to complete only parts of the market analysis procedure where it considers for justified reasons that it is not feasible to complete the whole procedure.

6. When conducting a market analysis, the Communications Regulatory Authority shall act in conformity with the European Union law and take account of the guidelines and recommendations adopted by the European Commission.

7. When conducting a market analysis, the Communications Regulatory Authority shall have the right to consult the Competition Council. The Communications Regulatory Authority must obtain the Competition Council's opinion on the definition of a relevant market if the market definition differs from the recommendation by the European Commission referred to in paragraph 3 of this Article. In all cases, the final decision shall be taken by the Communications Regulatory Authority.

8. Where a market analysis is conducted after the adoption by the European Commission of a decision defining the European Community market, the Communications Regulatory Authority shall conduct a market analysis together with the national regulatory authorities of the relevant EU Member States in accordance with the procedure and conditions set out in EU legal acts and mutual agreements with the national regulatory authorities of other EU Member States.

9. The Communications Regulatory Authority shall complete the market analysis procedure within four months after the decision to initiate a market analysis,

excluding consultations on market analysis referred to in paragraph 1 of Article 11 and paragraphs 10 and 11 of Article 16 of this Law. By a reasoned decision of the director of the Communications Regulatory Authority, this period may be extended, but not more than 3 times and by not more than 3 months each time. The Communications Regulatory Authority shall seek to complete the market analysis within the shortest period of time possible. The market analysis shall be completed by a decision of the director of the Communications Regulatory Authority concerning market analysis results. The decision shall indicate the results of every completed stage of the market analysis.

10. The Communications Regulatory Authority, prior to adoption of a decision defining a relevant product or service market, identifying or not identifying undertakings with significant market power on the relevant market or imposing, not imposing or withdrawing all or several of the obligations referred to in Article 17 of this Law with respect to undertakings where such a decision would affect trade between EU Member States, shall submit a draft of the aforementioned decision to the European Commission and national regulatory authorities of other EU Member States at the same time when pursuant to paragraph 1 of Article 11 it submits the draft decision to interested persons. The European Commission and the national regulatory authorities of other EU Member States may present their opinion within one month or within a time limit set under Article 11 of this Law, if the latter is longer.

11. Should the decision referred to in Article 10 define a relevant market differently than it is defined in the recommendation of the European Commission referred to in paragraph 3 of this Article or identify or not identify undertakings with significant market power on the relevant market and should the European Commission notify the Communications Regulatory Authority about its opinion that such a decision would create a barrier to a single market or about its serious doubts as to its compatibility with the European Community law, the Communications Regulatory Authority may not adopt such a decision for a further two months. Should the European Commission instruct the Communications Regulatory Authority that such a decision is not to be adopted, the Communications Regulatory Authority may not adopt it without taking into account the proposals of the European Commission to amend it.

12. When making the final decision, the Communications Regulatory Authority shall assess the opinions of the European Commission and the national

regulatory authorities of EU Member States and may adopt a decision at its own discretion, except for the case referred to in paragraph 11 of this Article. The Communications Regulatory Authority shall submit the final decision to an institution authorised by the Government and to the European Commission.

13. In exceptional circumstances, when the Communications Regulatory Authority considers that there is an urgent need to act by way of derogation from the procedure set out in paragraphs 10 and 11 of this Article so as to safeguard competition and protect the interests of users, it may immediately adopt proportionate and provisional measures, i.e. define a relevant market, identify or not identify undertakings with significant market power on the relevant market and/or impose, not impose or withdraw one or more of the obligations referred to in Article 17 of this Law with respect to such undertakings. Such provisional measures may be imposed for a period no longer than 9 months. In this case, the Communications Regulatory Authority must, without delay, communicate those measures, with full reasons, to the European Commission and the national regulatory authorities of other EU Member States. The Communications Regulatory Authority may render such measures permanent or extend the time for which they are applicable in accordance with the procedure established in paragraphs 10 and 11 of this Article.

14. The Communications Regulatory Authority shall publish the list of relevant markets for which undertakings with significant market power have been identified and the list of undertakings with significant market power as well as the obligations imposed on them, including information on the measures provided for in paragraph 13 of this Article and any changes in such information, in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios* and shall submit such lists to the European Commission.

15. When conducting a market analysis, deciding whether an undertaking has significant market power and imposing obligations on undertakings with significant market power, the Communications Regulatory Authority shall take account of the relevant provisions of international treaties and/or agreements and shall ensure, within the scope of its competence, compliance with and implementation of such treaties and/or agreements in the Republic of Lithuania. When implementing and ensuring compliance with international treaties and/or agreements, the Communications Regulatory Authority shall have the right, after consulting the European Commission and *mutatis mutandis* subject to the procedure and conditions set out in paragraphs 10,

12 and 13 of this Article, to impose, amend or withdraw the obligations referred to in Article 17 of this Law with respect to undertakings other than those with significant market power on the relevant market.

### **Article 17. Imposition of Obligations on Undertakings Having Significant Market Power on the Relevant Market**

1. The Communications Regulatory Authority shall have the right to impose the following obligations on undertakings having significant market power on the relevant market, taking account of their appropriateness in each specific case and setting the starting moment in time for the fulfilment of such obligations:

- 1) obligation of transparency in accordance with the provisions of Article 18 of this Law;
- 2) obligation of non-discrimination in accordance with the provisions of Article 19 of this Law;
- 3) obligation of accounting separation in accordance with the provisions of Article 20 of this Law;
- 4) obligation to provide access in accordance with the provisions of Articles 21 and 22 of this Law;
- 5) obligations of price control and cost accounting in accordance with the provisions of Articles 21 and 22 of this Law;
- 6) obligations concerning the provision of services to end users in accordance with the provisions of Article 32 of this Law.

2. In the cases referred to in Article 26, 33 and 35 of this Law, undertakings having significant market power on the relevant market shall fulfil the relevant obligations without a separate decision by the Communications Regulatory Authority. Undertakings shall also, without a separate decision by the Communications Regulatory Authority, fulfil the additional obligation specified in paragraph 5 of Article 18 of this Law. The Communications Regulatory Authority shall have the right to set the starting moment in time for the fulfilment of the aforementioned obligations. In the event that it does not do so, the undertaking shall fulfil the obligations referred to in the first sentence of this paragraph as of the moment of its identification as having significant market power on the relevant market and the obligation referred to in the second sentence – as of the moment that the undertaking has to start fulfilling the main obligation.

3. The Communications Regulatory Authority shall have the right to impose specific detailed obligations without exceeding the obligations referred to in paragraphs 1 and 2 of this Article.

4. In exceptional circumstances (i.e. where the Communications Regulatory Authority, having regard to paragraph 6 of this Article and/or paragraph 15 of Article 16, determines that the obligations referred to in paragraphs 1, 2 and 3 of this Article would not be sufficient to achieve the objectives set forth in paragraph 1 of Article 16), the Communications Regulatory Authority shall have the right to impose on operators with significant market power other obligations for access, including interconnection, than those set out in paragraphs 1, 2 and 3 of this Article, subject to a consent from the European Commission.

5. The Communications Regulatory Authority shall have the right to attach to those obligations conditions covering fairness, reasonableness and timeliness. The Communications Regulatory Authority shall have the right to specify the obligations provided for in this Article and lay down the conditions of their fulfilment by approving, in the cases provided for in this Law, the rules, procedures and/or conditions mandatory for all undertakings that have to fulfil the relevant obligations as well as by imposing, in all cases, specific detailed obligations and/or conditions of their fulfilment on specific undertakings.

6. The obligations imposed on undertakings by the Communications Regulatory Authority must be reasonable, based on the nature of the problem identified, proportionate and justified in the light of the principles and objectives of the regulation of electronic communications activities.

7. Where it is established on the basis of a relevant market analysis that the market characteristics do not justify the imposition of obligations referred to in this Article and/or that there are no undertakings having significant market power in the said market, the Communications Regulatory Authority shall not impose, in accordance with the procedure and conditions set out in this Law, the obligations referred to in this Article and/or shall withdraw the obligations, if any, imposed on the undertakings having significant market power. When withdrawing obligations, the Communications Regulatory Authority may by a reasoned decision set the final date for their implementation which should not be later than 28 days from the publication of the information referred to in paragraph 14 of Article 16 of this Law in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios*.

8. After having conducted a repeated market analysis, the Communications Regulatory Authority may amend the imposed obligations by applying *mutatis mutandis* the provisions of this Article concerning the imposition of obligations.

### **Article 18. Obligation of Transparency**

1. The Communications Regulatory Authority may require an operator having significant market power on the relevant market to make public the information specified by the Communications Regulatory Authority and relating to access, including:

- 1) accounting information;
- 2) technical specifications;
- 3) network characteristics;
- 4) terms and conditions for supply and use;
- 5) prices of access and related services.

2. The Communications Regulatory Authority may require operators having significant market power on the relevant market to publish a reference offer to provide access. The offer must be sufficiently detailed to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and the associated terms and conditions including prices. The Communications Regulatory Authority shall have the right to request that the operator having significant market power change, within the time limit set by the Communications Regulatory Authority, the terms and conditions of a reference offer in order to give effect to obligations imposed under this Law on operators with significant market power.

3. The Communications Regulatory Authority may specify the precise information to be made available under paragraphs 1, 2 and 5 of this Article, the level of detail required, the manner of publication and other terms and conditions of publication.

4. The information referred to in paragraphs 1, 2 and 5 of this Article, including geographic network interconnection points, conditions of interconnection testing, electronic communications infrastructure sharing and payment terms, conditions for selecting the electronic communications service provider and tariffs, may not be considered a commercial secret.



5. An operator having an obligation to provide unbundled access to the twisted metallic pair local loop must publish a reference offer according to the conditions set forth by the Communications Regulatory Authority including the content requirements for reference offers. Provisions of paragraphs 1 and 2 of this Article shall apply to such a reference offer.

#### **Article 19. Obligation of Non-Discrimination**

1. The Communications Regulatory Authority may impose obligations of non-discrimination, in relation to access, on an operator having significant market power on the relevant market so that the operator does not discriminate against other undertakings and, in particular, applies equivalent conditions in equivalent circumstances to other undertakings providing equivalent services, and provides services and information to others under the same conditions and of the same quality as it provides for its own services, or those of its subunits or subsidiaries.

2. The Communications Regulatory Authority shall impose the obligation defined in paragraph 1 above, where necessary, to ensure that vertically integrated undertakings controlled by the State or municipalities, which provide electronic communications networks, built subject to exclusive or special rights, and which have significant market power, do not discriminate against other undertakings thus giving advantage to their own operations.

#### **Article 20. Obligation of Accounting Separation**

1. The Communications Regulatory Authority may impose obligations for accounting separation in relation to specified activity or activities related to access on an operator having significant market power on the relevant market.

2. The Communications Regulatory Authority shall establish the rules on accounting separation and the related requirements, including the auditing requirement.

#### **Article 21. Obligation to Provide Access**

1. The Communications Regulatory Authority may impose obligations on an operator having significant market power on the relevant market to satisfy reasonable requests by other undertakings for access to, and use of, specific network elements and associated facilities, including:

- 1) to give undertakings access to specific network elements and/or facilities, including unbundled access to the local loop;
- 2) to negotiate in good faith with undertakings requesting access;
- 3) not to withdraw access to facilities already granted;
- 4) to provide specified services for resale;
- 5) to 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 sharing of electronic communications infrastructure;
- 7) to provide specific services needed to ensure the provision of service to users;
- 8) to provide access to operational support systems or other similar software systems necessary to ensure fair competition in the provision of services;
- 9) to interconnect networks or network facilities, including the possibility to interconnect networks at any network point where this is technically feasible.

2. When adopting a decision on imposing or withdrawing the obligations referred to in paragraph 1 of this Article, the Communications Regulatory Authority shall take account of the principles and objectives of this Law and of the following factors:

- 1) the technical and economic viability of using or installing competing facilities, in the light of the rate of market development, taking account of the nature and type of access;
- 2) the feasibility of providing the access requested, in relation to the capacity (resources) available;
- 3) the initial investment by the facility owner and investment risk;
- 4) the need to safeguard competition in the long term;
- 5) intellectual property rights;
- 6) the provision of services covering more than one EU Member State.

3. When imposing a specific obligation, the Communications Regulatory Authority shall have the right to set forth the conditions for providing access and/or technical specifications that are mandatory for access provider and/or user in order to ensure proper network operation.

## **Article 22. Access**

1. Undertakings that are legitimately engaged in an electronic communications activity shall have the right to negotiate access freely. Operators shall have a right and, when requested by another operator or a public electronic communications service provider seeking to provide publicly available electronic communications services or to secure such provision, an obligation to negotiate network interconnection in order to ensure provision and interoperability of services.

2. The Communications Regulatory Authority shall encourage and where appropriate ensure, in accordance with the procedure established by this Law, adequate access and compatibility of services in order to promote efficiency, long-term competition and give the maximum possible benefit to end users. With this aim in view the Communications Regulatory Authority shall have the right to impose, in accordance with the procedure established by this Law, obligations on undertakings with significant market power as well as on other undertakings, in particular:

1) to the extent that is necessary to ensure end-to-end connectivity, obligations on undertakings that control access to end users, including the obligation to interconnect their networks where this is not already the case;

2) to the extent that is necessary to ensure accessibility for end users to specific digital radio and television broadcasting services, obligations on operators to ensure access to application program interfaces and electronic programme guides on fair, reasonable and non-discriminatory terms.

3. Obligations to provide access imposed by the Communications Regulatory Authority and/or the related conditions imposed thereby shall be objective, transparent, proportionate and non-discriminatory and the relevant decisions shall be taken pursuant to the rules applied the cases specified in paragraph 1 of Article 11 of this Law and, *mutatis mutandis*, the rules laid down in paragraphs 11, 12 and 13 of Article 16 of this Law.

4. In the case referred to in paragraph 2 of this Article, an undertaking may refuse to provide, to unilaterally suspend or discontinue access only in the event that such actions are based on objective criteria, including technical non-feasibility or the necessity to ensure network integrity.

5. Undertakings shall ensure that any information acquired from other undertakings before, during or after negotiations for access, except for the information which may not be confidential subject to the procedure, cases and conditions set out

in this Law, be used solely for the purpose for which it was supplied and respect the confidentiality of information transmitted or stored. Such information may not be passed on to any other party, in particular other subdivisions, subsidiaries or partners, for whom such information could provide a competitive advantage. The Communications Regulatory Authority may adopt rules detailing the measures to secure such requirements.

6. When resolving a dispute between undertakings, the Communications Regulatory Authority shall have the right, in conformity with the principles established by this Law and in cases justified by the objectives thereof, to issue at its own initiative or in accordance with the procedure established in Article 28 of this Law a decision on the granting of access, which shall be binding on the undertakings, including the imposition of obligations in respect of specific access as specified in subparagraphs 1 or 2 of paragraph 2 of this Article.

7. The Communications Regulatory Authority shall have the right to adopt rules for granting and providing access, including network interconnection.

### **Article 23. Price Control and Cost Accounting Obligations**

1. The Communications Regulatory Authority shall have the right to impose obligations on an operator having significant market power relating to cost recovery and price controls, including obligations to provide access at prices that are based on costs (taking into account a reasonable rate of return on investment) and obligations concerning cost accounting systems, for the provision of specific types of access, in situations where a market analysis indicates that a lack of effective competition (the presence of undertakings having significant power on the relevant market) means that the operator concerned might sustain prices at an excessively high level, or apply a price squeeze, to the detriment of end-users. When imposing obligations, account shall be taken of the operator's right to a reasonable rate of return on investment.

2. The cost recovery mechanism and/or pricing methodology that is mandated must promote efficiency and long-term competition and maximise consumer benefits. In this regard the Communications Regulatory Authority may take account of prices available in comparable competitive markets.

3. Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. The

Communications Regulatory Authority may lay down cost accounting rules for the purpose of calculating the cost of efficient provision of services. The Communications Regulatory Authority may require an operator who has an obligation regarding the cost orientation of its prices to provide full justification for its prices and may set a reasonable mandatory time limit for the submission of such justification. Should the operator fail to provide justification for its prices within the established time limit, it shall be deemed that its prices are not cost orientated. The Communications Regulatory Authority shall have the right to require that the data submitted by the operator be audited. The Communications Regulatory Authority shall have the right to require that prices be adjusted or that price caps be set. Until an operator who has an obligation regarding the cost orientation of its prices provides full justification for its prices, the Communications Regulatory Authority may set temporary price caps taking into account the data about relevant costs obtained on the basis of indirect cost assessment methods, including the comparison of prices for relevant services having regard to the best practice of EU Member States, the practice of countries with a similar level of development and the practice of the Republic of Lithuania, and the assessment of the ratio between relevant wholesale and retail prices.

4. Should the Communications Regulatory Authority request to implement a cost accounting system in order to support price control, the operator must, within the time limit and in accordance with the procedure and conditions set forth by the Communications Regulatory Authority, prepare a cost accounting system, make its description publicly available, submit it to the Communications Regulatory Authority, and maintain compliance with it. The cost accounting system and the manner of its publication must be in compliance with the cost accounting rules laid down by the Communications Regulatory Authority. The Communications Regulatory Authority shall have the right to establish a cost accounting system, methodology and/or format to be used by an operator or operators having significant market power on the relevant market. The Communications Regulatory Authority shall make the accounting system, methodology and/or format public by publishing them in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios*. Compliance with cost accounting rules and other legal acts as well as with the cost accounting system, methodology and/or format prepared by the operator and/or established by the Communications Regulatory Authority shall be verified by an audit. The audit

opinion shall be published annually according to the rules laid down by the Communications Regulatory Authority.

#### **Article 24. Digital Television Distribution**

Providers of electronic communications networks used for the distribution of digital television services shall ensure the possibility to distribute wide-screen digital television services and programmes. Operators that receive and redistribute wide-screen digital television services or programmes shall maintain that wide-screen format.

#### **Article 25. Conditional Access Services and Associated Facilities**

1. Undertakings controlling conditional access systems shall use only such systems of conditional access to digital radio and/or television services, irrespective of the means of transmission, that would have the necessary technical capability for cost-effective transmission control (i.e. technical procedures enabling to transfer conditional access control from one broadcaster (transmission provider) to another broadcaster (transmission provider), allowing the possibility for full control at local or regional level of the services by operators using such systems.

2. Undertakings that provide conditional access services to digital radio and/or television services, irrespective of the means of transmission, whose services broadcasters depend on to reach any group of potential viewers or listeners, irrespective of the means of transmission, are to:

1) offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, technical services enabling the broadcasters' digitally-transmitted services to be received by viewers or listeners authorised by means of decoders provided and administered by the service providers (operators);

2) if undertakings are engaged, apart from the provision of conditional access to digital radio and/or television services, in other activities, keep separate financial accounts regarding their activity as conditional access providers in accordance with the rules for accounting separation laid down by the Communications Regulatory Authority and in conformity with requirements related to accounting separation, including the auditing requirement.

3. The Communications Regulatory Authority shall have the right to establish the procedure and conditions for implementing the provisions of paragraphs 1 and 2 of this Article.

4. When granting licences to manufacturers of consumer equipment or otherwise granting them the right to use relevant intellectual property rights, holders of intellectual property rights to conditional access to digital radio and/or television service products and systems are to ensure that this is done on fair, reasonable and non-discriminatory terms. Taking into account technical and commercial factors, holders of rights are not to subject the granting of rights to conditions prohibiting, deterring or discouraging the inclusion in the same product of a common interface allowing connection with several other access systems as well as means specific to another access system, provided that the assignee of rights complies with the relevant and reasonable conditions ensuring, as far as he is concerned, the security of transactions of conditional access system operators.

5. The Communications Regulatory Authority shall have the right to establish requirements for the provision and use of electronic programme guides and similar listing and navigation facilities.

6. It shall be prohibited to manufacture, keep, use, import, export, sell, lease or otherwise transfer, modify, install and maintain decoders, other equipment or software for commercial purposes enabling illegal access to protected services. The advertising of such equipment and software shall be prohibited. Persons having committed the aforementioned actions shall be held liable in accordance with the procedure established by the law. The State Non Food Products Inspectorate shall supervise compliance with the provisions set out in this paragraph in accordance with the procedure established by the Government.

### **Article 26. Special Measures Ensuring Effective Competition**

1. Undertakings controlled by the State or municipalities or holding exclusive or special rights, which have significant market power in a considerable part of the common market for the provision of public communications networks and publicly available telephone services and which control a cable television network installed using exclusive or special rights held or being held in the same geographical area, may provide a cable television network only through a legal person other than the legal person used for the provision of a public communications network.

2. Providers of public communications networks and/or publicly available electronic communications services which have also been granted special or exclusive rights for the provision of services in other economic sectors of the Republic of Lithuania or other EU Member States shall keep separate accounts for the activities associated with the provision of electronic communications networks and/or services in accordance with the accounting separation rules and related requirements including the audit requirement and the requirement to have structural separation for the activities associated with the provision of electronic communications networks and/or services as established by the Communications Regulatory Authority. The Communications Regulatory Authority shall have the right to specify the requirements for structural separation.

3. Paragraph 2 of this Article shall not apply to undertakings the annual turnover of which in activities associated with electronic communications networks and/or services in the Republic of Lithuania is less than an equivalent of EUR 50 million in litas.

4. Any undertakings providing public electronic communications networks or publicly available electronic communications services, except for small and medium-sized enterprises, shall ensure that their annual financial reports are audited and published. This provision shall also apply to all separate accounts kept pursuant to paragraph 2 of this Article. The Communications Regulatory Authority shall have the right to specify the procedure and conditions for implementing the provisions of this paragraph.

## **Article 27. Measures Ensuring the Interoperability of Electronic Communications**

1. The Communications Regulatory Authority shall adopt legal acts obligating to comply with the standards set by international and European standardisation organisations, which have been transposed into Lithuanian standards in accordance with the established procedure, as well as with original Lithuanian standards, international and European specifications and/or recommendations for the provision of electronic communications networks and services as well as associated facilities and services including the broadcasting of radio and/or television programmes, technical interfaces and/or network functions, and the interoperability of terminal equipment, including radio and television programme reception equipment. A natural



or legal person shall be considered as having fulfilled the obligation to comply with Lithuanian standards in the abovementioned areas if the person complies with the relevant international or European standards as well as with the relevant Lithuanian standards transposing international or European standards.

2. Until international or European standards in the areas referred to in paragraph 1 above have not been transposed into Lithuanian standards, the Communications Regulatory Authority may request direct compliance with the relevant standards. After having transposed the relevant standard into a Lithuanian standard, any reference to the international or European standard shall be considered to be a reference to the relevant Lithuanian standard. A person or undertaking shall be considered as having fulfilled the obligation to comply with international or European standards in the areas referred to in paragraph 1 above if the person/undertaking complies with the relevant standards transposing international or European standards.

3. Technical requirements of the standards declared by persons or undertakings which have submitted on a voluntary basis a declaration of conformity of their products or services to such standards, including international, European, foreign and Lithuanian standards, shall be binding on the said persons/undertakings.

4. The Communications Regulatory Authority shall have the right to establish independent technical requirements in the areas referred to in paragraph 1 above.

5. The Lithuanian national standardisation authority shall ensure, within the scope of its competence, that international and European standards for the provision of electronic communications networks and services, associated facilities and services including the broadcasting of radio and/or television programmes, technical interfaces and/or network functions, and the interoperability of terminal equipment, including radio and television reception equipment, are transposed into Lithuanian standards.

6. The owners of application program interfaces shall make available on fair, reasonable and non-discriminatory terms, and against appropriate remuneration, all such information as is necessary to enable providers of digital television services to provide all services supported by the API in a fully functional form.

7. Certificates of conformity issued by the relevant EU institutions and the relevant institutions authorised by EU Member States in respect of measuring instruments and standards recognised in EU Member States shall be recognised in the Republic of Lithuania. The procedure of such recognition shall be established by the Government in conformity with international commitments.

## **Article 28. Settlement of Disputes Between Undertakings**

1. The Communications Regulatory Authority shall, in the framework of mandatory preliminary out-of-court procedure, resolve disputes over social relations pertaining to the subject of this Law which arise between undertakings providing electronic communications networks and/or services.

2. An undertaking that applies to the Communications Regulatory Authority for dispute settlement (including cases where a renewal of dispute resolution is requested) shall pay the Communications Regulatory Authority a dispute settlement fee set in accordance with the procedure and conditions set out in paragraph 3 of Article 6 of this Law. Where the application is satisfied in full or in part, the respondent, at the applicant's request, may be ordered by a decision satisfying the application to compensate the applicant for the amount of the fee paid in proportion to the amount of claims satisfied. Should the costs of dispute settlement exceed the fee paid by the applicant, the Communications Regulatory Authority shall have the right, when issuing a decision concerning the dispute, to distribute the costs of settling the dispute between the parties, taking account of whether or not the application is satisfied and the extent to which it is satisfied (i.e. in proportion to the amount of the claims satisfied and rejected). Undertakings or persons may not request compensation for the amounts paid to the Communications Regulatory Authority for specific services rendered to them in relation to dispute settlement. In the event that the application is rejected, left without consideration or its consideration is discontinued, the Communications Regulatory Authority shall not refund the fees paid by the applicant.

3. At the request of the party in whose favour the decision of the Communications Regulatory Authority has been taken, the Communications Regulatory Authority may order the other party to compensate the winning party for the costs of dispute settlement. In this case, paragraph 2 of Article 93 of the Code of Civil Procedure shall be applied *mutatis mutandis*. A party in whose favour the decision has been taken shall have the right to the compensation of expenses paid for lawyer's or assistant lawyer's advice in conformity *mutatis mutandis* with Article 98 of the Code of Civil Procedure.

4. The Communications Regulatory Authority shall resolve the dispute in conformity with the principles and objectives of this Law as well as in conformity

with the principles of concentration and cost effectiveness, cooperation, competition, dispositivity and procedural equality of the parties referred to in Articles 7, 8, 12, 13 and 17 of the Code of Civil Procedure to be applied mutatis mutandis, unless provided for otherwise in this Law.

5. When accepting an application for dispute resolution, provisions of paragraphs 1-4 of Article 115 of the Code of Civil Procedure shall apply mutatis mutandis.

6. The Communications Regulatory Authority shall refuse to accept an application for dispute resolution in the following cases:

- 1) it is not competent to consider the dispute;
- 2) a decision by the Communications Regulatory Authority, court or arbitration court has come into effect regarding a dispute between same parties on same subject matter and on same basis, or a decision by the Communications Regulatory Authority or a court ruling on the refusal to accept the applicant's waiver of the application for dispute resolution or on the approval of an amicable settlement;
- 3) a dispute between same parties on same subject matter and on same basis is under consideration by the Communications Regulatory Authority or pending in court;
- 4) the parties have agreed to refer the dispute to arbitration and the respondent objects that it be considered by the Communications Regulatory Authority, demanding that the agreement on arbitration be respected, except for disputes that under the law may not be settled by arbitration;
- 5) an application for dispute resolution has been submitted by an unauthorised person on behalf of the undertaking.

7. The Communications Regulatory Authority shall discontinue the consideration of a dispute if circumstances referred to in subparagraphs 1 or 2 of paragraph 6 of this Article become known, also if:

- 1) the applicant has waived the application for dispute resolution and the Communications Regulatory Authority has approved such waiver;
- 2) a dispute between same parties on same subject matter and on same basis is pending in court;
- 3) the parties have concluded an amicable agreement which has been approved by the Communications Regulatory Authority. In this case, the amicable

8. The Communications Regulatory Authority shall leave the dispute not considered if circumstances referred to in subparagraphs 4 or 5 of paragraph 6 of this Article become known, also if:

1) the Communications Regulatory Authority is considering a dispute between same parties on same subject matter and on same basis;

2) the application for dispute resolution has deficiencies, such as failure to pay a dispute settlement fee to the Communications Regulatory Authority or submit proof of such payment and the applicant has failed to rectify the situation within a time limit set by the Communications Regulatory Authority.

9. The Communications Regulatory Authority shall suspend the consideration of a dispute in the following cases:

1) one of the parties to the dispute ceases to exist (consideration shall be suspended until the rights and liabilities of the party which has ceased to exist are succeeded to or until circumstances due to which they have not been succeeded to become known). Where it is possible to identify claims unrelated to the party which has ceased to exist, the Communications Regulatory Authority shall continue the consideration of the dispute in respect of such unrelated claims;

2) until another dispute is considered by the Communications Regulatory Authority or another case is pending in court, without the settlement of which the suspended dispute cannot be considered.

10. The Communications Regulatory Authority may, at the request of any party to the dispute or at the request of any other interested undertaking or person or at its own initiative, take provisional protection measures, i.e. issue an injunction to refrain from certain actions or to take certain actions where, in case of failure to take such actions the implementation of the decision by the Communications Regulatory Authority in respect of the application for dispute resolution may become more difficult or impossible. When applying provisional protection measures, Article 147 of the Code of Civil Procedure shall apply *mutatis mutandis*. Provisional measures shall remain in force until the decision concerning the dispute issued by the Communications Regulatory Authority comes into effect, except where the Communications Regulatory Authority revokes or modifies them at the request of any party to the dispute or at the request of any other interested undertaking or person or

at its own initiative. A decision on provisional protection measures issued by the Communications Regulatory Authority may be appealed against to the Vilnius District Court within 7 days from the delivery thereof to the interested undertaking or person. The filing of an appeal to court shall not suspend the consideration of the dispute by the Communications Regulatory Authority. The appeal shall be filed and considered in accordance with the procedure established in paragraph 17 of this Article.

11. Parties to the dispute and other interested undertakings and persons participating in the consideration of the dispute shall have the right to gain access to the materials of the dispute, except for the materials which constitute a state, business or commercial secret of other undertakings or the disclosure of which would violate the right to privacy of a natural person. The respondent shall always have the right to gain access to the text of the application for dispute resolution and the applicant shall always have the right to gain access to the text of the initial pleading. Parties to the dispute and other interested undertakings and persons participating in the consideration of the dispute may submit evidence, explanations, arguments and responsive pleadings to the Communications Regulatory Authority, object to the requests, arguments and responsive pleadings of the other party or other interested undertakings and persons taking part in the consideration of the dispute, receive copies of decisions on dispute settlement adopted by the Communications Regulatory Authority, appeal against decisions by the Communications Regulatory Authority, and exercise other rights granted by this Law and the rules for the settlement of disputes between undertakings by the Communications Regulatory Authority. The applicant shall have the right to waive its application for dispute resolution. The respondent shall have the right to acknowledge the application. The parties may end the consideration of the dispute by amicable agreement. Parties to the dispute and other interested undertakings and persons participating in the consideration of the dispute must exercise their rights in a fair manner.

12. The Communications Regulatory Authority shall consider disputes by written procedure unless it decides, at the request of any party to the dispute or at the request of any other interested undertaking or person or at its own initiative, that the dispute may be better considered in an oral hearing. The Communications Regulatory Authority shall inform the parties about the sitting; however, failure to appear by any of the parties shall not prevent the Communications Regulatory Authority from

considering the dispute, unless provided for otherwise in the rules for the settlement of disputes between undertakings by the Communications Regulatory Authority. The consideration of disputes at a sitting shall be public, except for the cases where the Communications Regulatory Authority decides to consider the dispute at a closed sitting in order to protect state, business or commercial secrets or protect a person's right to privacy.

13. The Communications Regulatory Authority shall have the right to refuse to accept evidence, requests and motivations if they could have been submitted earlier.

14. The Communications Regulatory Authority shall issue a decision on the dispute not later than within four months from the date of acceptance of the application, except for the cases where a longer term is required by exceptional circumstances (large scope of evidence, complicated circumstances of the dispute, etc.).

15. The decision of the Communications Regulatory Authority (including procedural decisions adopted in the course of consideration of the dispute) shall come into effect and become binding as of the date of its adoption. Should the decision be appealed against in court, it shall remain in effect and binding, except for the cases where the court rules otherwise in accordance with the procedure established by the law.

16. Decisions on disputes issued by the Communications Regulatory Authority shall be public to the extent that it does not violate the protection of state, business or commercial secrets or the privacy of a natural person. The rules for the settlement of disputes between undertakings by the Communications Regulatory Authority shall establish the procedure whereby parties to the dispute and other interested undertakings and persons who have participated in the consideration of the dispute shall specify which information in the text of the decision should be confidential. The law interpretation rules set out in the text of the decision shall be public in all cases. The parties to the dispute shall be provided with a detailed and reasoned decision issued by the Communications Regulatory Authority.

17. Procedural decisions issued by the Communications Regulatory Authority in the course of consideration of the dispute, including a decision to reject the application, leave the application without consideration, discontinue or suspend the consideration of the dispute, which prevent further consideration of the dispute, may be appealed against in conformity *mutatis mutandis* with Section 2 of Chapter XVI of

the Code of Civil Procedure to the Vilnius District Court within 7 days from the delivery of such decision to the interested undertaking or person. The ruling handed down by a judge of the Vilnius District Court concerning a decision of the Communications Regulatory Authority shall not be subject to appeal.

18. A decision issued by the Communications Regulatory Authority whereby a dispute is resolved in substance or its consideration is discontinued may be appealed against to the Vilnius District Court within 30 days from the date of its adoption.

19. A decision issued by the Communications Regulatory Authority (including procedural decisions taken in the course of consideration of the dispute) shall be a document to be executed. If the decision is not executed, it may be executed in a compulsory manner in accordance with the procedure established by the Code of Civil Procedure. The decision may be presented for execution not later than within ten years from the date of its adoption.

20. The procedure of consideration of a dispute by the Communications Regulatory Authority may be renewed in conformity *mutatis mutandis* with the procedure established in Chapter XVIII of the Code of Civil Procedure.

21. The Communications Regulatory Authority shall adopt the rules for the settlement of disputes between undertakings by the Communications Regulatory Authority. The rules shall set out the requirements in respect of the form, content and filing of applications for dispute resolution, the submission and collection of evidence; they shall specify the framework, procedure and conditions for applying, revoking and modifying provisional protection measures and establish a detailed dispute settlement procedure.

22. The rules for the settlement of disputes between undertakings by the Communications Regulatory Authority may provide for the consideration of disputes and adoption of all relevant decisions by a commission set up by the director of the Communications Regulatory Authority. In this case, the rules for the settlement of disputes between undertakings by the Communications Regulatory Authority may provide that the decision of such a commission whereby the dispute is resolved in substance or its consideration is discontinued shall come into effect only subject to its approval by the director of the Communications Regulatory Authority.

23. Undertakings providing electronic communications networks and/or services shall have the right to call on the Communications Regulatory Authority to mediate between and/or achieve a reconciliation of the undertakings in order to

resolve a dispute over social relations pertaining to the subject of this Law in an amicable manner, without issuing a binding decision. The Communications Regulatory Authority shall establish the relevant rules of procedure.

## **CHAPTER FOUR**

### **RIGHT TO ENGAGE IN ELECTRONIC COMMUNICATIONS ACTIVITIES**

#### **Article 29. Basis for the Right to Engage in Electronic Communications Activities**

1. Undertakings shall have the right to engage in electronic communications activities in accordance with the provisions of this Law and other legal acts without prior individual permission by state institutions.

2. The Communications Regulatory Authority shall adopt legal acts establishing the general terms and conditions under which undertakings may engage in electronic communications activities.

3. The Communications Regulatory Authority shall approve a list of types of electronic communications activities that an undertaking must notify the Communications Regulatory Authority about if it seeks to engage in any of them. The undertaking shall have the right to engage in the relevant activity after notifying the Communications Regulatory Authority thereof in accordance with the procedure and conditions set forth by the Communications Regulatory Authority.

4. The Communications Regulatory Authority, taking account of the field and scope of activity, shall determine what information and documents an undertaking must submit at the time of notification of the start of activity. The Communications Regulatory Authority may request the submission of only a notification confirming the intention to commence the provision of electronic communications networks or services and the submission of the minimal information which is required to include the undertaking in a list of providers of electronic communications networks and services. This information must be limited to what is necessary for the identification of the provider of electronic communications networks and services (such as the identification number) and the provider's contact persons, the provider's address, a short description of the network and service to be provided, and an estimated date of starting the activity.



5. Upon the receipt of an undertaking's notification of the start of electronic communications activities, the Communications Regulatory Authority shall inform the undertaking not later than within 7 days about the receipt of the notification, specifying whether or not it complies with the provisions of the legal acts adopted by the Communications Regulatory Authority concerning the general terms and conditions for engaging in electronic communications activities.

6. Undertakings complying with the provisions of the legal acts adopted by the Communications Regulatory Authority concerning the general terms and conditions for engaging in electronic communications activities shall have the right to request that the Communications Regulatory Authority issue a standardised declaration, confirming, where applicable, that the undertaking has submitted a notification of the start of its activity and detailing under what circumstances any undertaking providing electronic communications networks or services under the provisions of legal acts concerning the terms and conditions for engaging in the relevant electronic communications activity has the right to install an electronic communications infrastructure, negotiate interconnection, and/or obtain access. The declaration shall be issued not later than 7 days after the receipt of an appropriate request for confirmation. The procedure and conditions for the issue of such declarations shall be set forth by the Communications Regulatory Authority.

7. Before terminating an electronic communications activity included in the list of types of electronic communications activities approved by the Communications Regulatory Authority, the undertaking shall notify the Communications Regulatory Authority in accordance with the procedure established thereby.

8. Undertakings seeking to engage or engaged in electronic communications activities shall pay to the Communications Regulatory Authority administrative charges for the services provided and work performed as prescribed by paragraph 3 of Article 6 of this Law.

### **Article 30. Provisions of Legal Acts Establishing the General Terms and Conditions for Engaging in Electronic Communications Activities**

1. The general terms and conditions for engaging in electronic communications activities set forth by the Communications Regulatory Authority shall be objectively justified in relation to the network or service concerned, non-discriminatory, transparent and proportionate. The Communications Regulatory

Authority shall establish only those terms and conditions that are specific to the electronic communications sector and that are not provided for in other legal acts. The legal acts establishing the general terms and conditions for engaging in the electronic communications activities shall specify the criteria and procedures for imposing obligations on undertakings having significant market power on the relevant market and/or undertakings designated to provide universal service, or shall contain a reference to the relevant legal acts.

2. The provisions of legal acts adopted by the Communications Regulatory Authority establishing the general terms and conditions for engaging in electronic communications activities may be related only to:

- 1) terms and conditions for paying financial contributions to the funding of universal service;
- 2) payment of charges to the Communications Regulatory Authority;
- 3) compatibility of services and conditions of interconnection of networks;
- 4) accessibility of numbers from the National Numbering Plan to end users;
- 5) implementation of the legal acts relating to environmental protection and territorial planning as well as conditions linked to the granting of the right to use land holdings (landholding) and conditions linked to the sharing of buildings and electronic communications infrastructure including any financial or technical guarantees necessary to ensure the proper execution of infrastructure works;
- 6) “must-carry” rules for the transmission of radio and television programmes;
- 7) personal data and privacy protection rules specific to the electronic communications sector;
- 8) consumer rights protection rules specific to the electronic communications sector;
- 9) restrictions in relation to the transmission of illegal or harmful content in accordance with the legal acts of the Republic of Lithuania;
- 10) provision of information;
- 11) enabling of interception by competent authorities in accordance with the procedure established by the law;

12) conditions of use of electronic communications during natural disasters or other extreme situations to ensure communication between emergency services, institutions servicing emergency calls and other emergency institutions, also broadcasts to the general public;

13) measures regarding the limitation of exposure of the general public to electromagnetic fields caused by electronic communications networks;

14) access obligations other than those imposed on undertakings having significant market power on the relevant market or on undertakings designated to provide universal service;

15) maintenance of the integrity of public communications networks including by conditions to prevent electromagnetic interference between the electronic communications networks and/or services;

16) protection of public communications networks against unauthorised access;

17) conditions for the use of radio frequencies (channels), where such use is not made subject to individual authorisation, taking into account that the use of radio equipment may only be restricted for reasons related to an effective and appropriate use of the radio spectrum, prevention of harmful interference or public health;

18) measures designed to ensure conformity with standard specifications, recommendations and/or technical requirements.

3. Undertakings providing electronic communications networks and/or services shall submit to the Communications Regulatory Authority, in accordance with the procedure and conditions set forth by the Authority, reports on their activity.

4. The provisions of the legal acts of the Communications Regulatory Authority establishing the general terms conditions for engaging in electronic communications activities may be amended in objectively justified cases and in a proportionate manner. The intended amendments shall be published in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios* and interested parties, including users and consumers, shall be allowed a sufficient period of time to express their views on the proposed amendments within a period of time, which shall be no less than 28 days except in exceptional circumstances.

## CHAPTER FIVE

## **UNIVERSAL SERVICE, RIGHTS OF END USERS AND CONSUMERS**

### **Article 31. Provision and Funding of Universal Service**

1. The provision of the following universal service shall be ensured in the territory of the Republic of Lithuania:

- 1) publicly available telephone services at a fixed location;
- 2) publicly available telephone services provided over pay telephones;
- 3) publicly available directory enquiry services;
- 4) accessibility of electronic communications services for disabled users.

2. The Government shall set price caps for universal service and the rules for the provision of universal service regulating its scope, quality of service requirements, the procedure and conditions for providing such service, the procedure, conditions and cases for imposition of universal service obligations on providers of electronic communications services as well as the procedure, conditions and cases for compensation of losses incurred in connection with the provision of services. The Government may request the Communications Regulatory Authority to establish universal service quality requirements and the rules for publishing information on the quality of services, also to adopt legal acts implementing the rules for provision of universal service. The universal service obligations may also be related to having significant market power on the relevant market.

3. The Government shall have the right to impose obligations on undertakings not designated to provide universal service that are necessary for the provision of universal service in an appropriate manner, including the obligation to provide directory enquiry services on terms which are fair, objective, cost oriented and non-discriminatory and the obligation to make such services available.

4. When verifying if an undertaking with universal service obligations fulfils such obligations, the Communications Regulatory Authority shall have the right to order independent audits and/or similar reviews of the performance data, paid for by the undertaking concerned, in order to ensure the accuracy and comparability of the data. Such independent audits and/or similar reviews, paid for by the undertaking concerned, may be ordered not more often than once per calendar year, except for the cases where there is reasonable suspicion that the undertaking acts in violation of legal acts or where the undertaking seeks compensation for losses incurred in connection with the provision of services. An auditor or an audit firm shall be selected

by tender. Tender conditions and procedure shall be established by the Communications Regulatory Authority.

5. The losses incurred in connection with the provision of services referred to in paragraph 1 above shall be compensated by providers of electronic communications services engaged in the provision of these services in accordance with the procedure and conditions set forth by the Government. The Government shall have the right to establish other sources for compensating the losses incurred in connection with universal service. The Government may authorise the Communications Regulatory Authority to establish the rules for the calculation of losses, impose a compensation mechanism, and determine the amount of losses in specific cases. The Communications Regulatory Authority shall have the right to review the accounts of an undertaking as well as other information used for the calculation of the amount of losses and to request the undertaking to submit an audit opinion. The results of the loss calculation and the conclusions of the review carried out by the Communications Regulatory Authority and/or the audit opinion shall be made publicly available. Where losses are compensated by providers of electronic communications services, the Communications Regulatory Authority shall inform the European Commission about the loss compensation mechanism.

6. The Government shall have the right to establish additional universal service, the procedure and conditions for providing such service, quality of service requirements, and the procedure, conditions and cases for imposition of additional service obligations on providers of electronic communications services. The Government may not establish that the losses incurred in connection with the provision of additional universal service are compensated from the funds of providers of electronic communications services.

7. The Communications Regulatory Authority shall notify to the European Commission of the undertakings with universal service obligations and any changes in such information.

### **Article 32. Obligations Related to the Provision of Services to End Users**

1. The Communications Regulatory Authority, having decided that the obligations that may be imposed under Articles 18, 19, 20, 21, 22 and 23 of this Law and the obligations the fulfilment of which is mandatory, where applicable, under Article 33 of this Law are not sufficient in respect of an undertaking having

significant market power on the relevant market, shall impose obligations that are appropriate, based on the nature of the problem identified, proportionate and justified in the light of the objectives to be achieved, including requirements that the undertaking does not charge excessive prices, inhibit market entry or restrict competition by setting predatory prices, show undue preference to specific end-users or unreasonably bundle services, also obligations to ensure the quality of service established by the Communications Regulatory Authority. In order to protect the end-user interests and promote effective competition, the Communications Regulatory Authority shall have the right to establish price caps, apply measures to control individual tariffs and impose obligations to orient tariffs towards costs or prices on comparable markets. Where an obligation is imposed on an undertaking to orient tariffs towards costs, provisions of paragraph 3 of Article 23 of this Law shall apply *mutatis mutandis*.

2. The Communications Regulatory Authority shall ensure that, where tariff regulation or other relevant obligations are imposed on an undertaking, the undertaking keeps its cost accounts in accordance with the rules established by the Communications Regulatory Authority. Such an undertaking shall within the time limit established by the Communications Regulatory Authority prepare a cost accounting system, publish its description and submit it to the Communications Regulatory Authority, and comply with the cost accounting system. The cost accounting system must be in conformity with the cost accounting rules established by the Communications Regulatory Authority. The Communications Regulatory Authority shall have the right to establish a cost accounting system and the format and accounting methodology to be used by undertakings or a specific undertaking having significant market power on the relevant market. The Communications Regulatory Authority shall publish the accounting system in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios*. Compliance of an undertaking's cost accounting with the cost accounting rules and other legal acts as well as with the cost accounting system and/or accounting methodology and/or format prepared by the undertaking and/or established by the Communications Regulatory Authority shall be verified by an audit. The audit opinion shall be published annually in accordance with the rules established by the Communications Regulatory Authority.

### **Article 33. Selection of Provider of Publicly Available Telephone Services**

1. Undertakings having significant market power for the provision of connection to and use of the public telephone network at a fixed location shall, in accordance with the procedure and conditions set forth by the Communications Regulatory Authority, to enable on their own account their subscribers to access the services of any provider of publicly available telephone services. Access prices related to the enforcement of such rights shall be cost-oriented. For this purpose, the rules set out in Article 23 of this Law shall apply. Tariffs imposed on subscribers for the exercise of such rights may not act as a disincentive for the use of such a possibility. For this purpose, the Communications Regulatory Authority may fix a tariff ceiling.

2. The obligation referred to in paragraph 1 above may be imposed by the Communications Regulatory Authority on any undertaking having significant market power on the relevant market as well as in relation to the imposition of the obligation referred to in subparagraph 4 of paragraph 1 of Article 17 of this Law.

#### **Article 34. Duties and Rights of Electronic Communications Service Providers and End Users**

1. A contract on the provision of electronic communications services shall be a public contract. Services shall be provided and a contract on the provision of electronic communications services shall be concluded in accordance with the rules for provision of electronic communications services approved by the Communications Regulatory Authority.

2. Providers of publicly available electronic communications services shall make publicly available transparent information on applicable prices and tariffs, on standard terms and conditions of service provision, and on quality of service. The prices and tariffs for end users must be specified clearly and accurately. The information referred to in this paragraph shall be submitted to the Communications Regulatory Authority. The Communications Regulatory Authority shall establish the rules for the publication of information and its submission the Communications Regulatory Authority, including the scope and content of information, the time limit, form and method of its publication and/or submission, and quality assessment rules.

3. When providing a user with telephone apparatus free of charge or when offering the apparatus at a lower price than its cost price, the provider of publicly available electronic communications services must indicate in the contract on the

provision of electronic communications services the difference in its selling price with and without a service provision contract as well as the period of time and manner in which this difference will be compensated.

4. The provider of electronic communications services shall examine all of the received applications, proposals and complaints concerning electronic communications services provided or intended to be provided by it and issue a reply within one month from the receipt thereof.

5. The provider of electronic communications services shall inform the subscriber free of charge about the services provided and about tariffs and prices if the subscriber so requests.

6. Providers of publicly available telephone services providing end users with access to the public telephone network shall ensure the provision of emergency call services to end users. The Communications Regulatory Authority shall establish the rules for the provision of emergency call services by the service provider.

7. Undertakings providing electronic communications networks and/or services shall not provide third parties, at the request of subscribers, with information about the number, location and ownership of terminal equipment, except for the cases established by a decision of the Communications Regulatory Authority for the purpose of performing its tasks and to public order maintenance bodies identified by a decision of the Communications Regulatory Authority for the purpose of performing their tasks as well as in other cases established by the law.

8. All providers of public communications networks and/or publicly available electronic communications services shall ensure, in accordance with the procedure and conditions set forth by the Communications Regulatory Authority, that their subscribers and/or users are able to call the emergency services free of charge.

9. Providers of public communications networks and/or publicly available electronic communications services shall ensure, on their own account and in accordance with the procedure and conditions set forth by the Communications Regulatory Authority, that subscribers can retain their numbers where there is a change of telephone service provider or the location of service provision or the way of provision of services. Access prices related to the enforcement of such rights shall be cost oriented. For this purpose, the Communications Regulatory Authority shall have the right to apply the rules set out in Article 23 to all undertakings bound by this paragraph. Tariffs imposed on subscribers for the exercise of such rights in the cases



permitted by the Communications Regulatory Authority and according to the conditions set forth by it may not act as a disincentive for the use of such a possibility. For this purpose, the Communications Regulatory Authority may fix a tariff ceiling.

10. Providers of public telephone communications shall give subscribers who so request a possibility to choose a payment plan where charges for publicly available telephone services are imposed on the basis of calculation with the accuracy of a second, except for the cases where the provider of public telephone communications uses data rates as a basis for charging data communications.

11. Undertakings providing electronic communications networks and/or services shall submit to the Communications Regulatory Authority information about the nature of technical data on electronic communications recorded and stored and the duration of such storage.

12. Undertakings providing electronic communications networks and/or services shall provide institutions authorised by the Government with a possibility to exercise control over the protection of privacy of electronic communications service users (secrecy of the content of information transmitted by electronic communications networks). Institutions authorised by the Government shall exercise the aforementioned control within the scope of their competence in accordance with the procedure established by the Government.

13. Undertakings providing electronic communications networks and/or services shall designate persons to work with notices by operational investigation services on the use, in accordance with special procedure, of technical measures in their networks or to respond to enquiries by operational investigation services, pre-trial investigation institutions, prosecutors, courts or judges. Such persons must have security clearance and must be authorised to work with or have access to classified information in accordance with the procedure established by the Government.

### **Article 35. Provision of Leased Lines**

1. An undertaking having significant market power on the relevant leased line market must provide a set of leased lines as established by the Communications Regulatory Authority and comply with the procedure and conditions for providing such services set out in the rules approved by the Communications Regulatory Authority, also fulfil the obligations related to non-discrimination, cost-oriented

prices including the introduction and use of a cost accounting system, transparency and creation of conditions for the provision of services.

2. An undertaking having significant market power on the relevant leased line market shall provide leased line services at prices that are derived from costs including a reasonable rate of return on investment. For this purpose, the Communications Regulatory Authority may establish price caps for the leased line services. Paragraph 3 and 4 of Article 23 of this Law shall apply *mutatis mutandis* to the cost-orientation of prices and cost accounting.

### **Article 36. Settlement of Disputes Based on End User Complaints**

1. In the event of a dispute arising between the provider of electronic communications services and the end user, the end user shall have the right to apply to the Communications Regulatory Authority for resolving the dispute through a preliminary out-of-court procedure. The end user may also apply directly to court.

2. Paragraphs 6, 7, 8, 9, 11, 12, 13, 15, 16, 17, 19 and 20 of Article 28 of this Law shall apply *mutatis mutandis* to the settlement of disputes based on complaints by end users.

3. Should an end user apply to the Communications Regulatory Authority without first applying to the provider of electronic communications services, the Communications Regulatory Authority shall take measures to reconcile the parties. The Communications Regulatory Authority shall not consider a dispute if the provider of electronic communications services proposes, within a time limit set by the Communications Regulatory Authority, an amicable settlement of the dispute and the end user accepts the proposal or does not reject it within a time limit set by the Communications Regulatory Authority.

4. A decision issued by the Communications Regulatory Authority regarding the dispute may be appealed against to a court of general jurisdiction within 30 days from the date of its adoption.

5. The Communications Regulatory Authority shall establish the rules for the settlement of disputes based on complaints submitted by end users. The rules shall set out the requirements in respect of the form, content and filing of such applications, the submission and collection of evidence, and detailed reconciliation and dispute settlement procedures.

6. The rules for the settlement of disputes by the Communications Regulatory Authority based on complaints by end users may provide that disputes shall be considered and decisions taken by an official appointed by or a commission set up by the director of the Communications Regulatory Authority. In this case, the rules for the settlement of disputes between end users by the Communications Regulatory Authority may provide that a decision by such an official or commission shall come into effect only subject to its approval by the director of the Communications Regulatory Authority.

## **CHAPTER SIX**

### **CONSTRUCTION, MAINTENANCE AND PROTECTION OF ELECTRONIC COMMUNICATIONS NETWORKS**

#### **Article 37. Basis for the Installation of Electronic Communications Infrastructure**

1. Providers of electronic communications networks shall have the right to install electronic communications infrastructure in the land owned by them by ownership right or for which a servitude has been established or where the providers have the right to use it on some other basis without changing the purpose of land.

2. Electronic communications infrastructure removal works performed when building or reconstructing buildings, bridges and other structures shall be carried out by the customers on their own account according to the technical specifications provided by the owners of electronic communications infrastructure and after having coordinated such work with the abovementioned owners, unless the customers and the owners do not agree otherwise.

3. Persons engaged in the construction of electronic communications networks shall, subject to the procedure, conditions and cases set out in the rules for installing, maintaining and protecting electronic communications infrastructure, make public information about the start of construction works and about the possibility for other persons to participate in construction sharing. The Communications Regulatory Authority, after having consulted the interested parties subject to the procedure, terms and conditions set out in the rules referred to in paragraph 4 of Article 11 of this Law, may request the person constructing electronic communications networks, to offer an appropriate possibility for other persons to participate in construction sharing.

4. The installation, protection, sharing and maintenance of electronic communications infrastructure shall be regulated by the Law on Territorial Planning, the Law on Construction, the Law on Protected Territories, the Law on Environmental Impact Assessment of Planned Economic Activity, the Law on Roads, the rules for the installation and use of electronic communications networks approved by the Communications Regulatory Authority, and other legal acts.

#### **Article 38. Installation, Protection, Sharing and Maintenance of Electronic Communications Infrastructure in Road Systems**

1. After having coordinated their actions with state or municipal institutions, persons may use the lanes of state and municipal roads, squares, pipelines, water bodies and their shores, bridges, viaducts, tunnels and other structures for the construction of public communications networks free of charge.

2. Upon the completion of installing, reconstructing or repairing electronic communications infrastructure, the person must put roads and/or related structures in order in accordance with the procedure established by legal acts.

#### **Article 39. Sharing of Electronic Communications Infrastructure**

1. If a provider of public communications networks cannot realise the right to install the necessary electronic communications infrastructure or the costs of realisation of such a right are disproportionately high, the Communications Regulatory Authority may request that any provider of electronic communications networks or another person controlling the relevant infrastructure should permit, on non-discriminatory terms, the sharing of the existing electronic communications infrastructure as well as of other relevant pipelines, cable ducts, collectors, towers, masts, buildings and other facilities or installation of electronic communications infrastructure where this is cost efficient and does not require significant additional work. In this case, the Communications Regulatory Authority shall consult interested persons in accordance with the procedure, terms and conditions set out in the rules referred to in paragraph 4 of Article 11 of this Law.

2. The procedure and conditions for usage of electronic communications infrastructure as well as other relevant pipelines, cable ducts, collectors, towers, masts, buildings and other facilities and for installing electronic communications infrastructure shall be stipulated in a contract. A person controlling the relevant

infrastructure may not, in the cases established by this Law, refuse to conclude such a contract with a provider of public communications networks, request that it should be amended or terminated if contractual obligations are being fulfilled, even on the grounds that there are no documents providing evidence of legitimate control of the electronic communications infrastructure.

3. By agreement between the parties, the user of infrastructure shall pay a proper fee to the person whose infrastructure is being used.

4. The Communications Regulatory Authority shall establish the procedure and conditions for the sharing of electronic communications infrastructure in the rules for the installation and use of electronic communications infrastructure.

#### **Article 40. Servitude to Install Electronic Communications Infrastructure**

1. Where a provider of public communications networks cannot realise the right to construct electronic communications networks neither through construction sharing nor through infrastructure sharing, nor by any other means provided for in this Law, also in case of failure of negotiations with the owners of property which could be used for the installation of infrastructure which constitutes part of a public communications network, such a provider of public communications networks may apply to court for the granting of the right, where such an opportunity exists and where this does not impose an undue burden to the owner, to use state, municipal or private property for the installation of electronic communications infrastructure by establishing a servitude on such property. The rights, conditions and procedures concerning servitude may be amended in objectively justified cases and in proportionate manner. Notice shall be given in an appropriate manner of the intention to make such amendments and interested parties, including users and consumers, shall be allowed a sufficient period of time to express their views on the proposed amendments, which shall be no less than 28 days except in exceptional circumstances. It shall be prohibited to restrict or revoke the servitude before expiry of the period, except where justified and where the holder of the servitude receives adequate compensation for such a restriction or revocation.

2. State, municipal or private property shall be used at a reasonable price set by the court. If the property is owned by the State or municipality, relevant fees for the use of such property shall be paid to the state or municipal budget respectively in accordance with the procedure and conditions set out in legal acts.

3. Information about the procedure and conditions concerning servitudes to be applied according to this Article and other legal acts as well as information about the servitudes to install electronic communications infrastructure shall be submitted to the Communications Regulatory Authority, which shall publish it in accordance with the procedure and conditions set forth by the Authority.

#### **Article 41. Protection of Public Communications Networks**

1. The zone of protection of public communications networks shall comprise a strip of land along the wire lines of public communications networks and around electronic communications infrastructure objects including any plants and structures contained in it. It shall be prohibited in this zone to change the purpose of land, construct other buildings and structures, store equipment and materials, excavate, drill wells, conduct explosions and perform other works that may damage the electronic communications infrastructure without prior consent by the owners of electronic communications infrastructure.

2. The dimensions and methods of delimitating protection zones as well as the procedure for carrying out works within such zones shall be established by the Government.

3. Employees or other representatives acting under the authority of a person who operates an infrastructure of public communications networks shall have the right to the maintenance of electronic communications infrastructure according to the rules set forth by the Government.

#### **Article 42. Connection to Electronic Communications Network**

Connection to electronic communications networks without the consent of an undertaking providing electronic communications networks and/or services shall be prohibited.

### **CHAPTER SEVEN**

#### **RADIO EQUIPMENT AND TELECOMMUNICATIONS TERMINAL EQUIPMENT. ELECTROMAGNETIC COMPATIBILITY**

**Article 43. Radio Equipment and Telecommunications Terminal  
Equipment**

The conditions and basic requirements for the connection of radio equipment and telecommunications terminal equipment, the obligations related to the provision of information on interface specifications and to the connection of radio equipment and telecommunications terminal equipment, the procedure and conditions for the placing on the market, selling and use of such equipment, the requirements for radio equipment and telecommunications terminal equipment, the procedure and conditions of conformity assessment, approval and monitoring as well as related requirements shall be laid down in the Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment approved by the order of the director of the Communications Regulatory Authority.

#### **Article 44. Electromagnetic Compatibility**

The conditions for applying electromagnetic compatibility requirements, the procedure and conditions for the placing on the market and use of equipment and devices, the requirements for equipment and devices, the requirements for their installation and use, the procedure and conditions of assessment, approval and monitoring of compliance with electromagnetic compatibility shall be laid down in the Technical Regulation on Electromagnetic Compatibility approved by the order of the director of the Communications Regulatory Authority.

#### **Article 45. Use of Equipment and Devices**

1. The rules for the use of industrial, medical and scientific equipment and devices, i.e. equipment and devices the operation of which generates and consumes radio wave energy and which are intended for industrial, medical, scientific, domestic and similar purposes, except for purpose of electronic communications, shall be prepared and approved by the Communications Regulatory Authority.

2. The owner and/or user of equipment and devices shall allow officials from the Communications Regulatory Authority to inspect equipment and/or devices, also to take it away.

3. In the cases specified in Article 78 of this Law, the owner and/or user of equipment and/or devices shall carry out instructions issued by the Government or an institution authorised by it.

#### **Article 46. Radio Monitoring**

1. The Communications Regulatory Authority shall control compliance with the requirements of the legal acts regulating radio communication and shall carry out radio monitoring. By means of radio monitoring, control and analysis shall be carried out to establish to what extent the range of radio frequencies is occupied by radiation of radio stations, whether the radiation spectrums and radio disturbance levels are in conformity with the requirements of legal acts.

2. The protection of fixed radio monitoring stations by the Communications Regulatory Authority against strong electromagnetic fields generated by radio transmitters operating in their environment shall be implemented in accordance with the procedure and conditions set forth by the Communications Regulatory Authority.

3. The information obtained during radio monitoring shall be used only in the activities of the Communications Regulatory Authority which are regulated by this Law.

#### **Article 47. Elimination of Radio Interference**

1. Any radio interference must be eliminated by the owner or user of equipment and/or devices which causes such interference. If interference is produced in a radio receiver or reception device due to changes in (deterioration of) its technical parameters or improper use, the source of such interference (radio disturbances) must be eliminated by the owner or user of the receiver or device. If radio interference is caused to other legitimately operating equipment and/or device, the owner or user of the equipment and/or devices which produce it shall, on instruction from the Communications Regulatory Authority, eliminate its source (radio disturbances) or reduce its level. The procedure for eliminating or reducing radio interference, where radiation parameters of the equipment producing and receiving it conform to the requirements of legal acts, shall be established by the Communications Regulatory Authority.

2. When conducting radio monitoring and investigation of (search for) radio interference, providers of electronic communications networks and/or services as well as other persons shall submit to the Communications Regulatory Authority relevant information and ensure unrestricted access to possible sources of radio interference.

### **CHAPTER EIGHT**



## **MANAGEMENT OF ELECTRONIC COMMUNICATIONS RESOURCES**

### **Article 48. Basis for the Management of Electronic Communications Resources**

1. The Communications Regulatory Authority shall, in accordance with the procedure and conditions set out in this Law, manage electronic communications resources. Radio frequencies (channels), telephone numbers and other electronic communications resources shall be managed according to the provisions of this Law.

2. Radio frequencies (channels) shall be managed according to the National Radio Frequency Allocation Table, the Plan for Using Radio Frequencies (Channels) approved by the Communications Regulatory Authority in conformity with the National Radio Frequency Allocation Table, and radio communication development plans.

3. Telephone numbers used in public electronic communications networks shall be managed according to the National Telephone Numbering Plan approved by the Communications Regulatory Authority. The Communications Regulatory Authority shall approve the procedure and conditions for implementing the National Telephone Numbering Plan.

4. The Communications Regulatory Authority shall establish the rules for management of other electronic communications resources.

5. State institutions shall promote the harmonisation of management and use of electronic communications across the European Community.

### **Article 49. Assignment and Use of Radio Frequencies (Channels) to Broadcasting and Transmission of Radio and Television Programmes**

1. Radio frequencies (channels) shall be assigned to broadcast and transmit radio and television programmes and shall be used according to the Strategic Plan approved by the Communications Regulatory Authority and the Radio and Television Commission of Lithuania. Radio frequencies (channels), which are designated in the Strategic Plan for analogue terrestrial radio and/or television, shall be assigned to broadcasters and/or re-broadcasters possessing a licence issued by the Radio and Television Commission of Lithuania granting the right to establish and operate their own electronic communications networks as well as to transmission providers. Other

radio frequencies (channels), which are designated in the Strategic Plan for radio and/or television, shall be assigned to transmission providers. The general procedure and conditions for using and assigning radio frequencies (channels) set out in this Law shall be applied with respect to the assignment and use of radio frequencies (channels) to broadcasting and transmission of radio and television programmes to the extent that this Article does not establish otherwise.

2. The Communications Regulatory Authority shall submit to the Radio and Television Commission of Lithuania information about coordinated radio frequencies (channels), which according to the Strategic Plan are intended to be assigned to broadcasters and/or re-broadcasters possessing Commission-issued licences granting the right to establish and operate their own electronic communications networks; this information shall be submitted together with information about the basic conditions of operating electronic communications networks required to issue broadcasting and/or re-broadcasting licences. The Communications Regulatory Authority, having assigned radio frequencies (channels) to transmission providers, shall submit to the Radio and Television Commission of Lithuania information about these radio frequencies (channels) together with information about the basic conditions of operating electronic communications networks required to issue broadcasting and/or re-broadcasting licences. After having received the abovementioned information, the Radio and Television Commission of Lithuania shall issue broadcasting and/or re-broadcasting licences in accordance with the procedure and conditions set out in the Law on Provision of Information to the Public.

3. The basic conditions of operating electronic communications networks specified together with radio frequencies (channels) in a broadcasting and/or re-broadcasting licence issued by the Radio and Television Commission of Lithuania shall comply with the basic operating conditions of radio frequencies (channels) and electronic communications networks intended for broadcasting and/or re-broadcasting radio and television programmes presented by the Communications Regulatory Authority. The actual transmission provider shall be additionally specified in a Commission-issued broadcasting and/or re-broadcasting licence granting the right to use the services of a transmission provider. Where the radio frequency (channel) is changed and replaced by another radio frequency (channel) or where the basic conditions of operating electronic communications networks are modified (i.e. the basic conditions of using radio frequencies (channels) are modified), the Radio and

Television Commission of Lithuania shall change the conditions of a broadcasting and/or re-broadcasting licence accordingly.

4. The Communications Regulatory Authority shall assign radio frequencies (channels), which according to the Strategic Plan are intended to be assigned to broadcasters and/or re-broadcasters possessing licences to establish and operate their own electronic communications networks issued by the Radio and Television Commission of Lithuania, without applying the provisions of Articles 51-56 of this Law. The Communications Regulatory Authority shall lay down the rules for assigning such radio frequencies (channels).

5. A broadcaster or re-broadcaster shall forfeit the right to use the radio frequency (channel) assigned under paragraph 4 of this Article where the licence is revoked. The Radio and Television Commission of Lithuania shall inform the Communications Regulatory Authority about the revocation of licence.

6. The Communications Regulatory Authority, after coordination with the Radio and Television Commission of Lithuania, shall have the right to change the assigned radio frequency (channel) at the request of the frequency (channel) user. The Communications Regulatory Authority, after coordination with the Radio and Television Commission of Lithuania, shall have the right to revoke an authorisation to use a radio frequency (channel) at the request of the frequency (channel) user.

7. The Communications Regulatory Authority shall not apply the provisions of paragraph 5 of Article 58 to the radio frequencies (channels) assigned to broadcast (re-broadcast) radio and/or television programmes.

8. The Communications Regulatory Authority shall have the right to change the radio frequency (channel) and replace it by another radio frequency (channel) used for the same purpose after giving a six-month advance notice to the radio frequency (channel) user or to cancel the assigned radio frequency (channel) after giving a twelve-month advance notice to the radio frequency (channel) user if:

- 1) this is required under international obligations or EU legal acts;
- 2) the National Radio Frequency Allocation Table is modified and subsequently the radio frequency band designation is modified due to international obligations or EU legal acts, including recommendations. Where the assignment of a radio frequency is changed or revoked before the term of radio frequency (channel) use established by the Communications Regulatory Authority expires, the decision shall be coordinated with the Radio and Television Commission of Lithuania;

3) radio frequency (channel) is used ineffectively or inefficiently according to the criteria specified in the Strategic Plan;

4) the Strategic Plan is modified.

9. The Communications Regulatory Authority, after having decided in accordance with the procedure and conditions set out in this Law to suspend the right to use radio channels (frequencies) assigned under paragraph 4 of this Article, shall inform the Radio and Television Commission of Lithuania thereof. The Communications Regulatory Authority, after having decided in accordance with the procedure and conditions set out in this Law to revoke the right to use radio channels (frequencies) assigned under paragraph 4 of this Article, shall apply to the Radio and Television Commission of Lithuania for the suspension or revocation of the relevant licence. In this case, the Radio and Television Commission of Lithuania may revoke the licence in accordance with the procedure established in the Law on Provision of Public Information.

10. When issuing an authorisation to use a radio frequency (channel) to a transmission provider, the Communications Regulatory Authority shall, acting in conformity with the Strategic Plan, taking account of the frequency (channel) and technology used and having regard to the technical standards applied in Lithuania in accordance with the procedure established in the legal acts, set a minimum number of radio and/or television programmes to be transmitted by the transmission provider. Transmission providers must transmit, in accordance with the procedure and conditions set out in licences and agreements concluded with broadcasters and/or re-broadcasters, a minimum number of radio and/or television programmes set by the Communications Regulatory Authority when transmitting the programmes of broadcasters and/or re-broadcasters possessing licences issued by the Radio and Television Commission of Lithuania and granting the right to use the services of a specified transmission provider or when broadcasting and/or re-broadcasting radio and/or television programmes themselves, after having received the relevant broadcasting and/or re-broadcasting licences in accordance with the procedure established in the Law on Provision of Information to the Public. Transmission providers may, without prejudice to the rules for assigning and using radio frequencies (channels) and the conditions of the relevant authorisation to use radio frequencies (channels), use radio frequencies (channels) to provide additional electronic communications services (including the transmission, broadcasting and/or

re-broadcasting of a larger number of radio and/or television programmes subject to transmission, broadcasting and/or re-broadcasting licences issued by the Radio and Television Commission of Lithuania), however only to the extent and within the scope that it does not interfere with the transmission of a minimum number of radio and/or television programmes set by the Communications Regulatory Authority.

11. When issuing licences referred to in paragraphs 4 and 10 of this Article, the Radio and Television Commission of Lithuania shall ensure the right of the National Radio and Television of Lithuania to broadcast the number of radio and television programmes specified in the Law on the National Radio and Television of Lithuania. Instead of a licence, the National Radio and Television of Lithuania shall be issued an authorisation granting the rights referred to in paragraphs 4 or 10 respectively.

#### **Article 50. Basis for the Use and Assignment of Electronic Communications Resources**

1. Electronic communications resources shall be used and assigned in accordance with the procedure and conditions set out in this Law and the rules for the assignment and use of electronic communications resources approved by the Communications Regulatory Authority.

2. Electronic communications resources may be used:

1) without an individual authorisation where the Communications Regulatory Authority establishes that certain electronic communications resources may be used without an individual authorisation;

2) upon receipt of an authorisation to use electronic communications resources issued by the Communications Regulatory Authority.

3. The Communications Regulatory Authority, in conformity with the international obligations of the Republic of Lithuania, Radio Regulations, National Radio Frequency Allocation Table, plan for the use of radio frequencies (channels) and radio communication development plans, shall assign radio frequencies (channels) and other electronic communications resources necessary for activities related to national defence, national security, maintenance of public order, public emergency services, guarding of state borders, civil aviation, rail traffic safety, stable and reliable operation of the national energy system and other non-commercial functions of the State (including foreign states) and its institutions.

4. The Communications Regulatory Authority shall perform the functions referred to in paragraph 3 above without applying the provisions of Article 51-56 of this Law. The Communications Regulatory Authority shall establish the rules for the assignment of electronic communications resources.

5. The duration of the right to use electronic communications resources shall be determined by the Communications Regulatory Authority. It may be prolonged in cases provided for in the rules for the assignment and use of electronic communications resources and in accordance with the procedure and conditions set out therein.

6. Where the use of radio frequencies (channels) has been harmonised, agreement has been reached on the conditions and procedure of their use, and undertakings to be assigned radio frequencies (channels) have been selected according to international treaties and/or agreements as well as European Community rules, the Communications Regulatory Authority shall assign radio frequencies (channels) subject to the relevant rules. If all the conditions of radio frequency (channel) use established in the Republic of Lithuania have been fulfilled in the course of a general selection procedure, no additional conditions, criteria or procedures shall be established for the use of radio frequencies (channels), which might restrict, modify or delay the correct implementation of the general radio frequency (channel) assignment procedure.

7. Persons requesting to be assigned electronic communications resources and/or persons to whom such resources are assigned as well as persons entitled to use electronic communications resources shall pay to the Communications Regulatory Authority administrative charges for the services provided and work performed by it as defined in paragraph 3 of Article 6 of this Law, including charges for the examination of applications, issue of authorisations and supervision of use of resources.

#### **Article 51. Assignment of Electronic Communication Resources**

1. Where the Communications Regulatory Authority has not established that certain electronic communications resources may be used without an individual authorisation, a person shall, prior to the use of such resources, submit to the Communications Regulatory Authority an application in the prescribed form for the assignment of electronic communications resources in accordance with the procedure

and conditions set out in the rules for the assignment and use of electronic communications resources.

2. Where an undertaking submits an application for the assignment of electronic communications resources after its notification of the start of activity has been submitted to the Communications Regulatory Authority, the undertaking may, at the time of submitting the application, only confirm that the information and documents submitted earlier to the Communications Regulatory Authority have not changed and shall not need to re-submit the same information and documents. Should any changes occur in the activity of the undertaking after the date of submission of notification of the start of activity subject to the legal acts of the Communications Regulatory Authority, the undertaking must update the documents and information at the time of application for assignment of electronic communications resources.

3. A person requesting radio frequencies (channels) shall submit to the Communications Regulatory Authority information about the possibilities to fulfil the obligations relating to the use of radio frequencies (channels). The Communications Regulatory Authority shall set the scope of the information to be submitted and the procedure for the submission thereof. The Communications Regulatory Authority shall have the right to refuse to assign radio frequencies (channels) to a person who has failed to submit the requested information or who has submitted information that is not in conformity with the requirements set by the Communications Regulatory Authority.

4. A person may start using electronic communications resources as of the date of issue of the authorisation, unless stated otherwise in the authorisation. An authorisation to use electronic communications resources shall be issued to persons who have been assigned electronic communications resources in accordance with the procedure and conditions set forth by the Communications Regulatory Authority.

5. The number of authorisations to use electronic communications resources shall be unlimited, except for the cases where restrictions are necessary to ensure effective use of radio frequencies (channels) or where other specific electronic communications resources are of exceptional economic value and/or a shortage of electronic communications resources is unavoidable, and this is justified by the principle of proportionality.

6. When adopting a decision to restrict the number of authorisations to use electronic communications resources, the Communications Regulatory Authority shall:

- 1) take adequate account of the necessity to maximise benefits to users and to encourage competition;
- 2) provide all interested parties, including users and consumers, with a possibility to express their opinion on any restriction within the scope and in accordance with the procedure and conditions set out in respect of public consultations defined in paragraph 1 of Article 11 of this Law;
- 3) publish a decision to restrict the number of authorisations to use electronic communications resources specifying the reasons for such restriction;
- 4) after having established the relevant procedure, publish an invitation to submit applications for the assignment of electronic communications resources;
- 5) periodically or upon receipt of a reasoned request by interested persons, review the restrictions.

7. The Communications Regulatory Authority, after having established that it can assign electronic communications resources that are subject to a restricted number of authorisations, shall publish its conclusion and an invitation to submit applications for the assignment of electronic communications resources. The Communications Regulatory Authority shall publish information about the allocation of electronic communications resources in accordance with the procedure and conditions set forth by it.

8. The Communications Regulatory Authority shall publish information about the applications submitted by persons for the assignment of electronic communications resources when the number of authorisations to use such resources is restricted. The rules for the publication of such information shall be established by the Communications Regulatory Authority.

9. The Communications Regulatory Authority may reserve specific electronic communications resources to ensure proper development of electronic communications networks and/or services and technologies.

10. A decision to assign electronic communications resources shall be taken, communicated to the applicant and made public as soon as possible after the receipt of the complete application conforming to the established requirements (complete information and documents) by the Communications Regulatory Authority, within 21



days in the case of telephone numbers and within 42 days in the case of radio frequencies (channels). The latter time limit shall be applied without prejudice to any time limits set in international treaties and/or other agreements.

11. Should the Communications Regulatory Authority decide that the rights of use for telephone numbers shall be granted by tender or auction, the maximum time limit of 21 days set in paragraph 10 above shall be extended by another 21 days. Should the Communications Regulatory Authority decide to assign radio frequencies (channels) by tender or auction, the maximum time limit of 42 days set in paragraph 10 above shall be extended by a period which it is necessary to ensure fair, reasonable, open and transparent procedures to all interested parties, however, in any case, by no longer than eight months. This time limit shall be applied without prejudice to any time limits set in international treaties and/or other agreements.

12. Fees for the right to use electronic communications resources to be paid by successful tenderers or auction winners shall be paid to the state budget. Where a successful tenderer or auction winner delays to pay the fee or part of the fee, the Communications Regulatory Authority shall have the right to adopt a decision imposing an obligation on the successful tenderer or auction winner to make due payments and setting the time limit for making such payments. The decision adopted by the Communications Regulatory Authority shall be a document to be executed; if the decision is not executed, it shall be forwarded to the State Tax Inspectorate to be executed in accordance with the procedure established by the Code of Civil Procedure. The decision may be presented for execution not later than within three years from the date of its adoption.

## **Article 52. Method of Assignment of Electronic Communications Resources**

The Communications Regulatory Authority shall assign electronic communications resources:

- 1) directly to the person requesting them;
- 2) by tender;
- 3) by auction.

## **Article 53. Assignment of Electronic Communications Resources Directly to the Requesting Person**

1. The Communications Regulatory Authority shall have the right to assign electronic communications resources directly to the person requesting them, provided that at least one of the following conditions exists:

1) the Communications Regulatory Authority does not limit the number of authorisations to use the electronic communications resources requested;

2) after the publication by the Communications Regulatory Authority about the receipt of an application for the assignment of electronic communications resources, no other person expresses a wish, within the time limit set by the Communications Regulatory Authority, to use the same resources, or there are sufficient resources to be assigned to all persons having expressed such wish.

2. Should the Communications Regulatory Authority receive applications for the assignment of electronic communications resources from several persons at the same time and the resources may not be assigned at the same time to all of the persons requesting them, such resources shall be assigned by public tender or by auction. Applications shall be considered as received at the same time if they have been submitted within the time limit set by the Communications Regulatory Authority, counting from the date of publication of information about the receipt of the first application.

#### **Article 54. Assignment of Electronic Communications Resources by Tender**

A tendering procedure for the assignment of electronic communications resources shall be organised in accordance with the procedure provided for in the rules for the assignment of electronic communications resources and by public tender conditions approved by the Communications Regulatory Authority and pursuant to the requirements of this Law. Tender conditions shall specify qualification requirements for tenderers, define the market in which electronic communications resources will be used, and set forth the conditions of use of electronic communications resources. Tender conditions shall specify the criteria for selecting successful tenderers. Such criteria shall be based on special knowledge and effective performance, appropriate schemes of operations in terms of the provision of electronic communications networks and/or services, adequate service prices, time limits for the implementation of services in the market, amount of investments and promotion of effective competition. Where a radio frequency (channel) is assigned by tender,

priority shall be given to those tenderers that may ensure larger geographic coverage by services within a shorter period of time.

**Article 55. Assignment of Electronic Communications Resources by Auction**

1. The rules of auction shall be approved by the Communications Regulatory Authority.

2. The rules of auction shall specify qualification requirements for tenderers, define the market in which electronic communications resources will be used, the conditions of use of electronic communications resources and the minimum amount of electronic communications resources to be bought by a participant in the auction.

**Article 56. Refusal to Assign Electronic Communications Resources**

1. The Communications Regulatory Authority may refuse to assign electronic communications resources if:

1) no spare electronic communications resources are available. This includes those cases where the use of requested electronic communications resources would impede the use of other electronic communications resources already in use;

2) the applicant's activities do not conform to the requirements of this Law, tender or auction requirements, the purpose of electronic communications resources or the applicant has been using the electronic communications resources available to it inefficiently or ineffectively;

3) the applicant has failed to submit the documents or information requested;

4) the application does not conform to the requirements of legal acts;

5) the information or documents submitted by the applicant are inaccurate or incorrect;

6) the applicant was not successful in a tendering or auction procedure where such a procedure was organised for granting the right to use electronic communications resources;

7) the applicant has failed to pay the relevant fee or other charges within the set time limit.

2. Prior to adoption of a decision refusing to assign electronic communications resources to a person, the Communications Regulatory Authority may set a time limit

for the person to rectify the situation hindering the Communications Regulatory Authority from issuing a decision. The Communications Regulatory Authority shall inform the person about such a decision in writing specifying the deficiencies and the time limit for the elimination thereof. This paragraph shall not apply if a tendering or auction procedure was held for granting the right to use electronic communications resources.

#### **Article 57. Transfer of Right to Use Electronic Communications Resources**

A person may not transfer the right to use the assigned electronic communications resources to another person, except for the cases specified by the Communications Regulatory Authority. In such cases, the transfer of the right to use electronic communications resources shall be made in accordance with the procedure and conditions set forth the Communications Regulatory Authority.

#### **Article 58. Use of Electronic Communications Resources**

1. The conditions set out in the rules for the assignment and use of electronic communications resources and in authorisations to use electronic communications resources shall be objectively justified, non-discriminatory, transparent and proportionate taking account of the type of associated networks and/or services. The terms and conditions prescribed by the legal acts regulating the general terms and conditions for engaging in electronic communications activities shall not be repeated in the rules for the assignment and use of electronic communications resources and in authorisations to use electronic communications resources.

2. The conditions set out in the rules for the use of radio frequencies (channels) and in authorisations to use radio frequencies (channels) may only be related to:

- 1) designation of purpose for which radio frequencies (channels) are assigned (service, type of network or technology);
- 2) effective and efficient use of radio frequencies (channels);
- 3) technical and operational conditions necessary for the avoidance of harmful interference and for the limitation of exposure of the general public to electromagnetic fields, where such conditions are different from those included in the

- 4) maximum time limit for the use of radio frequencies (channels);
- 5) transfer of the right to use radio frequencies (channels) at the initiative of the right holder and conditions for such transfer. The Communications Regulatory Authority shall specify such conditions in authorisations to use radio frequencies (channels);
- 6) fees for the supervision of use of radio frequencies (channels) and fees and payments to the state budget in accordance with the procedure established by legal acts;
- 7) any commitments made by a person in the course of a tendering or auction procedure;
- 8) obligations under relevant international treaties and/or other agreements relating to the use of radio (frequencies) channels.

3. The conditions set out in the rules for the use of telephone numbers and in authorisations to use of telephone numbers may only be related to:

- 1) designation of purpose (service) for which telephone numbers are used, including any requirements linked to the provision of that service;
- 2) effective and efficient use of telephone numbers;
- 3) subscriber's right to retain the telephone number;
- 4) obligation to provide directory enquiry services;
- 5) maximum time limit for the use of telephone numbers;
- 6) transfer of the right to use telephone numbers at the initiative of the right holder and conditions for such transfer. The Communications Regulatory Authority shall specify such conditions in authorisations to use telephone numbers;
- 7) fees for the supervision of use of telephone number and fees and payments payable to the state budget in accordance with the procedure established by legal acts;
- 8) any commitments which a person has made in the course of a tendering or auction procedure;
- 9) obligations under relevant international treaties and/or other agreements relating to the use of telephone numbers.

4. Persons shall use electronic communications resources effectively and efficiently. The criteria for effective and efficient use of electronic communications

resources shall be laid down in the rules for the assignment and use of electronic resources and in authorisations to use electronic communications resources.

5. The Communications Regulatory Authority shall have the right to replace the assigned electronic communications resources with other resources of the same purpose giving a six-month notice to electronic communications resource users or to revoke an authorisation to use electronic communications resources giving a twelve-month notice to electronic communications resource users, provided that this is required by international obligations or EU legal acts or if the purpose of electronic communications resources is changed. The Communications Regulatory Authority shall have the right to revoke an authorisation without meeting these requirements at the request or with the consent of a user of electronic communications resources. When implementing the provisions of this paragraph, the Communications Regulatory Authority shall apply *mutatis mutandis* the provisions of Article 59 of this Law.

6. An undertaking that forfeits the right to engage in electronic communications activities shall also forfeit the right to use the relevant electronic communications resources.

#### **Article 59. Change of Conditions for Usage of Electronic Communications Resources**

The rights, conditions and procedures relating to the use of electronic communications resources may only be amended in objectively justified cases and in a proportionate manner. Notice shall be given in an appropriate manner of the intention to make such amendments and interested parties, including users and consumers, shall be allowed a sufficient period of time to express their views on the proposed amendments, which shall be no less than 28 days except in exceptional circumstances. Where amendments of the conditions for usage of radio frequencies (channels) on the basis of criteria set out in the Strategic Plan result in a change of the coverage territory of radio and/or television programmes broadcast and/or re-broadcast under a licence issued by the Radio and Television Commission of Lithuania, such amendments shall be coordinated with the abovementioned Commission.

### **Article 60. Activities of Radio Amateurs and Other Radio Station Users**

The procedure for granting the right to engage in radio amateur activities and any other activity of radio station users, the conditions for such activity as well as the procedure and conditions for issuing authorisations to radio amateurs and other radio station users shall be set forth by the Communications Regulatory Authority.

## **CHAPTER NINE**

### **PROCESSING OF PERSONAL DATA AND PROTECTION OF PRIVACY**

#### **Article 61. Scope**

1. The rights provided for to subscribers in this Chapter shall be granted to subscribers that are natural persons, except for the rights provided for in Articles 67 and 68 of this Law.

2. The provisions of this Chapter shall apply to information which is exchanged or conveyed between a finite number of parties by means of a publicly available electronic communications service. This does not include any information conveyed as part of a public broadcasting service over an electronic communications network except to the extent that the information can be related to the identifiable subscriber or the actual user of electronic communications services receiving the information.

3. Provisions of Articles 69 and 70 of this Law shall apply to subscriber lines connected to digital telephone exchanges and, where technically possible and if it does not require a disproportionate economic effort, to subscriber lines connected to analogue telephone exchanges.

4. Supervision over the processing of personal data shall be exercised in the field of electronic communications pursuant to the laws and other legal acts regulating the processing of personal data and the protection of privacy. Any definitions used in this Chapter that are not defined in this Law shall be interpreted within the meaning of the Law on Legal Protection of Personal Data.

#### **Article 62. Security of Publicly Available Electronic Communications Services and Networks**

1. The provider of publicly available electronic communications services must implement appropriate technical and organisational measures to safeguard security of its services, if necessary in conjunction with providers of public communications networks with respect to network security. These measures shall ensure a level of security appropriate to the risk presented.

2. In case of a particular risk of a breach of the security of the electronic communications network or part thereof, the provider of publicly available electronic communications services must inform subscribers of such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, of any possible remedies including an indication of likely costs involved.

### **Article 63. Confidentiality of Communication**

1. It shall be prohibited to disclose the content of information transmitted over electronic communications networks and/or related traffic data to persons that are not actual users of electronic communications services without the consent of the interested actual users of electronic communications services or to create conditions for gaining access to such information and/or related traffic data. Persons other than actual users of electronic communications services shall be prohibited from listening, tapping, storing or otherwise intercepting information or related traffic data or gaining secret access to such information or related traffic data, except when legally authorised to do so in accordance with Article 77 of this Law. These provisions shall not prevent technical storage which is necessary for the conveyance of information without prejudice to the principle of confidentiality.

2. Undertakings providing electronic communications networks and/or services must take appropriate organisational and technical measures to implement paragraph 1 of this Article. The State Data Protection Inspectorate shall exercise control of undertakings providing electronic communications networks and/or services in respect of their compliance with the requirements of paragraph 1 of this Article concerning confidentiality of information. Undertakings providing electronic communications networks and/or services shall create conditions for the State Data Protection Inspectorate to exercise the control provided for in this paragraph in accordance with the procedure established by the Government.

3. Paragraph 1 shall not affect any legally authorised recording of information and related traffic data when carried out in the course of lawful business practice for



the purpose of providing evidence of a commercial transaction or of any other business communication.

4. The use of the electronic communications networks to store information or to gain access to information stored in the terminal equipment of a subscriber or an actual user of electronic communications services shall be only allowed on condition that the subscriber or user concerned is provided with clear and comprehensive information about such use in accordance with the procedure and conditions set out in the Law on Legal Protection of Personal Data, including information about the purposes of the processing of information, and is offered the right to refuse such processing by the data controller. These provisions shall not prevent technical storage or access for the sole purpose of carrying out or facilitating the transmission of information over an electronic communication network, or as strictly necessary in order to provide an information society service ordered by the subscriber or the actual user of electronic communications services.

5. The confidentiality of radio communication shall not be breached where a communication has been received as radio disturbances and this is reported to the Communications Regulatory Authority for identification purposes. Radio monitoring conducted by the Communications Regulatory Authority shall not be considered a breach of confidentiality of radio communication. The employees of the Communications Regulatory Authority shall be prohibited from disclosing, disseminating or using the content of non-public radio communications received and reporting about them.

#### **Article 64. Processing of Traffic Data**

1. Traffic data relating to subscribers and/or actual users of electronic communications services processed and stored by the provider of a public communications network and/or public electronic communications services must be erased or modified in such a way that it would not be possible to establish, either directly or indirectly, the identity of the subscriber or actual user when the data is no longer needed for the transmission of information, except for the exceptions referred to in Articles 64 and 77 of this Law.

2. Traffic data necessary for the purposes of subscriber billing and electronic communications network interconnection payments may only be processed. Such

processing is permissible only for a period of six months, except for the cases where the bill is lawfully challenged or the data are necessary for the collection of payment.

3. For the purpose of marketing electronic communications services or for the provision of value added services a provider of publicly available electronic communications services may process the data referred to in paragraph 1 to the extent and for the duration necessary for such services or marketing if the subscriber or the actual user of electronic communications services to whom the data relate has given his consent. Subscribers or actual users of electronic communications services shall be given the possibility to modify or withdraw their consent for the processing of data at any time.

4. The service provider must inform the subscriber or the actual user of electronic communications services of the types of traffic data which are processed and of the duration of such processing for the purposes mentioned in paragraph 2 and/or, prior to obtaining consent, for the purposes mentioned in paragraph 3.

5. Processing of traffic data must be restricted to persons acting under the authority of providers of public communications networks and publicly available electronic communications services handling billing or traffic management, customer enquiries, detection of infringements and fraud, marketing electronic communications services or providing a value added service. The data processed shall be restricted to what is necessary for the purposes of such activities.

6. Competent authorities shall have the right to receive, in accordance with the procedure and conditions set out in legal acts, information about traffic data with a view to settling disputes.

7. Providers of public communications networks and publicly available electronic communications services must provide the State Data Protection Inspectorate, in accordance with the procedure established by the Government, with information about the nature of traffic data relating to subscribers of publicly available electronic communications services and actual users of electronic communications services recorded and stored by the provider.

#### **Article 65. Location Data other than Traffic Data**

1. Where location data other than traffic data, relating to subscribers of public communications networks or publicly available electronic communications services or to actual users of electronic communications services, can be processed, such data

may only be processed when they have been modified in such a way so that it is not possible to establish, either directly or indirectly, the identity of the subscriber or actual user or with the consent of the subscriber or actual user to the extent and for the duration necessary for the provision of a value added service. The service provider must inform the subscribers or actual users, prior to obtaining their consent, of the type of location data other than traffic data which will be processed, the purpose and duration of such processing and whether the data will be transmitted to a third party for the purpose of providing the value added service. The subscribers and/or actual users of electronic communications services shall be given the possibility to withdraw their consent for the processing of location data other than traffic data at any time.

2. Where consent of the subscribers and/or actual users of electronic communications services has been obtained for the processing of location data other than traffic data, the subscriber or user must have the possibility, using a simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network and/or for each transmission of communication. The subscribers and/or actual users of publicly available electronic communications services may modify or withdraw their consent at any time.

3. Processing of location data other than traffic data must be restricted to persons acting under the authority of the providers of public communications networks and/or publicly available electronic communications services or third parties providing the value added service. The data processed shall be restricted to what is necessary for the purposes of providing the value added service.

4. Providers of public communications networks and/or publicly available electronic communications services shall provide location data (including traffic data) without the consent of the subscriber or the actual user of electronic communications services to institutions dealing with emergency calls, such as law enforcement agencies, ambulance services, fire brigades and other emergency services, for the purpose of responding to such calls by the subscriber or actual user. Detailed conditions and procedures for the implementation of provisions of this paragraph may be set forth in accordance with the procedure and conditions provided for in paragraph 8 of Article 34 of this Law.

### **Article 66. Itemised Billing**

1. Itemised bills about the electronic communications services provided shall be presented only with the consent or at the request of the subscriber.

2. The State Data Protection Inspectorate shall establish, within the scope of its competence, requirements for itemised bills to the extent related to the subject of this Chapter.

### **Article 67. Directories of Subscribers**

1. Subscribers shall be informed, free of charge and before they are included in a printed or electronic directory of subscribers available to the public or obtainable through directory enquiry services, about the purpose of a subscriber directory in which their personal data can be included and of any further usage possibilities based on search functions embedded in electronic versions of the directory.

2. Subscribers shall have the right to decide whether their personal data are included in a public directory, and if so, which data is to be included to the extent that such data are relevant to the purpose of the directory as determined by the provider of the directory, and to verify, correct or withdraw such data. Not being included in a public subscriber directory, verifying, correcting or withdrawing of personal data shall be free of charge.

3. For any purpose of a public directory other than the search of contact details of persons on the basis of their name, a subscriber's consent for the inclusion of personal data in such a directory shall be required.

### **Article 68. Direct Marketing**

1. The use of electronic communications services, including electronic mail, for the purposes of direct marketing may only be allowed in respect of subscribers who have given their prior consent.

2. A person who obtains from customers their electronic contact details for electronic mail, in the context of the sale of a product or a service, in accordance with the procedure and conditions set out in the Law on Legal Protection of Personal Data, may use these electronic contact details for direct marketing of its own similar products or services provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of electronic

contact details when they are collected and on the occasion of each message in case the customer has not initially refused such use.

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

#### **Article 69. Automatic Call Forwarding**

Providers of publicly available electronic communications services shall ensure that any subscriber has the possibility, free of charge and using a simple means, of stopping automatic call forwarding by a third party to the subscriber's terminal equipment.

#### **Article 70. Presentation of Calling and Connected Line Identification**

1. Where presentation of calling line identification is offered, the actual calling user of electronic communications services must have the possibility, free of charge and using a simple means, of preventing the presentation of the calling line identification on a per-call basis. The calling subscriber must have the possibility on a per-line basis.

2. Where presentation of calling line identification is offered, the called subscriber must have the possibility, free of charge and using a simple means, of preventing the presentation of the calling line identification of incoming calls.

3. Where presentation of connected line identification is offered and where the calling line identification is presented prior to the calling being established, the called subscriber must have the possibility, free of charge and using a simple means, of rejecting incoming calls where the actual calling user of electronic communications services or subscriber has exercised the right referred to in paragraph 1 above.

4. Where presentation of calling line identification is offered, the called subscriber must have the possibility, free of charge and using a simple means, of preventing the presentation of the connected line identification to the calling user.

5. Where presentation of calling and/or connected line identification is offered, providers of publicly available electronic communications services shall inform the public thereof and of the possibilities set out in paragraphs 1, 2, 3 and 4 of this Article.

6. The Government shall lay down the rules pursuant to which providers of publicly available electronic communications services and/or public communications networks shall not impose the elimination of the presentation of calling line identification. This may be allowed upon application of a subscriber requesting the tracing of malicious or nuisance calls.

7. Providers of public communications networks and publicly available electronic communications services shall not impose the elimination of the presentation of calling line identification in respect of specific lines operated by institutions dealing with emergency calls, such as law enforcement agencies, ambulance services, fire brigades and other emergency services for the purpose of responding to such calls by the subscriber or the actual user of electronic communications services. Detailed conditions and procedures for the implementation of provisions of this paragraph may be set forth in accordance with the procedure and conditions provided for in paragraph 8 of Article 34 of this Law.

## **CHAPTER TEN**

### **OBTAINING OF INFORMATION AND SUPERVISION OF COMPLIANCE WITH THE LAW**

#### **Article 71. Obtaining of Information**

1. The Communications Regulatory Authority shall have the right to obtain from state institutions, including EU institutions and institutions of other EU Member States, and municipal institutions, providers of electronic communications networks and services, users of radio frequencies (channels), telephone numbers and other electronic communications resources as well as from persons any information necessary for the Communications Regulatory Authority, the European Commission and national regulatory authorities of other EU Member States to perform the assigned tasks and functions, including financial information irrespective of its confidentiality. Providers of electronic communications networks and services, users of radio frequencies (channels), telephone numbers and other electronic communications resources as well as persons shall submit to the Communications Regulatory Authority any information at its request and to the a timescale and level of detail required by the National Regulatory Authority.

2. The Communications Regulatory Authority shall ensure the confidentiality of confidential information in accordance with the procedure and conditions set out in legal acts. Confidential information shall not include general information about individual electronic communications markets as well as data on the market share held by individual undertakings, number of subscribers (including data on subscribers of specific types), income (including data on income from specific activities) and the size of electronic communications or call traffic. The Communications Regulatory Authority shall keep the information received from EU institutions and/or other EU Member States in accordance with the procedure and conditions set out in EU legal acts.

3. The Communications Regulatory Authority may request from undertakings engaged in electronic communications activities, to the extent that it is related to the pursuit of electronic communications activities or use of electronic communications resources or to the extent that it is related to the obligations imposed on an undertaking having significant market power on the relevant market or designated to provide universal service, information that is proportionate and objectively justified for the following purposes (not applicable to the provision of information relating to the installation of electronic communications infrastructure):

1) systematic or case-by-case verification of compliance by an undertaking with the provisions of this Law and other legal acts related to the funding of universal service or fees to the Communications Regulatory Authority as well as to payments to the state budget related to the right of use of electronic communications resources and with the obligations imposed on an undertaking having significant market power on the relevant market or designated to provide universal service;

2) specific verification of compliance by an undertaking with the legal acts establishing the terms and conditions for engaging in electronic communications activities or the terms and conditions of use of electronic communications resources;

3) procedures for assigning electronic communications resources and assessment of relevant requests;

4) publication of comparative overviews of quality and price of services for the benefit of consumers;

5) clearly defined statistical purposes;

6) market analysis purposes.

4. The Communications Regulatory Authority may not request the information referred to in paragraph 3 above, except for the information specified in subparagraph 3 of paragraph 3, from an undertaking which intends to engage in an electronic communications activity before it is granted the right to pursue or before it starts pursuing the electronic communications activity (whichever is earlier) or as a precondition for obtaining such a right.

5. When requesting the information referred to in paragraph 3 from providers of electronic communications networks and services, the Communications Regulatory Authority shall inform undertakings of the specific purpose for which this information is to be used.

6. The provisions of this Article shall apply *mutatis mutandis* to the State Data Protection Inspectorate in so far as this is related to the supervision of compliance with the provisions of Chapter 9 of this Law.

#### **Article 72. Procedure for the Supervision of Compliance**

1. Where the Communications Regulatory Authority finds that an undertaking does not comply with the legal acts specifying the terms and conditions for engaging in electronic communications activities or the terms and conditions of use of electronic communications resources or fails to fulfil one or more of the obligations imposed on it as an undertaking having significant market power on the relevant market or designated to provide universal service, it shall notify the undertaking of those findings and give the undertaking an opportunity to state its views or remedy any breaches within:

- 1) one month after sending the notice;
- 2) a shorter period agreed by the undertaking or stipulated by the Communications Regulatory Authority in case of repeated breaches;
- 3) a longer period decided by the Communications Regulatory Authority.

2. If the undertaking concerned does not remedy the breaches within the period as referred to in paragraph 1, the Communications Regulatory Authority shall take appropriate and proportionate measures aimed at ensuring compliance, including the imposition of economic sanctions specified in Article 74 of this Law. The Communications Regulatory Authority shall communicate the measures and the reasons on which they are based to the undertaking concerned within 7 days of their



adoption and shall stipulate a reasonable period for the undertaking to comply with these measures.

3. The Communications Regulatory Authority shall have the right to impose economic sanctions for failure to provide information in accordance with provisions of Article 18 of this Law or for failure to provide information referred to in subparagraphs 1 and 2 of paragraph 3 of Article 71, including impeding access to information as provided for in Article 73 and/or failure to fulfil the requirements set out in Article 73, without imposing the procedure established in paragraphs 1 and 2 of this Article.

4. In cases of serious or repeated breaches of the legal acts specifying the terms and conditions of engaging in electronic communications activities or the terms and conditions of use of electronic communications resources or of the obligations imposed on an undertaking having significant market power on the relevant market or designated to provide universal service, where measures undertaken under paragraph 2 above have been not sufficient to remedy the breaches, the Communications Regulatory Authority shall have the right to prohibit an undertaking from continuing to provide electronic communications networks and/or services for a period of up to 3 years or suspend the right to use electronic communications resources for a period of up to 3 years or withdraw it.

5. Irrespective of the provisions of paragraph 1, 2 and 4 above, where the Communications Regulatory Authority has evidence of a breach of the legal acts specifying the terms and conditions for engaging in electronic communications activities or the terms and conditions of use of electronic communications resources or of the obligations imposed on an undertaking having significant market power or designated to provide universal service that represents an immediate and serious threat to public order, public safety or public health or will create serious economic or operational problems for other providers or users of electronic communications networks and/or services, it shall have the right to take urgent provisional measures, including a temporary detention of objects that were a tool or a direct object of breach of this Law and/or a temporary prohibition of the pursuit of electronic communications activities or of use of electronic communications resources. Where such measures have been taken by the Communications Regulatory Authority, it shall give the undertaking concerned a reasonable opportunity to state its views and propose any remedies.

6. The provisions of this Chapter, except for this paragraph and Article 71, shall apply to undertakings to the extent that it is related to the pursuit of electronic communications activities. Where the provisions of this Chapter, except for this paragraph and Article 71, are not applied to the suspension and/or withdrawal of the right to use electronic communications resources due to a breach of legal acts, the right to use electronic communications resources shall be suspended and/or withdrawn subject to the cases, procedure and conditions set out in the Code of Administrative Offences and the rules for the assignment and use of electronic communications resources.

7. The provisions of this Article shall apply *mutatis mutandis* to the State Data Protection Inspectorate to the extent that it is related to the supervision of compliance by undertakings engaged in electronic communications activities with the provisions of Chapter 9 of this Law; however, the State Data Protection Inspectorate shall not impose economic sanctions but shall draw up, where relevant and subject to the procedure and cases set out in the Code of Administrative Offences, reports on infringements of administrative law.

### **Article 73. Officials of the Communications Regulatory Authority**

1. Officials authorised by the Communications Regulatory Authority, having presented a certificate of employment and a document issued by the Communications Regulatory Authority attesting their authorisations and functions, shall have the following rights related to the supervision of compliance with this Law exercised on behalf of the Communications Regulatory Authority:

1) to obtain necessary information in accordance with the procedure and conditions set out in this and other laws and legal acts:

2) upon presentation of a permit issued by the court, to gain access to and inspect premises, areas and vehicles used by an undertaking, to review its documents which are necessary for investigation, to obtain copies of and extracts from such documents, and to gain access to information stored in computers and magnetic media;

3) to obtain oral and written explanations from persons related to the activity of the undertaking under inspection; to request that they give explanations in the office of an authorised official conducting the investigation;

4) to obtain from other undertakings any data and documents on economic operations of the undertaking under inspection, irrespective of the subordination of such other undertakings, or copies of such documents; to obtain such data and documents or copies thereof from state and municipal institutions and persons;

5) to inspect (audit) economic operations of an undertaking, to obtain opinions from expertise bodies based on inspection materials, to carry out a detailed review of the cost and/or income accounting systems of the undertaking;

6) to seize, for a period of up to 30 days, documents and objects necessary for or to be used as evidence in the investigation of an infringement, leaving a reasoned decision for the seizure and a list of documents and/or objects seized; to request that copies of the specified documents are made;

7) to use the services of specialists and experts for the investigation;

8) to use technical means during the investigation in accordance with the procedure established by the law;

9) to conduct on-the-spot inspections of equipment and/or devices;

10) to exercise other rights provided for by this and other laws.

2. When performing their functions, the officials authorised by the Communications Regulatory Authority may use the services of police officers.

3. When exercising the rights granted to them, the officials authorised by the Communications Regulatory Authority shall draw up documents (statements, protocols, requests, etc.). The form of such documents and filling-out requirements shall be specified by the Communications Regulatory Authority.

4. Instructions of the officials authorised by the Communications Regulatory Authority given when performing the actions indicated in this Article shall be binding on persons and undertakings as well as their management and administration staff, who must duly cooperate with authorised officials. Sanctions provided for in this and other laws shall be imposed for failure to comply with the said instructions.

5. Undertakings shall have the right to appeal to the director of the Communications Regulatory Authority against illegal actions by its officials. The appeal shall be filed not later than 10 days after learning about the actions appealed against. The director of the Communications Regulatory Authority shall adopt a decision regarding the appeal within 10 days from the receipt thereof. Should a person disagree with the decision of the director or should the director fail to adopt a decision

within 10 days, the person concerned shall be entitled to appeal to court. Filing of an appeal shall not stop relevant actions by the officials.

6. A request for permission to take actions referred to in subparagraph 2 of paragraph 1 of this Article shall be filed with the Vilnius District Administrative Court. The request must indicate the name of the undertaking (full name of a natural person), the nature of suspected infringement and the actions planned. The request shall be examined by a judge of the Vilnius District Administrative Court who will make a reasoned ruling satisfying or rejecting the request. The request must be examined and a ruling handed down not later 72 hours after the request is submitted. If an official authorised by the Communications Regulatory Authority does not agree with the judge's decision to reject the request, he shall be entitled to appeal to the Supreme Administrative Court of Lithuania against the ruling within a period of 7 days. The Supreme Administrative Court of Lithuania shall examine the appeal against the ruling of the Vilnius District Administrative Court within a period of 7 days. A representative of the Communications Regulatory Authority shall have the right to attend the sitting where the appeal is examined. The ruling of the Supreme Administrative Court of Lithuania shall be final and not subject to appeal. When examining requests and appeals for permission to take actions, the court must ensure the secrecy of the information presented and of the actions planned. In urgent cases, certain actions by officials from the Communications Regulatory Authority may be taken based on a decision of its director. In this case, a request for permission to take actions shall be filed to court in accordance with the procedure set out above within 24 hours after the adoption of such decision. Should the court (judge) refuse to issue a permit, the actions shall be discontinued and any information received while taking such actions shall be destroyed immediately.

7. The damage incurred on undertakings by illegal actions of institutions regulating electronic communications activities or officials thereof shall be compensated in accordance with the procedure established by the law.

#### **Article 74. Economic Sanctions**

1. Should an undertaking fail to comply with the legal acts specifying the conditions for the pursuit of electronic communications activities or the conditions of use of electronic communications resources including consumer or user rights, or should it fail to fulfil obligations imposed on it as an undertaking having significant

market power or designated to provide universal service or should it fail to comply with the decisions adopted by the Communications Regulatory Authority upon settlement of a dispute or should it fail to comply with the Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment or the Technical Regulation on Electromagnetic Compatibility, the Communications Regulatory Authority shall have the right to impose a fine of up to 3 % of the annual gross income from activities associated with electronic communications, and if it is difficult or impossible to calculate the volume of such activity – a fine of up to LTL 300,000.

2. In case where an undertaking commits a repeated or serious infringement referred to in paragraph 1, the Communications Regulatory Authority shall have the right to impose a fine of up to 5 % of the annual gross income from activities associated with electronic communications, and if it is difficult or impossible to calculate the volume of such activity – a fine of up to LTL 500,000.

3. Where the annual gross income referred to in paragraphs 1 and 2 above is less than LTL 300,000, a fine of up to LTL 10,000 shall be imposed, while in the case of a repeated or serious infringement – up to LTL 20,000.

4. If an undertaking fails to comply with the obligation imposed by the Communications Regulatory Authority to discontinue illegal activities, does not submit information in accordance with the procedure and conditions set out in this Law (submission of incorrect information shall also be considered as failure to submit information), impedes officials authorised by the Communications Regulatory Authority to perform their duties or does not comply with the requirements of the Communications Regulatory Authority, including any provisional protection measures, the Communications Regulatory Authority shall have the right to impose a fine of up to LTL 50,000 and in the event of continuous infringement – a fine of up to LTL 5000 for each day of continued infringement.

5. In addition to the economic sanctions provided for in paragraphs 1-4 of this Article and in paragraph 4 of Article 72, the Communications Regulatory Authority may order seizure of objects that were a tool or direct object of infringement of this Law and/or payment of damages caused by illegal activities.

6. Where an undertaking is a group of associated persons, members of the group who acted as a single economic unit when committing an infringement shall be considered as offenders.

## **Article 75. Imposition of Economic Sanctions and Determination of their Size**

1. Economic sanctions shall be imposed on an undertaking by the director of the Communications Regulatory Authority or a person authorised by him. The Communications Regulatory Authority shall adopt rules regulating the procedure for imposing economic sanctions.

2. The procedure for imposing economic sanctions on the basis provided for in paragraphs 2, 3 or 4 of Article 72 of this Law shall be initiated by a written proposal from an official of the Communications Regulatory Authority. The proposal shall specify the circumstances of the infringement of this Law and the proposed economic sanction. Upon the receipt of an official notice by the official, the director of the Communications Regulatory Authority or a person authorised by him shall hold a meeting on the imposition of an economic sanction. The undertaking on which a sanction is to be imposed shall be informed about the meeting. The undertaking must submit supporting evidence to prove that there is no element of infringement of this Law as well as evidence of mitigating circumstances or any other relevant evidence in support of an adequate sanction before the meeting.

3. The meeting on the imposition of an economic sanction may be attended, with the right to present explanations, by an undertaking on which the sanction is to be imposed, other interested undertakings and persons as well as persons whose participation is required for a proper examination of the issue of imposition of sanctions (witnesses, experts, specialists or other persons). Failure by an undertaking on which the sanction is to be imposed or other undertakings or persons to attend the meeting shall not prevent the meeting from being held. The meeting shall be public, except for the cases where the Communications Regulatory Authority decides to examine the issue at a closed meeting with a view to safeguarding state, business or commercial secrets or ensuring a person's right to privacy.

4. The meeting shall be started by a report of the official from the Communications Regulatory Authority who has made the written proposal. Representatives of undertakings and persons attending the meeting may present their explanations. Other participants in the meeting may put questions to any person who has made a report or provided an explanation. The meeting shall be held in the Lithuanian language.

5. The minutes of the meeting shall be executed not later than 5 working days after the meeting. The minutes shall be signed by the director of the Communications Regulatory Authority or a person authorised by him and the secretary of the meeting.

6. The undertaking on which a sanction is to be imposed or has been imposed and other interested undertakings and persons shall have the right to gain access to the materials collected by the Communications Regulatory Authority, except for those materials which constitute a state, business or commercial secret or the disclosure of which would violate the right to privacy of a natural person. The undertaking on which a sanction is to be imposed shall always be provided access to the text of the written proposal by the official from the Communications Regulatory Authority and the minutes of the meeting on the imposition of an economic sanction.

7. After the meeting on the imposition of an economic sanction, the director of the Communications Regulatory Authority or a person authorised by him shall forward the issue to the Council of the Communications Regulatory Authority. After the Council examines the issue of the imposition of an economic sanction, the director of the Communications Regulatory Authority or a person authorised by him shall make the final decision. The decision on the imposition of an economic sanction made by the director of the Communications Regulatory Authority or a person authorised by him may be appealed against in accordance with the procedure and conditions set out in the Law on Administrative Proceedings and paragraph 7 of Article 6 of this Law.

8. The director of the Communications Regulatory Authority or a person authorised by him shall have the right at any moment of the procedure of imposition of an economic sanction to instruct officials from the Communications Regulatory Authority to supplement the materials collected. Upon fulfilment of such instructions by officials of the Communications Regulatory Authority, a supplemented written proposal shall be drawn up and the procedure of imposition of an economic sanction shall be started anew.

9. When imposing economic sanctions on undertakings, account shall be taken of:

- 1) amount of damages incurred by the infringement;
- 2) duration of the infringement;
- 3) circumstances mitigating or aggravating the liability of the undertaking;

4) amount of income that the undertaking has received as a result of the infringement;

5) where the infringement has been committed by several undertakings, the share of each undertaking in committing the infringement.

10. Mitigating circumstances shall include actions of the undertaking concerned taken at its own initiative to prevent the harmful consequences of the infringement as well as its assistance to the Communications Regulatory Authority in the investigation of the infringement, compensation of losses or elimination of the damage done.

11. Aggravating circumstances shall include actions by the undertaking concerned to impede the investigation procedure, conceal the infringement, continue the infringement despite the Communications Regulatory Authority's instructions to discontinue illegal actions as well as a repeated infringement for which sanctions provided for in this Law have already been imposed on the undertaking.

12. When determining the size of the economic sanction, the Communications Regulatory Authority may also recognise other circumstances as mitigating circumstances.

#### **Article 76. Implementation of Economic Sanctions**

1. The undertaking must implement the economic sanction imposed by the Communications Regulatory Authority by paying the fine to the state budget and/or transferring gratis the confiscated objects not later than 3 months after the receipt of the decision.

2. At a reasoned request of the undertaking, the Communications Regulatory Authority may defer by its decision the payment of the fine or part thereof for a period of up to six months.

3. A decision on the imposition of an economic sanction issued by the Communications Regulatory Authority shall be an executive document. Where it is not implemented, the decision shall be forwarded to the State Tax Inspectorate for implementation in accordance with the procedure established by the Code of Civil Procedure. A decision may be presented for execution not later than 3 months after its adoption.

4. Any seized objects shall be realised in accordance with the procedure established by legal acts.



5. The Communications Regulatory Authority shall have the right to determine the terms and conditions for compensating the damage incurred by the illegal actions of an undertaking.

6. Where the sanction is imposed on an undertaking that is a group of associated persons, all members of the group shall be jointly and severally liable for the adequate implementation of economic sanctions, taking account of the provisions of paragraph 6 of Article 74 of this Law.

## **CHAPTER ELEVEN**

### **FINAL PROVISIONS**

#### **Article 77. Supervision and Monitoring of Electronic Communications Traffic**

1. Undertakings providing electronic communications networks and/or services shall have the right to record and store technical data on electronic communications and their participants only to the extent that is necessary to ensure economic activities of the said undertakings. Undertakings providing electronic communications networks and/or services must submit, in accordance with the procedure established by the law, to operational investigation services, pre-trial investigation institutions, prosecutors, courts or judges information which is available to them and which is necessary to prevent, investigate and detect criminal acts. Such information shall be submitted, immediately and free of charge, by undertakings providing electronic communications networks and/or services to the main institutions of operational investigation services and pre-trial investigation institutions designated by the Government in electronic form in response to their enquiries. Pre-trial investigation institutions designated by the Government shall provide their subdivisions and/or other pre-trial investigation institutions with access to such information in accordance with the procedure established by the Government. All persons taking part in the exchange of information shall make necessary arrangements to ensure data security in accordance with the procedure and conditions set forth by the Government; the additional equipment necessary for this purpose shall be obtained from and maintained by Government funds. If the information presented by an undertaking providing electronic communications networks and/or services needs to be confirmed for a pre-trial investigation purposes, the pre-trial investigation

officer shall directly address the undertaking in writing and the undertaking shall provide a written response.

2. Undertakings providing electronic communications networks and/or services shall store technical information used during the transmission of electronic communications traffic only for a period that is necessary to ensure their economic activity which will not exceed six months, except for cases referred to in Article 64 of this Law; where such information is necessary for operational investigation services, pre-trial investigation institutions, prosecutors, courts or judges to prevent, investigate and detect criminal acts, undertakings providing electronic communications networks and/or services shall, on instruction from an institution (operational investigation service) authorised by the Government, store such information for a longer period, but no longer than additional six months. Such storage shall be paid for by state funds in accordance with the procedure established by the Government.

3. Where there is a reasoned court ruling, undertakings providing electronic communications networks and/or services must provide operational investigation services, in accordance with the procedure established by the law, and pre-trial investigation institutions, in accordance with the procedure established by the Code of Criminal Procedure, with technical possibilities to exercise control over the content of information transmitted by electronic communications networks. Equipment necessary for this purpose shall be obtained from and maintained by Government funds.

4. A Government authorised institution (operational investigation service) shall organise and provide, in accordance with the procedure established by the Government, each operational investigation service and, in the event of criminal proceedings, each pre-trial investigation institution with a technical opportunity to exercise independent control over the content of information transmitted by electronic communications networks.

5. Undertakings providing electronic communications networks and/or services shall inform a Government authorised institution (operational investigation service) and the Communications Regulatory Authority about any changes to be made in their networks or at points of interconnection with other electronic communications operators, which may affect the operation of equipment referred to in paragraphs 1 and/or 3 of this Article and the volume of information presented, as soon as they get to know about it.

6. Technical commands sent by an electronic communications network to start or discontinue wire tapping or any other control of the information transmitted over electronic communications networks shall be safekept at the premises of a Government authorised institution (operational investigation service) in such a way that would prevent the command data to be modified by the Government authorised institution which has sent such commands or by the undertaking which has received them. The Prosecutor General of the Republic of Lithuania or his authorised prosecutor shall exercise control over compliance with the provisions of this paragraph.

### **Article 78. Extraordinary Circumstances and Special Rules for Securing Communication**

1. The Government or an institution authorised by it shall approve a programme on implementing preparations for extraordinary circumstances and a scheme for organizing communications in extraordinary circumstances. Undertakings shall participate in the preparation of these legal acts and ensure their effective functioning.

2. In cases of force majeure, extreme situations or other extraordinary circumstances or for the purpose of preparing for universal mobilisation or national defence or ensuring national security and public order, the Government or an institution authorised by it may, in accordance with the procedure established by laws and other legal acts, issue mandatory instructions, tasks and assignments to undertakings providing electronic communications networks and/or services as well as to owners or users of equipment and devices in order to protect and maintain the relevant electronic communications networks as well as to interconnect them and, where necessary, restrict public use of electronic communications networks.

3. Providers of electronic communications networks and services shall take any measures necessary to secure the functioning of public communications networks and services in the case of catastrophic network failure or force majeure such as unusual weather conditions, earthquakes, floods, lightning or fires as well as in other extraordinary circumstances. In such cases, relevant undertakings and institutions shall take all possible measures to maintain the highest service level in line with the priorities established by the Government or an institution authorised by it.

4. Providers of electronic communications networks and services must give absolute priority to communication with emergency services and institutions servicing emergency calls, including any telecommunications related to safety of life at sea, on land, in the air or further space, also to epidemiological telecommunications of extreme urgency as defined by the World Health Organisation. Users of radio stations must ensure reception of disaster signals and disaster messages of whatever origin, giving them absolute priority, responding in the same manner and taking immediate action in respect of them.

5. Providers of electronic communications networks and/or services must give priority, in respect of other telecommunications, to telecommunications conducted by heads of state and government or members of government, chief commanders of land, naval or air forces, diplomatic or consular representatives of the Republic of Lithuania and other member states of the International Telecommunication Union, the Secretary General of the United Nations, heads of UN main bodies and the International Tribunal or to telecommunications provided in response to such telecommunications to the extent that is necessary to take account of a specific request by the sender of relevant information.

6. The Communications Regulatory Authority shall have the right to set forth the procedure and conditions for implementing the obligations referred to in paragraphs 4 and 5 above.

7. It shall be prohibited to send or transmit false or misleading signals of disaster, urgency, security or identification.

8. Information constituting state and/or official secret shall only be transmitted over encoded radio communication channels.

#### **Article 79. Coming into Force and Application**

1. This Law shall come into force on 1 May 2004, except for this paragraph, Article 80 and other provisions of the Law to the extent that they are related to Article 80.

2. After this Law comes into force, the Republic of Lithuania Law on Telecommunications (*Valstybės žinios*, 1998, No. 56-1548; 2000, No. 32-892, No. 61-1830; 2002, No. 75-3215, No. 123-5514; 2003, No. 38-1718) shall become null and void; however, undertakings that have been identified by the Communications Regulatory Authority, prior to coming into force of this Law, as undertakings having

significant market power shall continue to fulfil the obligations imposed on them, including any obligations binding on undertakings having significant market power, within the scope and subject to the conditions set out in the Republic of Lithuania Law on Telecommunications and accompanying legal acts, until the Communications Regulatory Authority, having completed market analysis in accordance with the procedure established in this Law, decides to revoke and/or modify such obligations. Such a decision of the Communications Regulatory Authority shall be published in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios* and shall come into force not later than 28 days after its publication. The Communications Regulatory Authority, taking into account the results of market analysis, may issue a separate reasoned decision on individual obligations in respect of individual undertakings and set different time limits for such individual obligations which cannot be longer than 28 days following the publication of notification about the decision in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios*.

3. Personal data included in public directories of subscribers prior to coming into force of this Law may be kept in these directories until the subscriber expresses a wish to have them erased. Providers of publicly available electronic communications services shall publicly inform the subscribers whose data have been included in respective directories about the rights granted to them by this Law.

4. Subordinate legal acts adopted prior to coming into force of this Law shall be valid to the extent that they do not contradict this Law. A provision shall not be considered as contradicting only because it applies to undertakings having significant market power identified in accordance with the procedure established by the Republic of Lithuania Law on Telecommunications.

5. Agreements concluded by the institutions of the Republic of Lithuania that correspond to the subject of paragraph 12 of Article 12 of this Law and that have been concluded prior to coming into force of this Law shall be presented for publication in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios* by 1 July 2004.

6. The director of the Communications Regulatory Authority and members of the Council of the Communications Regulatory Authority appointed prior to coming into force of this Law shall perform their functions until the expiry of their term of office unless dismissed earlier on the grounds specified in paragraph 9 of Article 7 of this Law. Two additional members of the Council of the Communications Regulatory

Authority shall be appointed for the first time for the remainder of the term of Council members appointed prior to coming into force of this Law.

7. Any dispute between undertakings to be settled in accordance with Article 28 of this Law and any dispute based on end user complaints to be settled in accordance with Article 36 of this Law that were accepted for consideration prior to coming into force of this Law shall be examined and appealed against subject to the legal norms valid prior to coming into force of this Law.

8. Procedures (such as market analysis and assignment of electronic communications resources, including tenders and auctions) that were commenced in accordance with the Republic of Lithuania Law on Telecommunications and the legal acts implementing it shall be concluded subject to the legal norms valid prior to coming into force of this Law. The adoption of a decision by the Communications Regulatory Authority indicating procedure results shall be regarded as the end of the procedure; in the event that an authorisation is issued after the procedure is completed, its issue shall be regarded as the end of the procedure.

9. Paragraph 10 of Article 34 of this Law shall come into force on 1 January 2005.

#### **Article 80. Implementation**

The Communications Regulatory Authority shall also have the right to adopt regulations and administrative provisions implementing this Law by the date specified in paragraph 1 of Article 79 of this Law.

*I promulgate this Law passed by the Seimas of the Republic of Lithuania*

**ACTING PRESIDENT OF THE REPUBLIC**

**ARTŪRAS PAULAUSKAS**

**LIST OF EU LEGAL ACTS IMPLEMENTED BY THE REPUBLIC OF  
LITHUANIA LAW ON ELECTRONIC COMMUNICATIONS**

1. Commission Directive 88/301/EEC of 16 May 1988 on competition in the markets in telecommunications terminal equipment.

2. Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility.

3. Council Decision of 28 November 1997 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the results of the WTO negotiations on basic telecommunications services (97/838/EC).

4. Commission Recommendation of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.

5. Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access.

6. Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity.

7. Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision).

8. Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive).

9. Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive).

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

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

12. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).

13. Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services.

14. Commission Recommendation of 25 July 2003 on the processing of caller location information in electronic communications networks for the purpose of location-enhanced emergency call services.

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